

CHAMBER ACTION

1 The Fiscal Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to continuing implementation of
7 Constitutional Revision 7 to Article V; amending s. 27.51,
8 F.S.; revising certain criteria for persons to be
9 represented by the public defender without additional
10 compensation; providing an exception to a prohibition
11 against a court appointing the public defender to
12 represent a person who is not indigent; amending s. 27.52,
13 F.S.; providing an age limitation on persons seeking
14 appointment of a public defender based upon an inability
15 to pay; specifying conditions under which an additional
16 affidavit need not be filed; providing requirements for a
17 law enforcement officer or booking officer committing a
18 defendant to custody; providing for liability for fees,
19 costs, and charges of representation in delinquency
20 proceedings; expanding a provision imposing a lien;
21 amending s. 27.561, F.S.; deleting authorization for a
22 court to reduce or revoke attorney's fees or costs under
23 certain circumstances; requiring defendant-recipients or

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24 | parents defaulting on payment of attorney's fees or costs
25 | to enroll in a payment plan under certain circumstances;
26 | amending s. 28.24, F.S.; revising amounts and
27 | distributions of the additional \$4 services charge
28 | relating to Comprehensive Case Management System of the
29 | Florida Association of Court Clerks and Comptroller, Inc.,
30 | court-related technology needs, the Court Technology Trust
31 | Fund, court-related technology services, and the judicial
32 | circuit technology strategic plan; requiring the
33 | association to provide for an annual operational audit;
34 | providing audit requirements; requiring submission of an
35 | audit report to certain entities; authorizing the Joint
36 | Legislative Auditing Committee to require the Auditor
37 | General or other entity to conduct the audit; providing a
38 | contingency for receipt of certain funds upon a memorandum
39 | of agreement relating to ownership of the Comprehensive
40 | Case Information System; providing for transfer of the
41 | system to the state under certain circumstances; providing
42 | criteria, requirements, and procedures relating to such
43 | transfer; amending s. 28.35, F.S.; providing additional
44 | duties of the Florida Clerks of Court Operations
45 | Corporation; providing requirements for the corporation
46 | and clerks of court relating to certain budget amendments;
47 | amending s. 28.36, F.S.; correcting cross-references;
48 | providing expenditure requirements for certain budgets;
49 | providing expenditure recording and reporting requirements
50 | for clerks; amending s. 29.008, F.S.; specifying
51 | methodology, criteria, and procedures for determining

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52 noncompliance of counties in funding court-related
53 functions; providing duties of a chief judge, the board of
54 county commissioners, the Executive Office of the
55 Governor, and the Administration Commission; revising
56 provisions for withholding certain revenue sharing
57 receipts by the Department of Revenue; providing
58 definitions; providing requirements and procedures for the
59 Department of Revenue relating to withholding of certain
60 funds to certain counties for certain fiscal years;
61 amending s. 29.0081, F.S.; specifying additional
62 provisions of an agreement for county funding of judicial
63 circuit personnel positions; amending s. 29.0086, F.S.;

64 providing an additional reporting requirement of the
65 Article V Technology Board; providing for future repeal of
66 the Article V Technology Board; creating s. 29.0087, F.S.;

67 establishing in each judicial circuit a Judicial Circuit
68 Article V Technology Advisory Council; providing for
69 membership; providing for terms; providing for serving
70 without compensation; providing for per diem and travel
71 expenses; providing for staff for the councils; providing
72 for meetings; providing duties; amending s. 44.103, F.S.;

73 providing additional requirements and procedures for
74 court-ordered nonbinding arbitration proceedings;
75 authorizing courts to assess certain costs against parties
76 requesting de novo trials after arbitration; providing
77 cost assessment criteria; providing a definition; amending
78 s. 218.245, F.S.; revising apportionment criteria for
79 revenue sharing distributions for certain local

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80 governments; amending s. 318.18, F.S.; revising reporting
81 requirements for infraction or violation surcharge funds
82 used to finance court facilities; amending s. 903.286,
83 F.S.; requiring notice of the authority of the clerk of
84 court to withhold funds from return of certain cash bonds
85 for unpaid court fees, court costs, and criminal
86 penalties; prohibiting the clerk of court from withholding
87 certain unpaid court fees, costs, and criminal penalties
88 from certain cash bonds; amending s. 938.27, F.S.;

89 requiring convicted persons or parents of adjudicated
90 juveniles to enroll in certain prosecution cost-payment
91 plans; deleting certain cost-payment criteria; amending s.
92 938.29, F.S.; revising certain provisions for liability
93 for payment of attorney's fees and costs; amending s.
94 948.15, F.S.; requiring misdemeanor probation service
95 providers to establish a process for collecting certain
96 payments; providing for allocating certain payments among
97 outstanding obligations; renumbering s. 939.185, F.S., as
98 s. 938.195, F.S.; creating s. 938.065, F.S., by
99 transferring and amending s. 775.083(2), F.S.; providing
100 for financing county crime prevention programs from
101 certain court costs; amending s. 985.203, F.S.; revising
102 provisions providing for a child's right to counsel;
103 amending ss. 938.17, 938.19, 948.08, 948.16, and 985.306,
104 F.S.; correcting cross-references; providing an effective
105 date.

106
107 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Paragraph (c) of subsection (1) and subsection (2) of section 27.51, Florida Statutes, are amended to read:

27.51 Duties of public defender.--

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

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

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

Section 2. Subsection (1), paragraph (a) of subsection (2), and subsection (6) of section 27.52, Florida Statutes, are amended to read:

27.52 Determination of indigent status.--

(1) APPLICATION TO THE CLERK.--A person 18 years of age or older seeking appointment of a public defender under s. 27.51 based upon an inability to pay must apply to the clerk of the court for a determination of indigent status using an application form developed by the Florida Clerks of Court Operations Corporation with final approval by the Supreme Court. An additional affidavit need not be filed if appointment is being sought under s. 27.51(1)(f) and the public defender or

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136 | private court-appointed counsel had already been appointed for a
137 | matter arising under s. 27.51(1)(a)-(e). No affidavit of
138 | indigency shall be required of a minor.

139 | (a) The application must include, at a minimum, the
140 | following financial information:

141 | 1. Net income, consisting of total salary and wages, minus
142 | deductions required by law, including court-ordered support
143 | payments.

144 | 2. Other income, including, but not limited to, social
145 | security benefits, union funds, veterans' benefits, workers'
146 | compensation, other regular support from absent family members,
147 | public or private employee pensions, unemployment compensation,
148 | dividends, interest, rent, trusts, and gifts.

149 | 3. Assets, including, but not limited to, cash, savings
150 | accounts, bank accounts, stocks, bonds, certificates of deposit,
151 | equity in real estate, and equity in a boat or a motor vehicle
152 | or in other tangible property.

153 | 4. All liabilities and debts.

154 | 5. If applicable, the amount of any bail paid for the
155 | applicant's release from incarceration and the source of the
156 | funds.

157 |
158 | The application must include a signature by the applicant which
159 | attests to the truthfulness of the information provided. The
160 | application form developed by the corporation must include
161 | notice that the applicant may seek court review of a clerk's
162 | determination that the applicant is not indigent, as provided in
163 | this section.

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164 (b) An applicant shall pay a \$40 application fee to the
165 clerk for each application for court-appointed counsel filed.
166 The applicant shall pay the fee within 7 days after submitting
167 the application. If the applicant does not pay the fee prior to
168 the disposition of the case, the clerk shall notify the court,
169 and the court shall:

170 1. Assess the application fee as part of the sentence or
171 as a condition of probation; or

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

173 (c) Notwithstanding any provision of law, court rule, or
174 administrative order, the clerk shall assign the first \$40 of
175 any fees or costs paid by an indigent person as payment of the
176 application fee. A person found to be indigent may not be
177 refused counsel or other required due process services for
178 failure to pay the fee.

179 (d) All application fees collected by the clerk under this
180 section shall be transferred monthly by the clerk to the
181 Department of Revenue for deposit in the Indigent Criminal
182 Defense Trust Fund administered by the Justice Administrative
183 Commission, to be used to as appropriated by the Legislature.
184 The clerk may retain 2 percent of application fees collected
185 monthly for administrative costs prior to remitting the
186 remainder to the Department of Revenue.

187 (e)1. The clerk shall assist a person who appears before
188 the clerk and requests assistance in completing the application,
189 and the clerk shall notify the court if a person is unable to
190 complete the application after the clerk has provided
191 assistance.

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192 2. The law enforcement officer or booking officer who
193 commits a defendant to custody shall immediately advise the
194 defendant of the right to counsel. If the defendant requests
195 counsel or advises the officer that he or she cannot afford
196 counsel, the officer shall immediately and effectively place the
197 defendant in communication with the Office of the Public
198 Defender of the circuit in which the arrest is made or the
199 booking takes place. If the person seeking appointment of a
200 public defender is incarcerated, the public defender is
201 responsible for providing the application to the person and
202 assisting him or her in its completion and is responsible for
203 submitting the application to the clerk on the person's behalf.
204 The public defender may enter into an agreement for jail
205 employees, pretrial services employees, or employees of other
206 criminal justice agencies to assist the public defender in
207 performing functions assigned to the public defender under this
208 subparagraph.

209 (2) DETERMINATION BY THE CLERK.--The clerk of the court
210 shall determine whether an applicant seeking appointment of a
211 public defender is indigent based upon the information provided
212 in the application and the criteria prescribed in this
213 subsection.

214 (a)1. An applicant, including an applicant who is ~~a minor~~
215 ~~or~~ an adult tax-dependent person, is indigent if the applicant's
216 income is equal to or below 200 percent of the then-current
217 federal poverty guidelines prescribed for the size of the
218 household of the applicant by the United States Department of
219 Health and Human Services or if the person is receiving

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220 Temporary Assistance for Needy Families-Cash Assistance,
221 poverty-related veterans' benefits, or Supplemental Security
222 Income (SSI).

223 2. There is a presumption that the applicant is not
224 indigent if the applicant owns, or has equity in, any intangible
225 or tangible personal property or real property or the expectancy
226 of an interest in any such property having a net equity value of
227 \$2,500 or more, excluding the value of the person's homestead
228 and one vehicle having a net value not exceeding \$5,000.

229 (6) DUTIES OF PARENT OR LEGAL GUARDIAN.--A nonindigent
230 parent or legal guardian of an applicant who is a minor or an
231 adult tax-dependent person shall furnish the minor or adult tax-
232 dependent person with the necessary legal services and costs
233 incident to a delinquency proceeding or, upon transfer of such
234 person for criminal prosecution as an adult pursuant to chapter
235 985, a criminal prosecution in which the person has a right to
236 legal counsel under the Constitution of the United States or the
237 Constitution of the State of Florida. The failure of a parent or
238 legal guardian to furnish legal services and costs under this
239 section does not bar the appointment of legal counsel pursuant
240 to this section, s. 27.40, or s. 27.5303. When the public
241 defender, a private court-appointed conflict counsel, or a
242 private attorney is appointed to represent a minor or an adult
243 tax-dependent person in any proceeding in circuit court or in a
244 criminal or delinquency proceeding in any other court, the
245 parents or the legal guardian shall be liable for payment of the
246 fees, charges, and costs of the representation even if the
247 person is a minor being tried as an adult. Liability for the

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248 fees, charges, and costs of the representation shall be imposed
 249 in the form of a lien against the property of the ~~nonindigent~~
 250 parents or legal guardian of the minor or adult tax-dependent
 251 person. The lien is enforceable as provided in s. 27.561 or s.
 252 938.29.

253 Section 3. Subsection (3) of section 27.561, Florida
 254 Statutes, is amended to read:

255 27.561 Effect of nonpayment.--

256 (3) If it appears to the satisfaction of the court that
 257 the default in the payment of the attorney's fees or costs is
 258 not contempt, the court may enter an order allowing the
 259 defendant-recipient or parent additional time for, ~~or reducing~~
 260 ~~the amount of, payment or revoking the assessed attorney's fees~~
 261 ~~or costs, or the unpaid portion thereof, in whole or in part. If~~
 262 the court allows additional time for payment, the defendant-
 263 recipient or parent shall be enrolled in a payment plan pursuant
 264 to s. 28.246(4).

265 Section 4. Paragraph (e) of subsection (12) of section
 266 28.24, Florida Statutes, is amended to read:

267 28.24 Service charges by clerk of the circuit court.--The
 268 clerk of the circuit court shall charge for services rendered by
 269 the clerk's office in recording documents and instruments and in
 270 performing the duties enumerated in amounts not to exceed those
 271 specified in this section. Notwithstanding any other provision
 272 of this section, the clerk of the circuit court shall provide
 273 without charge to the state attorney, public defender, guardian
 274 ad litem, public guardian, attorney ad litem, and court-
 275 appointed counsel paid by the state, and to the authorized staff

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276 acting on behalf of each, access to and a copy of any public
 277 record, if the requesting party is entitled by law to view the
 278 exempt or confidential record, as maintained by and in the
 279 custody of the clerk of the circuit court as provided in general
 280 law and the Florida Rules of Judicial Administration. The clerk
 281 of the circuit court may provide the requested public record in
 282 an electronic format in lieu of a paper format when capable of
 283 being accessed by the requesting entity.

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285 Charges

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

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

295 1.a. If the counties maintain legal responsibility for the
 296 costs of the court-related technology needs as defined in s.
 297 29.008(1)(f)2. and (h):

298 (I) Five, ~~10~~ cents shall be distributed to the Florida
 299 Association of Court Clerks and Comptroller, Inc., for the cost
 300 of development, implementation, operation, and maintenance of
 301 the clerks' Comprehensive Case Information System, in which
 302 system all clerks shall participate on or before January 1,
 303 2006. The Florida Association of Court Clerks and Comptroller,

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304 Inc., shall provide for an annual operational audit, as defined
 305 in s. 11.45(1)(g), of its financial accounts and records
 306 relating to the Comprehensive Case Information System fees by an
 307 independent certified public accountant. Such audit shall be
 308 performed in accordance with Government Auditing Standards as
 309 adopted by the State Board of Accountancy and include a
 310 determination as to whether the fees distributed to the Florida
 311 Association of Court Clerks and Comptroller, Inc., were expended
 312 solely for the purposes stated in this sub-sub-subparagraph. The
 313 annual audit report shall be submitted within 90 days after the
 314 end of the association's fiscal year to the Governor's Office,
 315 the appropriations committees of the Senate and the House of
 316 Representatives, and the Auditor General for review. However, at
 317 its discretion, the Joint Legislative Auditing Committee may
 318 require the Auditor General or other entity to conduct the
 319 audit;

320 (II) One dollar and ninety cents, ~~\$1.90~~ shall be retained
 321 by the clerk to be deposited in the Public Records Modernization
 322 Trust Fund and used exclusively for funding court-related
 323 technology needs of the clerk as defined in s. 29.008(1)(f)2.
 324 and (h);

325 (III) Prior to April 1, 2007, ~~and~~ \$2 shall be distributed
 326 to the board of county commissioners to be used exclusively to
 327 fund court-related technology, and court technology needs as
 328 defined in s. 29.008(1)(f)2. and (h) for the state trial courts,
 329 state attorney, and public defender in that county, and five
 330 cents shall be distributed to the Court Technology Trust Fund to

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331 provide oversight of court-related technology services provided
332 by the counties; and

333 (IV) Effective April 1, 2007, \$2.05 shall be distributed
334 to the Court Technology Trust Fund to be used to prepare the
335 judicial circuit technology strategic plan required by s.
336 29.0087, provide oversight of court-related technology services
337 provided by the counties, and be disbursed to counties as state
338 financial assistance to assist the counties with the costs of
339 providing court-related technology and court technology needs as
340 defined in s. 29.008(1)(f)2. and (h) for the state trial courts,
341 state attorney, and public defender in that county. Counties
342 shall agree to use funds in conformance with the judicial
343 circuit technology strategic plan required by s. 29.0087 as
344 approved by the chief judge in order to be eligible for state
345 financial assistance from the Court Technology Trust Fund. The
346 amount provided to each county from the Court Technology Trust
347 Fund shall be equal to each county's percentage of total
348 collections of the additional recording fee required by this
349 section applied to the total amount available to be distributed
350 to counties. If a county is not eligible to receive funds from
351 the Court Technology Trust Fund, the funds that would have
352 otherwise been distributed to the county shall remain in the
353 Court Technology Trust Fund to be used as appropriated by the
354 Legislature.

355 b. If the counties maintain legal responsibility for the
356 costs of the court-related technology needs as defined in s.
357 29.008(1)(f)2. and (h), notwithstanding any other provision of
358 law, the county is not required to provide additional funding

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359 beyond that provided herein for the court-related technology
360 needs of the clerk as defined in s. 29.008(1)(f)2. and (h). All
361 court records and official records are the property of the State
362 of Florida, including any records generated as part of the
363 Comprehensive Case Information System funded pursuant to this
364 paragraph and the clerk of court is designated as the custodian
365 of such records, except in a county where the duty of
366 maintaining official records exists in a county office other
367 than the clerk of court or comptroller, such county office is
368 designated the custodian of all official records, and the clerk
369 of court is designated the custodian of all court records. The
370 clerk of court or any entity acting on behalf of the clerk of
371 court, including an association, shall not charge a fee to any
372 agency as defined in s. 119.011, the Legislature, or the State
373 Court System for copies of records generated by the
374 Comprehensive Case Information System or held by the clerk of
375 court or any entity acting on behalf of the clerk of court,
376 including an association. In order to protect the financial
377 investment made by the state in the Comprehensive Case
378 Information System, the receipt of the funding provided pursuant
379 to sub-sub-subparagraph a.(I) to the Florida Association of
380 Court Clerks and Comptroller, Inc., for the Comprehensive Case
381 Information System shall be contingent on the Florida
382 Association of Court Clerks and Comptroller, Inc., entering into
383 a memorandum of agreement with the state providing that
384 ownership of the Comprehensive Case Information System,
385 including all associated hardware, source code, executable
386 software, and data or databases stored by the Comprehensive Case

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387 Information System, shall be transferred to the state if the
388 Florida Association of Court Clerks and Comptroller, Inc., is
389 dissolved, decides to discontinue providing the Comprehensive
390 Case Information System, or otherwise fails to maintain,
391 support, and provide the Comprehensive Case Information System
392 in accordance with the requirements of this section. Upon
393 entering into such memorandum of agreement, a copy of the
394 current version of the Comprehensive Case Information System
395 source code, executable software, data or databases stored by
396 the Comprehensive Case Information System, and documentation
397 shall be placed in escrow with the state named as beneficiary.
398 Upon the deployment of a new major release, or at least annually
399 if there is no new major release, the most current Comprehensive
400 Case Information System source code, executable software, data
401 or databases stored by the Comprehensive Case Information
402 System, and documentation shall be placed in escrow. This
403 Comprehensive Case Information System source code, executable
404 software, data or databases stored by the Comprehensive Case
405 Information System, and documentation shall be reviewed no less
406 than once a year and jointly by representatives of the state and
407 the Florida Association of Court Clerks and Comptroller, Inc.,
408 to ensure currency and completeness. Upon any transfer of
409 ownership of the Comprehensive Case Information System to the
410 state, all rights to intellectual property owned by the Florida
411 Association of Court Clerks and Comptroller, Inc., relating to
412 the Comprehensive Case Information System shall transfer to the
413 state.

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414 2. If the state becomes legally responsible for the costs
415 of court-related technology needs as defined in s.
416 29.008(1)(f)2. and (h), whether by operation of general law or
417 by court order, \$4 shall be remitted to the Department of
418 Revenue for deposit into the General Revenue Fund.

419 Section 5. Paragraphs (h) and (i) are added to subsection
420 (2) of section 28.35, Florida Statutes, paragraph (e) of that
421 subsection is amended, subsections (4) through (7) of that
422 section are renumbered as subsections (5) through (8),
423 respectively, and a new subsection (4) is added to that section,
424 to read:

425 28.35 Florida Clerks of Court Operations Corporation.--

426 (2) The duties of the corporation shall include the
427 following:

428 (e) Developing and certifying a uniform system of
429 performance measures and applicable performance standards for
430 the functions specified in paragraph (5)~~(4)~~(a) and clerk
431 performance in meeting the performance standards. These measures
432 and standards shall be designed to facilitate an objective
433 determination of the performance of each clerk in accordance
434 with minimum standards for fiscal management, operational
435 efficiency, and effective collection of fines, fees, service
436 charges, and court costs. When the corporation finds a clerk has
437 not met the performance standards, the corporation shall
438 identify the nature of each deficiency and any corrective action
439 recommended and taken by the affected clerk of the court.

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440 (h) Receiving reports from each clerk of court in a format
441 specified by the corporation that allows reconciliation of the
442 expenses of a clerk to the clerk's certified budget.

443 (i) Providing information regarding the budgets and
444 expenditures of clerks and any other fiscal data related to the
445 corporation and performance of court-related clerk duties upon
446 request by a committee of the Legislature, the Governor, or the
447 Office of the State Courts Administrator. The contract between
448 the corporation and the Department of Financial Services shall
449 provide that the failure of the corporation to comply with this
450 paragraph shall result in the withholding by the department of
451 not less than 5 percent of the total funding provided to the
452 corporation pursuant to the terms of the contract. Clerks of
453 court shall provide any information requested by the corporation
454 in accordance with this paragraph.

455 (4) The corporation shall provide notice to the
456 appropriations committees of the Senate and the House of
457 Representatives of any change to a certified budget within 20
458 days after such change. Clerks of court shall provide
459 information to the corporation regarding any change to a
460 certified budget within 10 days after such change.

461 Section 6. Subsections (1) through (5) of section 28.36,
462 Florida Statutes, are amended, and subsection (8) is added to
463 that section, to read:

464 28.36 Budget procedure.--There is hereby established a
465 budget procedure for the court-related functions of the clerks
466 of the court.

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467 (1) Only those functions on the standard list developed
468 pursuant to s. 28.35(5)~~(4)~~(a) may be funded from fees, service
469 charges, court costs, and fines retained by the clerks of the
470 court. No clerk may use fees, service charges, court costs, and
471 fines in excess of the maximum budget amounts as established in
472 subsection (5).

473 (2) For the period July 1, 2004, through September 30,
474 2004, and for each county fiscal year ending September 30
475 thereafter, each clerk of the court shall prepare a budget
476 relating solely to the performance of the standard list of
477 court-related functions pursuant to s. 28.35(5)~~(4)~~(a).

478 (3) Each proposed budget shall further conform to the
479 following requirements:

480 (a) On or before August 15 for each fiscal year
481 thereafter, the proposed budget shall be prepared, summarized,
482 and submitted by the clerk in each county to the Clerks of Court
483 Operations Corporation in the manner and form prescribed by the
484 corporation. The proposed budget must provide detailed
485 information on the anticipated revenues available and
486 expenditures necessary for the performance of the standard list
487 of court-related functions of the clerk's office developed
488 pursuant to s. 28.35(5)~~(4)~~(a) for the county fiscal year
489 beginning the following October 1.

490 (b) The proposed budget must be balanced~~7~~ such that the
491 total of the estimated revenues available equals ~~must equal~~ or
492 exceeds ~~exceed~~ the total of the anticipated expenditures. These
493 revenues include the following: cash balances brought forward
494 from the prior fiscal period; revenue projected to be received

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495 | from fees, service charges, court costs, and fines for court-
 496 | related functions during the fiscal period covered by the
 497 | budget; and supplemental revenue that may be requested pursuant
 498 | to subsection (4). Both proposed and certified budgets shall
 499 | clearly identify expenditures by object and subobject
 500 | classifications as specified in the uniform accounting system
 501 | chart of accounts adopted by the Department of Financial
 502 | Services in accordance with s. 218.33 and the number of full-
 503 | time equivalent positions. A budget shall specifically list any
 504 | nonrecurring expenditures, including, but not limited to,
 505 | employee bonuses and equipment purchases. The budget shall also
 506 | specify details of any general changes to salaries and benefits,
 507 | such as cost-of-living increases in salaries and improvements in
 508 | benefits. ~~The anticipated expenditures must be itemized as~~
 509 | ~~required by the corporation, pursuant to contract with the Chief~~
 510 | ~~Financial Officer.~~

511 | (c) The proposed budget may include a contingency reserve
 512 | not to exceed 10 percent of the total budget, provided that,
 513 | overall, the proposed budget does not exceed the limits
 514 | prescribed in subsection (5).

515 | (4) If a clerk of the court estimates that available funds
 516 | plus projected revenues from fines, fees, service charges, and
 517 | costs for court-related services are insufficient to meet the
 518 | anticipated expenditures for the standard list of court-related
 519 | functions in s. 28.35(5)(4)(a) performed by his or her office,
 520 | the clerk must report the revenue deficit to the Clerks of Court
 521 | Operations Corporation in the manner and form prescribed by the
 522 | corporation pursuant to contract with the Chief Financial

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523 Officer. The corporation shall verify that the proposed budget
524 is limited to the standard list of court-related functions in s.
525 28.35 (5) ~~(4)~~ (a).

526 (a) If the corporation verifies that the proposed budget
527 is limited to the standard list of court-related functions in s.
528 28.35 (5) ~~(4)~~ (a) and a revenue deficit is projected, a clerk
529 seeking to retain revenues pursuant to this subsection shall
530 increase all fees, service charges, and any other court-related
531 clerk fees and charges to the maximum amounts specified by law
532 or the amount necessary to resolve the deficit, whichever is
533 less. If, after increasing fees, service charges, and any other
534 court-related clerk fees and charges to the maximum amounts
535 specified by law, a revenue deficit is still projected, the
536 corporation shall, pursuant to the terms of the contract with
537 the Chief Financial Officer, certify a revenue deficit and
538 notify the Department of Revenue that the clerk is authorized to
539 retain revenues, in an amount necessary to fully fund the
540 projected revenue deficit, which he or she would otherwise be
541 required to remit to the Department of Revenue for deposit into
542 the Department of Revenue Clerks of the Court Trust Fund
543 pursuant to s. 28.37. If a revenue deficit is projected for that
544 clerk after retaining all of the projected collections from the
545 court-related fines, fees, service charges, and costs, the
546 Department of Revenue shall certify the amount of the revenue
547 deficit amount to the Executive Office of the Governor and
548 request release authority for funds appropriated for this
549 purpose from the Department of Revenue Clerks of the Court Trust
550 Fund. Notwithstanding provisions of s. 216.192 related to the

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551 release of funds, the Executive Office of the Governor may
552 approve the release of funds appropriated to resolve projected
553 revenue deficits in accordance with the notice, review, and
554 objection procedures set forth in s. 216.177 and shall provide
555 notice to the Chief Financial Officer. The Department of Revenue
556 is directed to request monthly distributions from the Chief
557 Financial Officer in equal amounts to each clerk certified to
558 have a revenue deficit, in accordance with the releases approved
559 by the Governor.

560 (b) If the Chief Financial Officer finds the court-related
561 budget proposed by a clerk includes functions not included in
562 the standard list of court-related functions in s.
563 28.35(5)~~(4)~~(a), the Chief Financial Officer shall notify the
564 clerk of the amount of the proposed budget not eligible to be
565 funded from fees, service charges, costs, and fines for court-
566 related functions and shall identify appropriate corrective
567 measures to ensure budget integrity. The clerk shall then
568 immediately discontinue all ineligible expenditures of court-
569 related funds for this purpose and reimburse the Clerks of the
570 Court Trust Fund for any previously ineligible expenditures made
571 for non-court-related functions, and shall implement any
572 corrective actions identified by the Chief Financial Officer.

573 (5) (a) For the county fiscal year October 1, 2004, through
574 September 30, 2005, the maximum annual budget amount for the
575 standard list of court-related functions of the clerks of court
576 in s. 28.35(5)~~(4)~~(a) that may be funded from fees, service
577 charges, court costs, and fines retained by the clerks of the
578 court shall not exceed:

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579 | 1. One hundred and three percent of the clerk's estimated
580 | expenditures for the prior county fiscal year; or

581 | 2. One hundred and five percent of the clerk's estimated
582 | expenditures for the prior county fiscal year for those clerks
583 | in counties that for calendar years 1998-2002 experienced an
584 | average annual increase of at least 5 percent in both population
585 | and case filings for all case types as reported through the
586 | Summary Reporting System used by the state courts system.

587 | (b) For the county fiscal year 2005-2006, the maximum
588 | budget amount for the standard list of court-related functions
589 | of the clerks of court in s. 28.35(5)~~(4)~~(a) that may be funded
590 | from fees, service charges, court costs, and fines retained by
591 | the clerks of the court shall be the approved budget for county
592 | fiscal year 2004-2005 adjusted by the projected percentage
593 | change in revenue between the county fiscal years 2004-2005 and
594 | 2005-2006.

595 | (c) For the county fiscal years 2006-2007 and thereafter,
596 | the maximum budget amount for the standard list of court-related
597 | functions of the clerks of court in s. 28.35(5)~~(4)~~(a) that may
598 | be funded from fees, service charges, court costs, and fines
599 | retained by the clerks of the court shall be established by
600 | first rebasing the prior fiscal year budget to reflect the
601 | actual percentage change in the prior fiscal year revenue and
602 | then adjusting the rebased prior fiscal year budget by the
603 | projected percentage change in revenue for the proposed budget
604 | year. The rebasing calculations and maximum annual budget
605 | calculations shall be as follows:

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606 1. For county fiscal year 2006-2007, the approved budget
607 for county fiscal year 2004-2005 shall be adjusted for the
608 actual percentage change in revenue between the two 12-month
609 periods ending June 30, 2005, and June 30, 2006. This result is
610 the rebased budget for the county fiscal year 2005-2006. Then
611 the rebased budget for the county fiscal year 2005-2006 shall be
612 adjusted by the projected percentage change in revenue between
613 the county fiscal years 2005-2006 and 2006-2007. This result
614 shall be the maximum annual budget amount for the standard list
615 of court-related functions of the clerks of court in s.
616 28.35(5)~~(4)~~(a) that may be funded from fees, service charges,
617 court costs, and fines retained by the clerks of the court for
618 each clerk for the county fiscal year 2006-2007.

619 2. For county fiscal year 2007-2008, the rebased budget
620 for county fiscal year 2005-2006 shall be adjusted for the
621 actual percentage change in revenue between the two 12-month
622 periods ending June 30, 2006, and June 30, 2007. This result is
623 the rebased budget for the county fiscal year 2006-2007. The
624 rebased budget for county fiscal year 2006-2007 shall be
625 adjusted by the projected percentage change in revenue between
626 the county fiscal years 2006-2007 and 2007-2008. This result
627 shall be the maximum annual budget amount for the standard list
628 of court-related functions of the clerks of court in s.
629 28.35(5)~~(4)~~(a) that may be funded from fees, service charges,
630 court costs, and fines retained by the clerks of the court for
631 county fiscal year 2007-2008.

632 3. For county fiscal years 2008-2009 and thereafter, the
633 maximum budget amount for the standard list of court-related

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634 functions of the clerks of court in s. 28.35~~(5)~~(4)(a) that may
635 be funded from fees, service charges, court costs, and fines
636 retained by the clerks of the court shall be calculated as the
637 rebased budget for the prior county fiscal year adjusted by the
638 projected percentage change in revenues between the prior county
639 fiscal year and the county fiscal year for which the maximum
640 budget amount is being authorized. The rebased budget for the
641 prior county fiscal year shall always be calculated by adjusting
642 the rebased budget for the year preceding the prior county
643 fiscal year by the actual percentage change in revenues between
644 the 12-month period ending June 30 of the year preceding the
645 prior county fiscal year and the 12-month period ending June 30
646 of the prior county fiscal year.

647 (8) Each clerk shall record and report actual expenditures
648 in a format specified by the Clerks of Court Operations
649 Corporation that allows reconciliation to the clerk's budget as
650 certified by the corporation. The clerk shall submit reports of
651 such expenditures to the corporation upon request but at least
652 quarterly.

653 Section 7. Subsection (4) of section 29.008, Florida
654 Statutes, is amended, and subsection (5) is added to that
655 section, to read:

656 29.008 County funding of court-related functions.--

657 (4)(a)1. A county may be determined by the Administration
658 Commission not to be in compliance with its responsibility to
659 fund court-related functions and to be subject to withholding of
660 funds by the Department of Revenue if:

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661 a. The total amount budgeted or expended by the county for
662 any item specified in paragraph (1)(c) or (d) or subsection (3)
663 in the upcoming, current, or previous county fiscal year, as
664 appropriate, or the total amount budgeted or expended for any
665 item specified in paragraph (1)(a), (e), (f), (g), or (h) minus
666 nonrecurring expenditures for that same item by the county in
667 the upcoming, current, or previous county fiscal year, as
668 appropriate, is less than the base year spending, plus 1.5
669 percent growth per year. Base year spending shall be determined
670 as follows:

671 (I) For each item specified in paragraph (1)(c) or (d) or
672 subsection (3), the base year spending shall be the total amount
673 spent for that item in county fiscal year 2002-2003.

674 (II) For each item specified in paragraph (1)(a), (e),
675 (f), (g), or (h), the base year spending shall be the total
676 amount spent for that item in county fiscal year 2002-2003 minus
677 nonrecurring expenditures for that item in county fiscal year
678 2002-2003.

679 b. The chief judge certifies that deficiencies do or will
680 exist in the functioning of the circuit court due to the lack of
681 sufficient budget or expenditures for that item.

682 2. The process for determining whether a county is not in
683 compliance with its funding responsibilities shall be as
684 follows:

685 a. The chief judge shall identify in writing the specific
686 deficiencies the chief judge certifies will be experienced or
687 have been experienced by the circuit court associated with the
688 county's lack of sufficient funding for that item, the

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689 recommended corrections, and an estimate of the funding required
690 for such corrections and shall furnish this statement to the
691 board of county commissioners.

692 b. The board shall provide a response in writing to the
693 chief judge. If the board chooses not to amend its budget or
694 make expenditures to provide funding sufficient to equal or
695 exceed the funding for the item in the base year plus 1.5
696 percent growth per year or remedy the specific deficiencies
697 identified by the chief judge, whichever is less, within 30 days
698 after receiving written notice of such action by the board, the
699 chief judge may notify the Administration Commission of the
700 alleged deficiency and explain the expected impact on the
701 ability of the court to perform the court's constitutional and
702 statutory functions. The notice shall set forth, in the form and
703 manner prescribed by the Executive Office of the Governor and
704 approved by the Administration Commission, the specific
705 deficiencies, an estimate of the funding required to resolve the
706 deficiencies, expenditures made by the county in the base year
707 for the items, and the amount budgeted or amount expended for
708 the items. The notice shall be provided to the Executive Office
709 of the Governor and the board. The board shall have 5 days from
710 receipt of the notice to provide to the Executive Office of the
711 Governor a reply to the notice, and the board shall provide a
712 copy of such reply to the chief judge.

713 c. Upon receipt of the notice, the Executive Office of the
714 Governor shall provide for a budget hearing at which the matters
715 presented in the notice and the reply shall be considered. A
716 report of the findings and recommendations of the Executive

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717 Office of the Governor on such matters shall be promptly
718 submitted to the Administration Commission, which, within 30
719 days, shall approve the action of the board as to each separate
720 item or direct the Department of Revenue to withhold revenue
721 sharing funds as provided in paragraph (c) in an amount
722 determined by the Administration Commission to be sufficient to
723 remedy the deficiency; however, in no case shall the amount
724 withheld, when combined with the amount budgeted or expended, as
725 appropriate, be greater than the minimum required to be budgeted
726 or expended by a county under subparagraph 1. to avoid being
727 determined not to be in compliance with its responsibilities to
728 fund court-related functions. The determination of the
729 Administration Commission shall be final and shall be provided
730 in writing to the chief judge, the board, and the Department of
731 Revenue.

732 (b) A county may be determined by the Administration
733 Commission not to be in compliance with its funding
734 responsibilities pursuant to the receipt of funds under s.
735 28.24(12)(e)1.a.(IV) and to be subject to withholding of funds
736 by the Department of Revenue. The process for determining
737 whether a county is not in compliance with its funding
738 responsibilities shall be as follows:

739 1. The chief judge shall certify in writing that the
740 county has not complied with its responsibilities pursuant to
741 the receipt of funds under s. 28.24(12)(e)1.a.(IV) and identify
742 the recommended corrections and shall furnish this statement to
743 the board of county commissioners.

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744 2. The board shall provide a response in writing to the
745 chief judge. If the board chooses not to make expenditures to
746 comply with its funding responsibilities under s.
747 28.24(12)(e)1.a.(IV), within 30 days after receiving written
748 notice of such action by the board, the chief judge may notify
749 the Administration Commission of the alleged lack of compliance.
750 The notice shall set forth, in the form and manner prescribed by
751 the Executive Office of the Governor and approved by the
752 Administration Commission, the specific actions taken by the
753 board that are not in compliance with the funding
754 responsibilities under s. 28.24(12)(e)1.a.(IV), the recommended
755 corrections, and the total funding received by the county
756 pursuant to s. 28.24(12)(e)1.a.(IV) for the fiscal year
757 addressed by the judicial circuit technology strategic plan. The
758 notice shall be provided to the Executive Office of the Governor
759 and the board. The board shall have 5 days from receipt of the
760 notice to provide to the Executive Office of the Governor a
761 reply to the notice, and the board shall provide a copy of such
762 reply to the chief judge.

763 3. Upon receipt of the notice, the Executive Office of the
764 Governor shall provide for a budget hearing at which the matters
765 presented in the notice and the reply shall be considered. A
766 report of the findings and recommendations of the Executive
767 Office of the Governor on such matters shall be promptly
768 submitted to the Administration Commission, which, within 30
769 days, shall approve the action of the board or direct the
770 Department of Revenue to withhold revenue sharing funds as
771 provided in paragraph (c) in an amount determined by the

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772 Administration Commission to compensate for the county's lack of
773 compliance with its funding responsibilities pursuant to s.
774 28.24(12)(e)1.a.(IV). The determination of the Administration
775 Commission shall be final and shall be provided in writing to
776 the chief judge, the board, and the Department of Revenue.

777 (c)1. If the Administration Commission determines that the
778 board shall provide additional funding to fulfill its
779 responsibilities under paragraphs (a) and (b), the commission
780 shall direct ~~Except for revenues used for the payment of~~
781 ~~principal or interest on bonds, tax anticipation certificates,~~
782 ~~or any other form of indebtedness as allowed under s.~~
783 ~~218.25(1), (2) or (4), the Department of Revenue to shall~~
784 ~~withhold revenue sharing receipts distributed pursuant to part~~
785 ~~II of chapter 218, except for revenues used for the payment of~~
786 principal or interest on bonds, tax anticipation certificates,
787 or any other form of indebtedness as allowed under s. 218.25(1),
788 (2), or (4), from that any county determined to be not in
789 compliance as provided in this subsection with the county
790 funding obligations for items specified in paragraphs (1)(a),
791 (c), (d), (e), (f), (g), and (h) and subsection (3). The
792 ~~department shall withhold an amount equal to the difference~~
793 ~~between the amount spent by the county for the particular item~~
794 ~~in county fiscal year 2002-2003, the base year, plus 3 percent,~~
795 ~~and the amount budgeted by the county for these obligations in~~
796 ~~county fiscal year 2004-2005, if the latter is less than the~~
797 ~~former. Every year thereafter, the department shall withhold~~
798 ~~such an amount if the amount budgeted in that year is less than~~
799 ~~the base year plus 1.5 percent growth per year. On or before~~

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800 ~~December 31, 2004, counties shall send to the department a~~
801 ~~certified copy of their budget documents for the respective 2~~
802 ~~years, separately identifying expenditure amounts for each~~
803 ~~county funding obligation specified in paragraphs (1) (a), (c),~~
804 ~~(d), (e), (f), (g), and (h) and subsection (3). Each year~~
805 ~~thereafter, on or before December 31 of that year, each county~~
806 ~~shall send a certified copy of its budget document to the~~
807 ~~department.~~

808 ~~(b) Beginning in fiscal year 2005-2006, additional amounts~~
809 ~~shall be withheld pursuant to paragraph (a), if the amount spent~~
810 ~~in the previous fiscal year on the items specified in paragraphs~~
811 ~~(1) (a), (c), (d), (e), (f), (g), and (h), and subsection (3) is~~
812 ~~less than the amount budgeted for those items. Each county shall~~
813 ~~certify expenditures for these county obligations for the prior~~
814 ~~fiscal year to the department within 90 days after the end of~~
815 ~~the fiscal year.~~

816 2.(e) The department shall transfer the withheld payments
817 to the General Revenue Fund within 60 days after the
818 determination by the Administration Commission by March 31 of
819 each year. These payments are hereby appropriated to the
820 Department of Revenue to pay for these responsibilities on
821 behalf of the county.

822 (d) For counties subject to withholding of funds by the
823 Department of Revenue for fiscal years 2004-2005 and 2005-2006:

824 1. If the chief judge does not certify in writing by
825 October 31, 2006, that deficiencies exist in the functioning of
826 the circuit court due to the lack of sufficient budgeting by the
827 county for an item specified in paragraph (1) (a), (c), (d), (e),

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828 (f), (g), or (h) or subsection (3), the Department of Revenue
829 shall not withhold the funds which would otherwise be withheld
830 from such counties.

831 2. If the chief judge certifies in writing to the county
832 and to the Department of Revenue by October 31, 2006, that
833 deficiencies exist in the functioning of the circuit court due
834 to the lack of sufficient budget, the Department of Revenue
835 shall withhold funds for those items specified in paragraph
836 (1) (a), (c), (d), (e), (f), (g), or (h) or subsection (3) that
837 the chief judge certifies in writing are deficient and for which
838 the county did not budget sufficient funds. However, in
839 calculating whether sufficient funds were budgeted for fiscal
840 years 2004-2005 and 2005-2006, the department shall exclude from
841 its calculations of spending for the base year and fiscal years
842 2004-2005 and 2005-2006 any nonrecurring expenditures made by a
843 county for an item specified in paragraph (1) (a), (e), (f), (g),
844 or (h). Counties shall submit to the department by September 30,
845 2006, information about such nonrecurring expenditures in the
846 form and manner specified by the department.

847 (e) For purposes of this subsection, the term
848 "nonrecurring expenditures" shall be limited to expenditures for
849 furnishings, equipment, land acquisition, and other one-time
850 major purchases or upgrades. This subsection does not relieve a
851 county of the obligation to make nonrecurring expenditures when
852 such nonrecurring expenditures are warranted.

853 (5) For purposes of this section, the term "salaries"
854 includes wages, benefits, expenses, and perquisites consistent

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855 with those that are paid for or provided by a county to its
856 employees.

857 Section 8. Subsection (1) of section 29.0081, Florida
858 Statutes, is amended to read:

859 29.0081 County funding of additional court personnel.--

860 (1) A county and the chief judge of a judicial circuit
861 that includes that county may enter into an agreement under
862 which the county funds personnel positions, including providing
863 wages, benefits, expenses, and perquisites consistent with those
864 that are paid for or provided by a county to its employees, to
865 assist in the operation of the circuit.

866 Section 9. Paragraph (d) is added to subsection (5) of
867 section 29.0086, Florida Statutes, and subsection (9) of that
868 section is amended, to read:

869 29.0086 Article V Technology Board.--

870 (5) The board shall:

871 (d) By December 15, 2006, provide a report to the
872 Governor, the President of the Senate, the Speaker of the House
873 of Representatives, and the Chief Justice of the Supreme Court.
874 The report shall contain, at a minimum:

875 1. Recommended statutory language that would provide
876 policy guidance for the judicial circuit technology strategic
877 plans to be developed and the data integration to be promoted by
878 the Judicial Circuit Article V Technology Advisory Councils.

879 2. A description of any further progress made on efforts
880 to develop a catalog of common data elements and recommendations
881 for the maintenance and enhancement of this catalog.

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882 (9) This section is repealed effective January 1, 2007
883 ~~July 1, 2006.~~

884 Section 10. Section 29.0087, Florida Statutes, is created
885 to read:

886 29.0087 Judicial Circuit Article V Technology Advisory
887 Councils.--

888 (1) There shall be established in each judicial circuit a
889 Judicial Circuit Article V Technology Advisory Council.

890 (a) The membership of the council shall include:

891 1. The chief judge of the circuit court, or his or her
892 designee, who shall serve as chair.

893 2. The state attorney of the circuit or his or her
894 designee.

895 3. The public defender of the circuit or his or her
896 designee.

897 4. A sheriff from a county in the circuit selected by the
898 chief judge, or the sheriff's designee, who shall be appointed
899 to an initial term of 1 year and shall serve 2-year terms
900 thereafter.

901 5. A clerk from a county in the circuit selected by the
902 chief judge, or the clerk's designee, who shall be appointed to
903 an initial term of 1 year and shall serve 2-year terms
904 thereafter.

905 6. A member of a board of county commissioners from a
906 county in the circuit selected by the chief judge, or the
907 member's designee, who shall be appointed to an initial term of
908 2 years and shall serve 2-year terms thereafter.

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909 7. A member in good standing of The Florida Bar practicing
910 in the circuit, appointed by the chief judge.

911 (b)1. There shall be no limit to the number of terms a
912 member may serve. For multicounty circuits, to the extent
913 possible, the members provided in subparagraphs (a)4.-6. shall
914 be from different counties.

915 2. Members of the advisory council shall serve without
916 compensation but are entitled to per diem and reimbursement for
917 travel expenses in accordance with s. 112.061. Such per diem and
918 reimbursement for travel expenses shall be paid by the entity
919 employing the member, except for the member of The Florida Bar,
920 whose per diem and reimbursement for travel expenses shall be
921 paid by the judicial circuit.

922 (c) The judicial circuit trial court technology officer
923 and such other judicial circuit employees as are necessary shall
924 serve as staff to the advisory council. Employees of the
925 entities represented by the members of the advisory council may
926 also provide staff support to the advisory council at the
927 request of the judicial circuit trial court technology officer.

928 (d) The first meeting of the advisory council shall be
929 held no later than September 30, 2006. The advisory council
930 shall meet at the call of the chair but no less frequently than
931 quarterly.

932 (2) The duties of the advisory council shall include:

933 (a) Developing an initial judicial circuit technology
934 strategic plan and subsequent updated judicial circuit
935 technology strategic plans to address court-related technology
936 and court technology needs as defined in s. 29.008(1)(f)2. and

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937 (h). The initial judicial circuit technology strategic plan or
938 subsequent updated judicial circuit technology strategic plans
939 shall be provided to the chief judge no later than March 31 of
940 each year.

941 (b) Promoting secure and reliable data integration,
942 interoperability, and access among the information systems under
943 the control of the chief judge, state attorney, and public
944 defender; the clerks of court, sheriffs, and counties of the
945 circuit; and the various state agencies involved in the justice
946 system and the other court systems of the state.

947 Section 11. Subsections (4) and (6) of section 44.103,
948 Florida Statutes, are amended to read:

949 44.103 Court-ordered, nonbinding arbitration.--

950 (4) An arbitrator or, in the case of a panel, the chief
951 arbitrator, shall have such power to administer oaths or
952 affirmation and to conduct the proceedings as the rules of court
953 shall provide. The proceedings shall be conducted informally.
954 Presentation of testimony and evidence shall be kept to a
955 minimum and matters shall be presented to the arbitrators
956 primarily through the statements and arguments of counsel. ~~At~~
957 ~~the request of~~ Any party to the arbitration may petition the
958 court in the underlying action, for good cause shown, to
959 authorize the, ~~such~~ arbitrator to ~~shall~~ issue subpoenas for the
960 attendance of witnesses and the production of books, records,
961 documents, and other evidence at the arbitration and may
962 petition ~~apply to~~ the court for orders compelling such
963 attendance and production at the arbitration. Subpoenas shall be
964 served and shall be enforceable in the manner provided by law.

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965 (6) Upon motion made by either party within 30 days after
966 entry of a judgment, the court may assess costs against the
967 party requesting a trial de novo, including arbitration costs,
968 court costs, reasonable attorney's fees, and other reasonable
969 costs, such as investigation expenses and expenses for expert or
970 other testimony that were incurred after the arbitration hearing
971 and continuing through the trial of the case, in accordance with
972 the guidelines for taxation of costs as adopted by the Supreme
973 Court. Such costs may be assessed if:

974 (a) The plaintiff, having filed for a trial de novo,
975 obtains a judgment at trial that is at least 25 percent less
976 than the arbitration award. In such an instance, the costs and
977 attorney's fees assessed pursuant to this subsection shall be
978 set off against the award. When the costs and attorney's fees
979 assessed pursuant to this subsection total more than the amount
980 of the judgment, the court shall enter judgment for the
981 defendant against the plaintiff for the amount of the costs and
982 attorney's fees, less the amount of the award to the plaintiff.
983 For purposes of a determination under this paragraph, the term
984 "judgment" means the amount of the net judgment entered plus all
985 taxable costs pursuant to the guidelines for taxation of costs
986 as adopted by the Supreme Court, any postarbitration collateral
987 source payments received or due as of the date of the judgment,
988 and any postarbitration settlement amounts by which the verdict
989 was reduced; or

990 (b) The defendant, having filed for a trial de novo, has a
991 judgment entered against the defendant that is a least 25
992 percent more than the arbitration award. For purposes of a

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993 | determination under this paragraph, the term "judgment" means
 994 | the amount of the net judgment entered plus any postarbitration
 995 | settlement amounts by which the verdict was reduced. ~~The party~~
 996 | ~~having filed for a trial de novo may be assessed the arbitration~~
 997 | ~~costs, court costs, and other reasonable costs of the party,~~
 998 | ~~including attorney's fees, investigation expenses, and expenses~~
 999 | ~~for expert or other testimony or evidence incurred after the~~
 1000 | ~~arbitration hearing if the judgment upon the trial de novo is~~
 1001 | ~~not more favorable than the arbitration decision.~~

1002 | Section 12. Subsection (3) of section 218.245, Florida
 1003 | Statutes, as amended by section 44 of chapter 2005-236, Laws of
 1004 | Florida, is amended to read:

1005 | 218.245 Revenue sharing; apportionment.--

1006 | (3) Revenues attributed to the increase in distribution to
 1007 | the Revenue Sharing Trust Fund for Municipalities pursuant to s.
 1008 | 212.20(6)(d)6. from 1.0715 percent to 1.3409 percent provided in
 1009 | chapter 2003-402, Laws of Florida, shall be distributed to each
 1010 | eligible municipality and any unit of local government which is
 1011 | consolidated as provided by s. 9, Art. VIII of the State
 1012 | Constitution of 1885, as preserved by s. 6(e), Art. VIII, 1968
 1013 | revised constitution, as follows: each eligible local
 1014 | government's allocation shall be based on the amount it received
 1015 | from the half-cent sales tax under s. 218.61 in the prior state
 1016 | fiscal year divided by the total receipts under s. 218.61 in the
 1017 | prior state fiscal year for all eligible local governments;
 1018 | provided, however, for the purpose of calculating this
 1019 | distribution, the amount received from the half-cent sales tax
 1020 | under s. 218.61 in the prior state fiscal year by a unit of

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1021 local government which is consolidated as provided by s. 9, Art.
 1022 VIII of the State Constitution of 1885, as amended, and as
 1023 preserved by s. 6(e), Art. VIII, of the Constitution as revised
 1024 in 1968, shall be reduced by 42 ~~50~~ percent for such local
 1025 government and for the total receipts. For eligible
 1026 municipalities that began participating in the allocation of
 1027 half-cent sales tax under s. 218.61 in the previous state fiscal
 1028 year, their annual receipts shall be calculated by dividing
 1029 their actual receipts by the number of months they participated,
 1030 and the result multiplied by 12.

1031 Section 13. Subsection (13) of section 318.18, Florida
 1032 Statutes, is amended to read:

1033 318.18 Amount of civil penalties.--The penalties required
 1034 for a noncriminal disposition pursuant to s. 318.14 are as
 1035 follows:

1036 (13) In addition to any penalties imposed for noncriminal
 1037 traffic infractions pursuant to this chapter or imposed for
 1038 criminal violations listed in s. 318.17, a board of county
 1039 commissioners or any unit of local government which is
 1040 consolidated as provided by s. 9, Art. VIII of the State
 1041 Constitution of 1885, as preserved by s. 6(e), Art. VIII of the
 1042 Constitution of 1968:

1043 (a) May impose by ordinance a surcharge of up to \$15 for
 1044 any infraction or violation to fund state court facilities. The
 1045 court shall not waive this surcharge. Up to 25 percent of the
 1046 revenue from such surcharge may be used to support local law
 1047 libraries provided that the county or unit of local government
 1048 provides a level of service equal to that provided prior to July

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1049 1, 2004, which shall include the continuation of library
1050 facilities located in or near the county courthouse or annexes.

1051 (b) That imposed increased fees or service charges by
1052 ordinance under s. 28.2401, s. 28.241, or s. 34.041 for the
1053 purpose of securing payment of the principal and interest on
1054 bonds issued by the county before July 1, 2003, to finance state
1055 court facilities, may impose by ordinance a surcharge for any
1056 infraction or violation for the exclusive purpose of securing
1057 payment of the principal and interest on bonds issued by the
1058 county before July 1, 2003, to fund state court facilities until
1059 the date of stated maturity. The court shall not waive this
1060 surcharge. Such surcharge may not exceed an amount per violation
1061 calculated as the quotient of the maximum annual payment of the
1062 principal and interest on the bonds as of July 1, 2003, divided
1063 by the number of traffic citations for county fiscal year 2002-
1064 2003 certified as paid by the clerk of the court of the county.
1065 Such quotient shall be rounded up to the next highest dollar
1066 amount. The bonds may be refunded only if savings will be
1067 realized on payments of debt service and the refunding bonds are
1068 scheduled to mature on the same date or before the bonds being
1069 refunded.

1070
1071 A county may not impose both of the surcharges authorized under
1072 paragraphs (a) and (b) concurrently. The county clerk of court
1073 shall report, no later than 30 days after the end of the
1074 quarter, the amount of funds collected, the amount of funds
1075 expended, and the uses of the funds under this subsection during
1076 each quarter of the fiscal year. The county clerk shall submit

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1077 the report, in a format developed by the Office of State Courts
1078 Administrator, to the chief judge of the circuit, the Governor,
1079 the President of the Senate, and the Speaker of the House of
1080 Representatives.

1081 Section 14. Section 903.286, Florida Statutes, is amended
1082 to read:

1083 903.286 Return of cash bond; requirement to withhold
1084 unpaid fines, fees, and court costs.--Notwithstanding the
1085 provisions of s. 903.31(2), the clerk of the court shall
1086 withhold from the return of a cash bond posted on behalf of a
1087 criminal defendant by a person other than a bail bond agent
1088 licensed pursuant to chapter 648 sufficient funds to pay any
1089 unpaid court fees, court costs, and criminal penalties. The
1090 clerk of the court shall provide notice to the person posting
1091 the cash bond prior to the posting of such bond that the
1092 proceeds are subject to withholding to pay any unpaid court
1093 fees, court costs, and criminal penalties. In the event that
1094 sufficient funds are not available to pay all unpaid court fees,
1095 court costs, and criminal penalties, the clerk of the court
1096 shall immediately obtain payment from the defendant or enroll
1097 the defendant in a payment plan pursuant to s. 28.246. However,
1098 the clerk may not withhold any unpaid court fees, court costs,
1099 or criminal penalties from a cash bond posted prior to July 1,
1100 2005, by a person other than the defendant.

1101 Section 15. Subsections (1) and (2) of section 938.27,
1102 Florida Statutes, are amended to read:

1103 938.27 Judgment for costs on conviction.--

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1104 (1) In all criminal cases, convicted persons or parents of
 1105 adjudicated juveniles are liable for payment of the documented
 1106 costs of prosecution, including investigative costs incurred by
 1107 law enforcement agencies, by fire departments for arson
 1108 investigations, and by investigations of the Department of
 1109 Financial Services or the Office of Financial Regulation of the
 1110 Financial Services Commission, ~~if requested by such agencies.~~
 1111 These costs shall be included and entered in the judgment
 1112 rendered against the convicted person or adjudicated juvenile.

1113 (2) (a) If the court allows additional time for payment of
 1114 such costs, the convicted person or the parents of the
 1115 adjudicated juvenile shall be enrolled in a payment plan
 1116 pursuant to s. 28.246(4) ~~The court shall require the defendant~~
 1117 ~~to pay the costs within a specified period or in specified~~
 1118 ~~installments.~~

1119 ~~(b) The end of such period or the last such installment~~
 1120 ~~shall not be later than:~~

1121 ~~1. The end of the period of probation or community~~
 1122 ~~control, if probation or community control is ordered,~~

1123 ~~2. Five years after the end of the term of imprisonment~~
 1124 ~~imposed, if the court does not order probation or community~~
 1125 ~~control, or~~

1126 ~~3. Five years after the date of sentencing in any other~~
 1127 ~~case.~~

1128
 1129 ~~However, in no event shall the obligation to pay any unpaid~~
 1130 ~~amounts expire if not paid in full within the period specified~~
 1131 ~~in this paragraph.~~

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1132 (b)~~(e)~~ If not otherwise provided by the court under this
1133 section, costs shall be paid immediately.

1134 Section 16. Paragraph (a) of subsection (1) of section
1135 938.29, Florida Statutes, is amended to read:

1136 938.29 Legal assistance; lien for payment of attorney's
1137 fees or costs.--

1138 (1) (a) A defendant determined to be guilty of a criminal
1139 act or found to have committed a delinquent act by a court or
1140 jury or through a plea of guilty or nolo contendere, regardless
1141 of adjudication, and who has received the assistance of the
1142 public defender's office, ~~a special assistant public defender,~~
1143 or a court-appointed ~~conflict~~ attorney shall be liable for
1144 payment of attorney's fees and costs. The court shall determine
1145 the amount of the obligation. Such costs shall include, but not
1146 be limited to, the cost of depositions; cost of transcripts of
1147 depositions, including the cost of defendant's copy, which
1148 transcripts are certified by the defendant's attorney as having
1149 served a useful purpose in the disposition of the case;
1150 investigative costs; witness fees; the cost of psychiatric
1151 examinations; or other reasonable costs specially incurred by
1152 the state and the clerk of court for the defense of the
1153 defendant in criminal prosecutions. Costs shall not include
1154 expenses inherent in providing a constitutionally guaranteed
1155 jury trial or expenditures in connection with the maintenance
1156 and operation of government agencies that must be made by the
1157 public irrespective of specific violations of law. Any costs
1158 assessed pursuant to this paragraph shall be reduced by any
1159 amount assessed against a defendant pursuant to s. 938.05.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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1160 Section 17. Subsections (4) and (5) of section 948.15,
1161 Florida Statutes, are renumbered as subsections (5) and (6),
1162 respectively, present subsection (3) is renumbered as subsection
1163 (4), paragraph (e) of that subsection is amended, and a new
1164 subsection (3) is added to that section, to read:

1165 948.15 Misdemeanor probation services.--

1166 (3) (a) The entity providing probation services for
1167 offenders sentenced by the county court shall establish a
1168 process to collect payments for all offender fees, fines, and
1169 costs imposed by the court, restitution owed by the misdemeanor
1170 probationer, and the cost of supervision. The entity providing
1171 probation services shall provide any funds collected in
1172 accordance with this subsection to the payee to whom they are
1173 owed within 30 days.

1174 (b) For programs provided by a county with its own
1175 employees, if a payment made by the misdemeanor probationer is
1176 not sufficient to cover the total installment required under a
1177 payment plan imposed by the court plus any additional payments
1178 that are outstanding, the payment made by the misdemeanor
1179 probationer shall be allocated proportionally among any fees,
1180 fines, and costs imposed by the court, restitution owed by the
1181 misdemeanor probationer, and the cost of supervision based on
1182 the percentage that the sum owed for each type of payment
1183 comprises of the total installment owed for all types of
1184 payments.

1185 (4)~~(3)~~ Any private entity providing services for the
1186 supervision of misdemeanor probationers must contract with the
1187 county in which the services are to be rendered. In a county

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1188 with a population of less than 70,000, the county court judge,
1189 or the administrative judge of the county court in a county that
1190 has more than one county court judge, must approve the contract.
1191 Terms of the contract must state, but are not limited to:

1192 (e) Procedures for handling the collection in accordance
1193 with subsection (3) of all payments owed by an offender fees and
1194 restitution.

1195
1196 In addition, the entity shall supply the chief judge's office
1197 with a quarterly report summarizing the number of offenders
1198 supervised by the private entity, payment of the required
1199 contribution under supervision or rehabilitation, and the number
1200 of offenders for whom supervision or rehabilitation will be
1201 terminated. All records of the entity must be open to inspection
1202 upon the request of the county, the court, the Auditor General,
1203 the Office of Program Policy Analysis and Government
1204 Accountability, or agents thereof.

1205 Section 18. Section 939.185, Florida Statutes, is
1206 renumbered as section 938.195, Florida Statutes.

1207 Section 19. Subsection (3) of section 775.083, Florida
1208 Statutes, is renumbered as subsection (2) of that section, and
1209 present subsection (2) of that section is transferred to section
1210 938.065, Florida Statutes, which is created, and amended to
1211 read:

1212 938.065 County crime prevention programs.--

1213 ~~(2) In addition to the fines set forth in subsection (1),~~
1214 Court costs shall be assessed and collected in each instance a
1215 defendant pleads nolo contendere to, or is convicted of, or

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1216 adjudicated delinquent for, a felony, a misdemeanor, or a
 1217 criminal traffic offense under state law, or a violation of any
 1218 municipal or county ordinance if the violation constitutes a
 1219 misdemeanor under state law. The court costs imposed by this
 1220 section shall be \$50 for a felony and \$20 for any other offense
 1221 and shall be deposited by the clerk of the court into an
 1222 appropriate county account for disbursement for the purposes
 1223 provided in this subsection. A county shall account for the
 1224 funds separately from other county funds as crime prevention
 1225 funds. The county, in consultation with the sheriff, must expend
 1226 such funds for crime prevention programs in the county,
 1227 including safe neighborhood programs under ss. 163.501-163.523.

1228 Section 20. Subsections (1), (2), and (4) of section
 1229 938.17, Florida Statutes, are amended to read:

1230 938.17 County delinquency prevention; juvenile assessment
 1231 centers and school board suspension programs.--

1232 (1) Prior to the use of costs received pursuant to s.
 1233 938.195 ~~939.185~~, the sheriff's office of the county must be a
 1234 partner in a written agreement with the Department of Juvenile
 1235 Justice to participate in a juvenile assessment center or with
 1236 the district school board to participate in a suspension
 1237 program.

1238 (2) Assessments collected by clerks of the circuit courts
 1239 comprised of more than one county shall remit the funds
 1240 collected pursuant to s. 938.195 ~~939.185~~ to the county in which
 1241 the offense at issue was committed for deposit and disbursement.

1242 (4) A sheriff's office that receives proceeds pursuant to
 1243 s. 938.195 ~~939.185~~ shall account for all funds annually by

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1244 August 1 in a written report to the juvenile justice county
1245 council if funds are used for assessment centers, and to the
1246 district school board if funds are used for suspension programs.

1247 Section 21. Subsection (7) of section 938.19, Florida
1248 Statutes, is amended to read:

1249 938.19 Teen courts.--

1250 (7) A teen court administered in a county that adopts an
1251 ordinance to assess court costs under this section may not
1252 receive court costs collected under s. 938.195(1)(a)4.

1253 ~~939.185(1)(a)4.~~

1254 Section 22. Paragraph (d) of subsection (6) of section
1255 948.08, Florida Statutes, is amended to read:

1256 948.08 Pretrial intervention program.--

1257 (6)

1258 (d) Any entity, whether public or private, providing a
1259 pretrial substance abuse education and treatment intervention
1260 program under this subsection must contract with the county or
1261 appropriate governmental entity, and the terms of the contract
1262 must include, but need not be limited to, the requirements
1263 established for private entities under s. 948.15(4)~~(3)~~.

1264 Section 23. Subsection (3) of section 948.16, Florida
1265 Statutes, is amended to read:

1266 948.16 Misdemeanor pretrial substance abuse education and
1267 treatment intervention program.--

1268 (3) Any public or private entity providing a pretrial
1269 substance abuse education and treatment program under this
1270 section shall contract with the county or appropriate
1271 governmental entity. The terms of the contract shall include,

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1272 but not be limited to, the requirements established for private
1273 entities under s. 948.15~~(4)~~~~(3)~~.

1274 Section 24. Subsections (1), (2), and (3) of section
1275 985.203, Florida Statutes, are amended to read:

1276 985.203 Right to counsel.--

1277 (1) A child is entitled to representation by legal counsel
1278 at all stages of any proceedings under this part. If the ~~child~~
1279 ~~and the~~ parents or other legal guardian is ~~are~~ indigent ~~and~~
1280 ~~unable to employ counsel for the child~~, the court shall appoint
1281 counsel pursuant to s. 27.52. However, if a parent or legal
1282 guardian is also the alleged victim in the case, the court shall
1283 appoint counsel to represent the child without requiring an
1284 affidavit from the parent or legal guardian. Determination of
1285 indigence and costs of representation shall be as provided by
1286 ss. 27.52 and 938.29. Legal counsel representing a child ~~who~~
1287 ~~exercises the right to counsel~~ shall be allowed to provide
1288 advice and counsel to the child at any time subsequent to the
1289 child's arrest, including prior to a detention hearing while in
1290 secure detention care. A child shall be represented by legal
1291 counsel at all stages of all court proceedings unless the right
1292 to counsel is freely, knowingly, and intelligently waived by the
1293 child after the child has been given a meaningful opportunity to
1294 confer with counsel. If the child appears without counsel, the
1295 court shall appoint counsel if the parents or legal guardian is
1296 indigent ~~advise the child of his or her rights with respect to~~
1297 ~~representation of court appointed counsel~~.

1298 (2) If the parents or legal guardian of an indigent child
1299 is ~~are~~ not indigent but refuses ~~refuse~~ to employ counsel, the

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1300 court shall appoint counsel pursuant to s. 27.52 to represent
 1301 the child at the detention hearing and until counsel is
 1302 provided. Costs of representation are hereby imposed as provided
 1303 by ss. 27.52 and 938.29. Thereafter, the court shall not appoint
 1304 counsel for an indigent child with nonindigent parents or legal
 1305 guardian but shall order the parents or legal guardian to obtain
 1306 private counsel. A parent or legal guardian of an indigent child
 1307 who has been ordered to obtain private counsel for the child and
 1308 who willfully fails to follow the court order shall be punished
 1309 by the court in civil contempt proceedings. If a nonindigent
 1310 parent or legal guardian is also the alleged victim in the case,
 1311 the court shall not order that parent or legal guardian to
 1312 obtain private counsel but shall appoint counsel pursuant to s.
 1313 27.52 to represent the indigent child.

1314 (3) An indigent child with nonindigent parents or legal
 1315 guardian may have counsel appointed pursuant to s. 27.52 if the
 1316 parents or legal guardian has ~~have~~ willfully refused to obey the
 1317 court order to obtain counsel for the child and has ~~have~~ been
 1318 punished by civil contempt and then still has ~~have~~ willfully
 1319 refused to obey the court order. Costs of representation are
 1320 hereby imposed as provided by ss. 27.52 and 938.29.

1321 Section 25. Paragraph (d) of subsection (1) of section
 1322 985.306, Florida Statutes, is amended to read:

1323 985.306 Delinquency pretrial intervention program.--

1324 (1)

1325 (d) Any entity, whether public or private, providing
 1326 pretrial substance abuse education, treatment intervention, and
 1327 a urine monitoring program under this section must contract with

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1328 | the county or appropriate governmental entity, and the terms of
 1329 | the contract must include, but need not be limited to, the
 1330 | requirements established for private entities under s.
 1331 | 948.15 (4) ~~(3)~~. It is the intent of the Legislature that public or
 1332 | private entities providing substance abuse education and
 1333 | treatment intervention programs involve the active participation
 1334 | of parents, schools, churches, businesses, law enforcement
 1335 | agencies, and the department or its contract providers.
 1336 | Section 26. This act shall take effect July 1, 2006.