

1                   A bill to be entitled  
2           An act relating to continuing implementation of  
3           Constitutional Revision 7 to Article V; amending s. 27.51,  
4           F.S.; revising certain criteria for persons to be  
5           represented by the public defender without additional  
6           compensation; providing an exception to a prohibition  
7           against a court appointing the public defender to  
8           represent a person who is not indigent; amending s. 27.52,  
9           F.S.; providing an age limitation on persons seeking  
10          appointment of a public defender based upon an inability  
11          to pay; specifying conditions under which an additional  
12          affidavit need not be filed; providing requirements for a  
13          law enforcement officer or booking officer committing a  
14          defendant to custody; providing for liability for fees,  
15          costs, and charges of representation in delinquency  
16          proceedings; expanding a provision imposing a lien;  
17          amending s. 27.561, F.S.; deleting authorization for a  
18          court to reduce or revoke attorney's fees or costs under  
19          certain circumstances; requiring defendant-recipients or  
20          parents defaulting on payment of attorney's fees or costs  
21          to enroll in a payment plan under certain circumstances;  
22          amending s. 28.24, F.S.; revising amounts and  
23          distributions of the additional \$4 services charge  
24          relating to Comprehensive Case Management System of the  
25          Florida Association of Court Clerks and Comptroller, Inc.,  
26          court-related technology needs, the Court Technology Trust  
27          Fund, court-related technology services, and the judicial

28 circuit technology strategic plan; requiring the  
29 association to provide for an annual operational audit;  
30 providing audit requirements; requiring submission of an  
31 audit report to certain entities; authorizing the Joint  
32 Legislative Auditing Committee to require the Auditor  
33 General or other entity to conduct the audit; providing a  
34 contingency for receipt of certain funds upon a memorandum  
35 of agreement relating to ownership of the Comprehensive  
36 Case Information System; providing for transfer of the  
37 system to the state under certain circumstances; providing  
38 criteria, requirements, and procedures relating to such  
39 transfer; amending s. 28.35, F.S.; providing additional  
40 duties of the Florida Clerks of Court Operations  
41 Corporation; providing requirements for the corporation  
42 and clerks of court relating to certain budget amendments;  
43 amending s. 28.36, F.S.; correcting cross-references;  
44 providing expenditure requirements for certain budgets;  
45 providing expenditure recording and reporting requirements  
46 for clerks; amending s. 29.008, F.S.; specifying  
47 methodology, criteria, and procedures for determining  
48 noncompliance of counties in funding court-related  
49 functions; providing duties of a chief judge, the board of  
50 county commissioners, the Executive Office of the  
51 Governor, and the Administration Commission; revising  
52 provisions for withholding certain revenue sharing  
53 receipts by the Department of Revenue; providing  
54 definitions; providing requirements and procedures for the

55 Department of Revenue relating to withholding of certain  
56 funds to certain counties for certain fiscal years;  
57 amending s. 29.0081, F.S.; specifying additional  
58 provisions of an agreement for county funding of judicial  
59 circuit personnel positions; amending s. 29.0086, F.S.;  
60 providing an additional reporting requirement of the  
61 Article V Technology Board; providing for future repeal of  
62 the Article V Technology Board; creating s. 29.0087, F.S.;  
63 establishing in each judicial circuit a Judicial Circuit  
64 Article V Technology Advisory Council; providing for  
65 membership; providing for terms; providing for serving  
66 without compensation; providing for per diem and travel  
67 expenses; providing for staff for the councils; providing  
68 for meetings; providing duties; amending s. 44.103, F.S.;  
69 providing additional requirements and procedures for  
70 court-ordered nonbinding arbitration proceedings;  
71 authorizing courts to assess certain costs against parties  
72 requesting de novo trials after arbitration; providing  
73 cost assessment criteria; providing a definition; amending  
74 s. 218.245, F.S.; revising apportionment criteria for  
75 revenue sharing distributions for certain local  
76 governments; amending s. 318.18, F.S.; revising reporting  
77 requirements for infraction or violation surcharge funds  
78 used to finance court facilities; amending s. 903.286,  
79 F.S.; requiring notice of the authority of the clerk of  
80 court to withhold funds from return of certain cash bonds  
81 for unpaid court fees, court costs, and criminal

82 penalties; prohibiting the clerk of court from withholding  
83 certain unpaid court fees, costs, and criminal penalties  
84 from certain cash bonds; amending s. 938.27, F.S.;  
85 requiring convicted persons or parents of adjudicated  
86 juveniles to enroll in certain prosecution cost-payment  
87 plans; deleting certain cost-payment criteria; amending s.  
88 938.29, F.S.; revising certain provisions for liability  
89 for payment of attorney's fees and costs; amending s.  
90 948.15, F.S.; requiring misdemeanor probation service  
91 providers to establish a process for collecting certain  
92 payments; providing for allocating certain payments among  
93 outstanding obligations; renumbering s. 939.185, F.S., as  
94 s. 938.195, F.S.; creating s. 938.065, F.S., by  
95 transferring and amending s. 775.083(2), F.S.; providing  
96 for financing county crime prevention programs from  
97 certain court costs; amending s. 985.203, F.S.; revising  
98 provisions providing for a child's right to counsel;  
99 amending ss. 938.17, 938.19, 948.08, 948.16, and 985.306,  
100 F.S.; correcting cross-references; providing an effective  
101 date.

102  
103 Be It Enacted by the Legislature of the State of Florida:

104  
105 Section 1. Paragraph (c) of subsection (1) and subsection  
106 (2) of section 27.51, Florida Statutes, are amended to read:  
107 27.51 Duties of public defender.--

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

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

115 (2) Except as provided in 985.203, the court may not  
 116 appoint the public defender to represent, even on a temporary  
 117 basis, any person who is not indigent. The court, however, may  
 118 appoint private counsel in capital cases as provided in ss.  
 119 27.40 and 27.5303.

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

123 27.52 Determination of indigent status.--

124 (1) APPLICATION TO THE CLERK.--A person 18 years of age or  
 125 older seeking appointment of a public defender under s. 27.51  
 126 based upon an inability to pay must apply to the clerk of the  
 127 court for a determination of indigent status using an  
 128 application form developed by the Florida Clerks of Court  
 129 Operations Corporation with final approval by the Supreme Court.  
 130 An additional affidavit need not be filed if appointment is  
 131 being sought under s. 27.51(1)(f) and the public defender or  
 132 private court-appointed counsel had already been appointed for a  
 133 matter arising under s. 27.51(1)(a)-(e). No affidavit of  
 134 indigency shall be required of a minor.

135 (a) The application must include, at a minimum, the  
136 following financial information:

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

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

145 3. Assets, including, but not limited to, cash, savings  
146 accounts, bank accounts, stocks, bonds, certificates of deposit,  
147 equity in real estate, and equity in a boat or a motor vehicle  
148 or in other tangible property.

149 4. All liabilities and debts.

150 5. If applicable, the amount of any bail paid for the  
151 applicant's release from incarceration and the source of the  
152 funds.

153

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

160 (b) An applicant shall pay a \$40 application fee to the  
161 clerk for each application for court-appointed counsel filed.

162 The applicant shall pay the fee within 7 days after submitting  
163 the application. If the applicant does not pay the fee prior to  
164 the disposition of the case, the clerk shall notify the court,  
165 and the court shall:

166 1. Assess the application fee as part of the sentence or  
167 as a condition of probation; or

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

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

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

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

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

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

210           (a)1. An applicant, including an applicant who is ~~a minor~~  
211 ~~or~~ an adult tax-dependent person, is indigent if the applicant's  
212 income is equal to or below 200 percent of the then-current  
213 federal poverty guidelines prescribed for the size of the  
214 household of the applicant by the United States Department of



215 Health and Human Services or if the person is receiving  
216 Temporary Assistance for Needy Families-Cash Assistance,  
217 poverty-related veterans' benefits, or Supplemental Security  
218 Income (SSI).

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

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

242 fees, charges, and costs of the representation even if the  
 243 person is a minor being tried as an adult. Liability for the  
 244 fees, charges, and costs of the representation shall be imposed  
 245 in the form of a lien against the property of the ~~nonindigent~~  
 246 parents or legal guardian of the minor or adult tax-dependent  
 247 person. The lien is enforceable as provided in s. 27.561 or s.  
 248 938.29.

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

251 27.561 Effect of nonpayment.--

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

261 Section 4. Paragraph (e) of subsection (12) of section  
 262 28.24, Florida Statutes, is amended to read:

263 28.24 Service charges by clerk of the circuit court.--The  
 264 clerk of the circuit court shall charge for services rendered by  
 265 the clerk's office in recording documents and instruments and in  
 266 performing the duties enumerated in amounts not to exceed those  
 267 specified in this section. Notwithstanding any other provision  
 268 of this section, the clerk of the circuit court shall provide

269 without charge to the state attorney, public defender, guardian  
 270 ad litem, public guardian, attorney ad litem, and court-  
 271 appointed counsel paid by the state, and to the authorized staff  
 272 acting on behalf of each, access to and a copy of any public  
 273 record, if the requesting party is entitled by law to view the  
 274 exempt or confidential record, as maintained by and in the  
 275 custody of the clerk of the circuit court as provided in general  
 276 law and the Florida Rules of Judicial Administration. The clerk  
 277 of the circuit court may provide the requested public record in  
 278 an electronic format in lieu of a paper format when capable of  
 279 being accessed by the requesting entity.

280

281 Charges

282

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

286 (e) An additional service charge of \$4 per page shall be  
 287 paid to the clerk of the circuit court for each instrument  
 288 listed in s. 28.222, except judgments received from the courts  
 289 and notices of lis pendens, recorded in the official records.

290 From the additional \$4 service charge collected:

291 1.a. If the counties maintain legal responsibility for the  
 292 costs of the court-related technology needs as defined in s.  
 293 29.008(1)(f)2. and (h):

294 (I) Five, ~~10~~ cents shall be distributed to the Florida  
 295 Association of Court Clerks and Comptroller, Inc., for the cost

296 of development, implementation, operation, and maintenance of  
297 the clerks' Comprehensive Case Information System, in which  
298 system all clerks shall participate on or before January 1,  
299 2006. The Florida Association of Court Clerks and Comptroller,  
300 Inc., shall provide for an annual operational audit, as defined  
301 in s. 11.45(1)(g), of its financial accounts and records  
302 relating to the Comprehensive Case Information System fees by an  
303 independent certified public accountant. Such audit shall be  
304 performed in accordance with Government Auditing Standards as  
305 adopted by the State Board of Accountancy and include a  
306 determination as to whether the fees distributed to the Florida  
307 Association of Court Clerks and Comptroller, Inc., were expended  
308 solely for the purposes stated in this sub-sub-subparagraph. The  
309 annual audit report shall be submitted within 90 days after the  
310 end of the association's fiscal year to the Governor's Office,  
311 the appropriations committees of the Senate and the House of  
312 Representatives, and the Auditor General for review. However, at  
313 its discretion, the Joint Legislative Auditing Committee may  
314 require the Auditor General or other entity to conduct the  
315 audit;

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

321 (III) Prior to April 1, 2007, ~~and~~ \$2 shall be distributed  
322 to the board of county commissioners to be used exclusively to

323 fund court-related technology, and court technology needs as  
324 defined in s. 29.008(1)(f)2. and (h) for the state trial courts,  
325 state attorney, and public defender in that county, and five  
326 cents shall be distributed to the Court Technology Trust Fund to  
327 provide oversight of court-related technology services provided  
328 by the counties; and

329 (IV) Effective April 1, 2007, \$2.05 shall be distributed  
330 to the Court Technology Trust Fund to be used to prepare the  
331 judicial circuit technology strategic plan required by s.  
332 29.0087, provide oversight of court-related technology services  
333 provided by the counties, and be disbursed to counties as state  
334 financial assistance to assist the counties with the costs of  
335 providing court-related technology and court technology needs as  
336 defined in s. 29.008(1)(f)2. and (h) for the state trial courts,  
337 state attorney, and public defender in that county. Counties  
338 shall agree to use funds in conformance with the judicial  
339 circuit technology strategic plan required by s. 29.0087 as  
340 approved by the chief judge in order to be eligible for state  
341 financial assistance from the Court Technology Trust Fund. The  
342 amount provided to each county from the Court Technology Trust  
343 Fund shall be equal to each county's percentage of total  
344 collections of the additional recording fee required by this  
345 section applied to the total amount available to be distributed  
346 to counties. If a county is not eligible to receive funds from  
347 the Court Technology Trust Fund, the funds that would have  
348 otherwise been distributed to the county shall remain in the

349 Court Technology Trust Fund to be used as appropriated by the  
350 Legislature.

351 b. If the counties maintain legal responsibility for the  
352 costs of the court-related technology needs as defined in s.  
353 29.008(1)(f)2. and (h), notwithstanding any other provision of  
354 law, the county is not required to provide additional funding  
355 beyond that provided herein for the court-related technology  
356 needs of the clerk as defined in s. 29.008(1)(f)2. and (h). All  
357 court records and official records are the property of the State  
358 of Florida, including any records generated as part of the  
359 Comprehensive Case Information System funded pursuant to this  
360 paragraph and the clerk of court is designated as the custodian  
361 of such records, except in a county where the duty of  
362 maintaining official records exists in a county office other  
363 than the clerk of court or comptroller, such county office is  
364 designated the custodian of all official records, and the clerk  
365 of court is designated the custodian of all court records. The  
366 clerk of court or any entity acting on behalf of the clerk of  
367 court, including an association, shall not charge a fee to any  
368 agency as defined in s. 119.011, the Legislature, or the State  
369 Court System for copies of records generated by the  
370 Comprehensive Case Information System or held by the clerk of  
371 court or any entity acting on behalf of the clerk of court,  
372 including an association. In order to protect the financial  
373 investment made by the state in the Comprehensive Case  
374 Information System, the receipt of the funding provided pursuant  
375 to sub-sub-subparagraph a.(I) to the Florida Association of

376 Court Clerks and Comptroller, Inc., for the Comprehensive Case  
377 Information System shall be contingent on the Florida  
378 Association of Court Clerks and Comptroller, Inc., entering into  
379 a memorandum of agreement with the state providing that  
380 ownership of the Comprehensive Case Information System,  
381 including all associated hardware, source code, executable  
382 software, and data or databases stored by the Comprehensive Case  
383 Information System, shall be transferred to the state if the  
384 Florida Association of Court Clerks and Comptroller, Inc., is  
385 dissolved, decides to discontinue providing the Comprehensive  
386 Case Information System, or otherwise fails to maintain,  
387 support, and provide the Comprehensive Case Information System  
388 in accordance with the requirements of this section. Upon  
389 entering into such memorandum of agreement, a copy of the  
390 current version of the Comprehensive Case Information System  
391 source code, executable software, data or databases stored by  
392 the Comprehensive Case Information System, and documentation  
393 shall be placed in escrow with the state named as beneficiary.  
394 Upon the deployment of a new major release, or at least annually  
395 if there is no new major release, the most current Comprehensive  
396 Case Information System source code, executable software, data  
397 or databases stored by the Comprehensive Case Information  
398 System, and documentation shall be placed in escrow. This  
399 Comprehensive Case Information System source code, executable  
400 software, data or databases stored by the Comprehensive Case  
401 Information System, and documentation shall be reviewed no less  
402 than once a year and jointly by representatives of the state and

403 the Florida Association of Court Clerks and Comptroller, Inc.,  
404 to ensure currency and completeness. Upon any transfer of  
405 ownership of the Comprehensive Case Information System to the  
406 state, all rights to intellectual property owned by the Florida  
407 Association of Court Clerks and Comptroller, Inc., relating to  
408 the Comprehensive Case Information System shall transfer to the  
409 state.

410 2. If the state becomes legally responsible for the costs  
411 of court-related technology needs as defined in s.  
412 29.008(1)(f)2. and (h), whether by operation of general law or  
413 by court order, \$4 shall be remitted to the Department of  
414 Revenue for deposit into the General Revenue Fund.

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

421 28.35 Florida Clerks of Court Operations Corporation.--

422 (2) The duties of the corporation shall include the  
423 following:

424 (e) Developing and certifying a uniform system of  
425 performance measures and applicable performance standards for  
426 the functions specified in paragraph (5)~~(4)~~(a) and clerk  
427 performance in meeting the performance standards. These measures  
428 and standards shall be designed to facilitate an objective  
429 determination of the performance of each clerk in accordance



430 with minimum standards for fiscal management, operational  
431 efficiency, and effective collection of fines, fees, service  
432 charges, and court costs. When the corporation finds a clerk has  
433 not met the performance standards, the corporation shall  
434 identify the nature of each deficiency and any corrective action  
435 recommended and taken by the affected clerk of the court.

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

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

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

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

460 28.36 Budget procedure.--There is hereby established a  
461 budget procedure for the court-related functions of the clerks  
462 of the court.

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

469 (2) For the period July 1, 2004, through September 30,  
470 2004, and for each county fiscal year ending September 30  
471 thereafter, each clerk of the court shall prepare a budget  
472 relating solely to the performance of the standard list of  
473 court-related functions pursuant to s. 28.35 (5) ~~(4)~~ (a).

474 (3) Each proposed budget shall further conform to the  
475 following requirements:

476 (a) On or before August 15 for each fiscal year  
477 thereafter, the proposed budget shall be prepared, summarized,  
478 and submitted by the clerk in each county to the Clerks of Court  
479 Operations Corporation in the manner and form prescribed by the  
480 corporation. The proposed budget must provide detailed  
481 information on the anticipated revenues available and  
482 expenditures necessary for the performance of the standard list  
483 of court-related functions of the clerk's office developed

484 pursuant to s. 28.35(5)~~(4)~~(a) for the county fiscal year  
 485 beginning the following October 1.

486 (b) The proposed budget must be balanced, such that the  
 487 total of the estimated revenues available equals ~~must equal~~ or  
 488 exceeds ~~exceed~~ the total of the anticipated expenditures. These  
 489 revenues include the following: cash balances brought forward  
 490 from the prior fiscal period; revenue projected to be received  
 491 from fees, service charges, court costs, and fines for court-  
 492 related functions during the fiscal period covered by the  
 493 budget; and supplemental revenue that may be requested pursuant  
 494 to subsection (4). Both proposed and certified budgets shall  
 495 clearly identify expenditures by object and subobject  
 496 classifications as specified in the uniform accounting system  
 497 chart of accounts adopted by the Department of Financial  
 498 Services in accordance with s. 218.33 and the number of full-  
 499 time equivalent positions. A budget shall specifically list any  
 500 nonrecurring expenditures, including, but not limited to,  
 501 employee bonuses and equipment purchases. The budget shall also  
 502 specify details of any general changes to salaries and benefits,  
 503 such as cost-of-living increases in salaries and improvements in  
 504 benefits. ~~The anticipated expenditures must be itemized as~~  
 505 ~~required by the corporation, pursuant to contract with the Chief~~  
 506 ~~Financial Officer.~~

507 (c) The proposed budget may include a contingency reserve  
 508 not to exceed 10 percent of the total budget, provided that,  
 509 overall, the proposed budget does not exceed the limits  
 510 prescribed in subsection (5).

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

522           (a) If the corporation verifies that the proposed budget  
523 is limited to the standard list of court-related functions in s.  
524 28.35 (5) ~~(4)~~ (a) and a revenue deficit is projected, a clerk  
525 seeking to retain revenues pursuant to this subsection shall  
526 increase all fees, service charges, and any other court-related  
527 clerk fees and charges to the maximum amounts specified by law  
528 or the amount necessary to resolve the deficit, whichever is  
529 less. If, after increasing fees, service charges, and any other  
530 court-related clerk fees and charges to the maximum amounts  
531 specified by law, a revenue deficit is still projected, the  
532 corporation shall, pursuant to the terms of the contract with  
533 the Chief Financial Officer, certify a revenue deficit and  
534 notify the Department of Revenue that the clerk is authorized to  
535 retain revenues, in an amount necessary to fully fund the  
536 projected revenue deficit, which he or she would otherwise be  
537 required to remit to the Department of Revenue for deposit into

538 the Department of Revenue Clerks of the Court Trust Fund  
539 pursuant to s. 28.37. If a revenue deficit is projected for that  
540 clerk after retaining all of the projected collections from the  
541 court-related fines, fees, service charges, and costs, the  
542 Department of Revenue shall certify the amount of the revenue  
543 deficit amount to the Executive Office of the Governor and  
544 request release authority for funds appropriated for this  
545 purpose from the Department of Revenue Clerks of the Court Trust  
546 Fund. Notwithstanding provisions of s. 216.192 related to the  
547 release of funds, the Executive Office of the Governor may  
548 approve the release of funds appropriated to resolve projected  
549 revenue deficits in accordance with the notice, review, and  
550 objection procedures set forth in s. 216.177 and shall provide  
551 notice to the Chief Financial Officer. The Department of Revenue  
552 is directed to request monthly distributions from the Chief  
553 Financial Officer in equal amounts to each clerk certified to  
554 have a revenue deficit, in accordance with the releases approved  
555 by the Governor.

556 (b) If the Chief Financial Officer finds the court-related  
557 budget proposed by a clerk includes functions not included in  
558 the standard list of court-related functions in s.  
559 28.35(5)~~(4)~~(a), the Chief Financial Officer shall notify the  
560 clerk of the amount of the proposed budget not eligible to be  
561 funded from fees, service charges, costs, and fines for court-  
562 related functions and shall identify appropriate corrective  
563 measures to ensure budget integrity. The clerk shall then  
564 immediately discontinue all ineligible expenditures of court-

565 related funds for this purpose and reimburse the Clerks of the  
 566 Court Trust Fund for any previously ineligible expenditures made  
 567 for non-court-related functions, and shall implement any  
 568 corrective actions identified by the Chief Financial Officer.

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

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

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

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

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

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

615 2. For county fiscal year 2007-2008, the rebased budget  
616 for county fiscal year 2005-2006 shall be adjusted for the  
617 actual percentage change in revenue between the two 12-month

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

628 3. For county fiscal years 2008-2009 and thereafter, the  
629 maximum budget amount for the standard list of court-related  
630 functions of the clerks of court in s. 28.35~~(5)-(4)~~(a) that may  
631 be funded from fees, service charges, court costs, and fines  
632 retained by the clerks of the court shall be calculated as the  
633 rebased budget for the prior county fiscal year adjusted by the  
634 projected percentage change in revenues between the prior county  
635 fiscal year and the county fiscal year for which the maximum  
636 budget amount is being authorized. The rebased budget for the  
637 prior county fiscal year shall always be calculated by adjusting  
638 the rebased budget for the year preceding the prior county  
639 fiscal year by the actual percentage change in revenues between  
640 the 12-month period ending June 30 of the year preceding the  
641 prior county fiscal year and the 12-month period ending June 30  
642 of the prior county fiscal year.

643 (8) Each clerk shall record and report actual expenditures  
644 in a format specified by the Clerks of Court Operations



645 Corporation that allows reconciliation to the clerk's budget as  
646 certified by the corporation. The clerk shall submit reports of  
647 such expenditures to the corporation upon request but at least  
648 quarterly.

649 Section 7. Subsection (4) of section 29.008, Florida  
650 Statutes, is amended, and subsection (5) is added to that  
651 section, to read:

652 29.008 County funding of court-related functions.--

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

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

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

670 (II) For each item specified in paragraph (1) (a), (e),  
671 (f), (g), or (h), the base year spending shall be the total

672 amount spent for that item in county fiscal year 2002-2003 minus  
673 nonrecurring expenditures for that item in county fiscal year  
674 2002-2003.

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

678 2. The process for determining whether a county is not in  
679 compliance with its funding responsibilities shall be as  
680 follows:

681 a. The chief judge shall identify in writing the specific  
682 deficiencies the chief judge certifies will be experienced or  
683 have been experienced by the circuit court associated with the  
684 county's lack of sufficient funding for that item, the  
685 recommended corrections, and an estimate of the funding required  
686 for such corrections and shall furnish this statement to the  
687 board of county commissioners.

688 b. The board shall provide a response in writing to the  
689 chief judge. If the board chooses not to amend its budget or  
690 make expenditures to provide funding sufficient to equal or  
691 exceed the funding for the item in the base year plus 1.5  
692 percent growth per year or remedy the specific deficiencies  
693 identified by the chief judge, whichever is less, within 30 days  
694 after receiving written notice of such action by the board, the  
695 chief judge may notify the Administration Commission of the  
696 alleged deficiency and explain the expected impact on the  
697 ability of the court to perform the court's constitutional and  
698 statutory functions. The notice shall set forth, in the form and

699 manner prescribed by the Executive Office of the Governor and  
700 approved by the Administration Commission, the specific  
701 deficiencies, an estimate of the funding required to resolve the  
702 deficiencies, expenditures made by the county in the base year  
703 for the items, and the amount budgeted or amount expended for  
704 the items. The notice shall be provided to the Executive Office  
705 of the Governor and the board. The board shall have 5 days from  
706 receipt of the notice to provide to the Executive Office of the  
707 Governor a reply to the notice, and the board shall provide a  
708 copy of such reply to the chief judge.

709 c. Upon receipt of the notice, the Executive Office of the  
710 Governor shall provide for a budget hearing at which the matters  
711 presented in the notice and the reply shall be considered. A  
712 report of the findings and recommendations of the Executive  
713 Office of the Governor on such matters shall be promptly  
714 submitted to the Administration Commission, which, within 30  
715 days, shall approve the action of the board as to each separate  
716 item or direct the Department of Revenue to withhold revenue  
717 sharing funds as provided in paragraph (c) in an amount  
718 determined by the Administration Commission to be sufficient to  
719 remedy the deficiency; however, in no case shall the amount  
720 withheld, when combined with the amount budgeted or expended, as  
721 appropriate, be greater than the minimum required to be budgeted  
722 or expended by a county under subparagraph 1. to avoid being  
723 determined not to be in compliance with its responsibilities to  
724 fund court-related functions. The determination of the  
725 Administration Commission shall be final and shall be provided

726 in writing to the chief judge, the board, and the Department of  
727 Revenue.

728 (b) A county may be determined by the Administration  
729 Commission not to be in compliance with its funding  
730 responsibilities pursuant to the receipt of funds under s.  
731 28.24(12)(e)1.a.(IV) and to be subject to withholding of funds  
732 by the Department of Revenue. The process for determining  
733 whether a county is not in compliance with its funding  
734 responsibilities shall be as follows:

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

740 2. The board shall provide a response in writing to the  
741 chief judge. If the board chooses not to make expenditures to  
742 comply with its funding responsibilities under s.  
743 28.24(12)(e)1.a.(IV), within 30 days after receiving written  
744 notice of such action by the board, the chief judge may notify  
745 the Administration Commission of the alleged lack of compliance.  
746 The notice shall set forth, in the form and manner prescribed by  
747 the Executive Office of the Governor and approved by the  
748 Administration Commission, the specific actions taken by the  
749 board that are not in compliance with the funding  
750 responsibilities under s. 28.24(12)(e)1.a.(IV), the recommended  
751 corrections, and the total funding received by the county  
752 pursuant to s. 28.24(12)(e)1.a.(IV) for the fiscal year

753 addressed by the judicial circuit technology strategic plan. The  
754 notice shall be provided to the Executive Office of the Governor  
755 and the board. The board shall have 5 days from receipt of the  
756 notice to provide to the Executive Office of the Governor a  
757 reply to the notice, and the board shall provide a copy of such  
758 reply to the chief judge.

759 3. Upon receipt of the notice, the Executive Office of the  
760 Governor shall provide for a budget hearing at which the matters  
761 presented in the notice and the reply shall be considered. A  
762 report of the findings and recommendations of the Executive  
763 Office of the Governor on such matters shall be promptly  
764 submitted to the Administration Commission, which, within 30  
765 days, shall approve the action of the board or direct the  
766 Department of Revenue to withhold revenue sharing funds as  
767 provided in paragraph (c) in an amount determined by the  
768 Administration Commission to compensate for the county's lack of  
769 compliance with its funding responsibilities pursuant to s.  
770 28.24(12)(e)1.a.(IV). The determination of the Administration  
771 Commission shall be final and shall be provided in writing to  
772 the chief judge, the board, and the Department of Revenue.

773 (c)1. If the Administration Commission determines that the  
774 board shall provide additional funding to fulfill its  
775 responsibilities under paragraphs (a) and (b), the commission  
776 shall direct ~~Except for revenues used for the payment of~~  
777 ~~principal or interest on bonds, tax anticipation certificates,~~  
778 ~~or any other form of indebtedness as allowed under s.~~  
779 ~~218.25(1), (2) or (4),~~ the Department of Revenue to shall

780 withhold revenue sharing receipts distributed pursuant to part  
781 II of chapter 218, except for revenues used for the payment of  
782 principal or interest on bonds, tax anticipation certificates,  
783 or any other form of indebtedness as allowed under s. 218.25(1),  
784 (2), or (4), from that any county determined to be not in  
785 compliance as provided in this subsection with the county  
786 funding obligations for items specified in paragraphs (1)(a),  
787 (c), (d), (e), (f), (g), and (h) and subsection (3). The  
788 department shall withhold an amount equal to the difference  
789 between the amount spent by the county for the particular item  
790 in county fiscal year 2002-2003, the base year, plus 3 percent,  
791 and the amount budgeted by the county for these obligations in  
792 county fiscal year 2004-2005, if the latter is less than the  
793 former. Every year thereafter, the department shall withhold  
794 such an amount if the amount budgeted in that year is less than  
795 the base year plus 1.5 percent growth per year. On or before  
796 December 31, 2004, counties shall send to the department a  
797 certified copy of their budget documents for the respective 2  
798 years, separately identifying expenditure amounts for each  
799 county funding obligation specified in paragraphs (1)(a), (c),  
800 (d), (e), (f), (g), and (h) and subsection (3). Each year  
801 thereafter, on or before December 31 of that year, each county  
802 shall send a certified copy of its budget document to the  
803 department.

804 ~~(b) Beginning in fiscal year 2005-2006, additional amounts~~  
805 ~~shall be withheld pursuant to paragraph (a), if the amount spent~~  
806 ~~in the previous fiscal year on the items specified in paragraphs~~

807 ~~(1) (a), (c), (d), (e), (f), (g), and (h), and subsection (3) is~~  
808 ~~less than the amount budgeted for those items. Each county shall~~  
809 ~~certify expenditures for these county obligations for the prior~~  
810 ~~fiscal year to the department within 90 days after the end of~~  
811 ~~the fiscal year.~~

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

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

820 1. If the chief judge does not certify in writing by  
821 October 31, 2006, that deficiencies exist in the functioning of  
822 the circuit court due to the lack of sufficient budgeting by the  
823 county for an item specified in paragraph (1) (a), (c), (d), (e),  
824 (f), (g), or (h) or subsection (3), the Department of Revenue  
825 shall not withhold the funds which would otherwise be withheld  
826 from such counties.

827 2. If the chief judge certifies in writing to the county  
828 and to the Department of Revenue by October 31, 2006, that  
829 deficiencies exist in the functioning of the circuit court due  
830 to the lack of sufficient budget, the Department of Revenue  
831 shall withhold funds for those items specified in paragraph  
832 (1) (a), (c), (d), (e), (f), (g), or (h) or subsection (3) that  
833 the chief judge certifies in writing are deficient and for which

834 the county did not budget sufficient funds. However, in  
835 calculating whether sufficient funds were budgeted for fiscal  
836 years 2004-2005 and 2005-2006, the department shall exclude from  
837 its calculations of spending for the base year and fiscal years  
838 2004-2005 and 2005-2006 any nonrecurring expenditures made by a  
839 county for an item specified in paragraph (1)(a), (e), (f), (g),  
840 or (h). Counties shall submit to the department by September 30,  
841 2006, information about such nonrecurring expenditures in the  
842 form and manner specified by the department.

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

849 (5) For purposes of this section, the term "salaries"  
850 includes wages, benefits, expenses, and perquisites consistent  
851 with those that are paid for or provided by a county to its  
852 employees.

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

855 29.0081 County funding of additional court personnel.--

856 (1) A county and the chief judge of a judicial circuit  
857 that includes that county may enter into an agreement under  
858 which the county funds personnel positions, including providing  
859 wages, benefits, expenses, and perquisites consistent with those



860 that are paid for or provided by a county to its employees, to  
861 assist in the operation of the circuit.

862 Section 9. Paragraph (d) is added to subsection (5) of  
863 section 29.0086, Florida Statutes, and subsection (9) of that  
864 section is amended, to read:

865 29.0086 Article V Technology Board.--

866 (5) The board shall:

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

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

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

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

880 Section 10. Section 29.0087, Florida Statutes, is created  
881 to read:

882 29.0087 Judicial Circuit Article V Technology Advisory  
883 Councils.--

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

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

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

889        2. The state attorney of the circuit or his or her  
890 designee.

891        3. The public defender of the circuit or his or her  
892 designee.

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

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

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

905        7. A member in good standing of The Florida Bar practicing  
906 in the circuit, appointed by the chief judge, who shall be  
907 appointed to an initial term of 2 years and shall serve 2-year  
908 terms thereafter.

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

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

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

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

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

931        (a) Developing an initial judicial circuit technology  
932 strategic plan and subsequent updated judicial circuit  
933 technology strategic plans to address court-related technology  
934 and court technology needs as defined in s. 29.008(1)(f)2. and  
935 (h). The initial judicial circuit technology strategic plan or  
936 subsequent updated judicial circuit technology strategic plans  
937 shall be provided to the chief judge no later than March 31 of  
938 each year.

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

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

947           44.103 Court-ordered, nonbinding arbitration.--

948           (4) An arbitrator or, in the case of a panel, the chief  
949 arbitrator~~7~~, shall have such power to administer oaths or  
950 affirmation and to conduct the proceedings as the rules of court  
951 shall provide. The proceedings shall be conducted informally.  
952 Presentation of testimony and evidence shall be kept to a  
953 minimum and matters shall be presented to the arbitrators  
954 primarily through the statements and arguments of counsel. ~~At~~  
955 ~~the request of~~ Any party to the arbitration may petition the  
956 court in the underlying action, for good cause shown, to  
957 authorize the, ~~such~~ arbitrator to shall issue subpoenas for the  
958 attendance of witnesses and the production of books, records,  
959 documents, and other evidence at the arbitration and may  
960 petition ~~apply to~~ the court for orders compelling such  
961 attendance and production at the arbitration. Subpoenas shall be  
962 served and shall be enforceable in the manner provided by law.

963           (6) Upon motion made by either party within 30 days after  
964 entry of a judgment, the court may assess costs against the  
965 party requesting a trial de novo, including arbitration costs,

966 court costs, reasonable attorney's fees, and other reasonable  
967 costs, such as investigation expenses and expenses for expert or  
968 other testimony that were incurred after the arbitration hearing  
969 and continuing through the trial of the case, in accordance with  
970 the guidelines for taxation of costs as adopted by the Supreme  
971 Court. Such costs may be assessed if:

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

988 (b) The defendant, having filed for a trial de novo, has a  
989 judgment entered against the defendant that is a least 25  
990 percent more than the arbitration award. For purposes of a  
991 determination under this paragraph, the term "judgment" means  
992 the amount of the net judgment entered plus any postarbitration

993 settlement amounts by which the verdict was reduced. ~~The party~~  
 994 ~~having filed for a trial de novo may be assessed the arbitration~~  
 995 ~~costs, court costs, and other reasonable costs of the party,~~  
 996 ~~including attorney's fees, investigation expenses, and expenses~~  
 997 ~~for expert or other testimony or evidence incurred after the~~  
 998 ~~arbitration hearing if the judgment upon the trial de novo is~~  
 999 ~~not more favorable than the arbitration decision.~~

1000 Section 12. Subsection (3) of section 218.245, Florida  
 1001 Statutes, as amended by section 44 of chapter 2005-236, Laws of  
 1002 Florida, is amended to read:

1003 218.245 Revenue sharing; apportionment.--

1004 (3) Revenues attributed to the increase in distribution to  
 1005 the Revenue Sharing Trust Fund for Municipalities pursuant to s.  
 1006 212.20(6)(d)6. from 1.0715 percent to 1.3409 percent provided in  
 1007 chapter 2003-402, Laws of Florida, shall be distributed to each  
 1008 eligible municipality and any unit of local government which is  
 1009 consolidated as provided by s. 9, Art. VIII of the State  
 1010 Constitution of 1885, as preserved by s. 6(e), Art. VIII, 1968  
 1011 revised constitution, as follows: each eligible local  
 1012 government's allocation shall be based on the amount it received  
 1013 from the half-cent sales tax under s. 218.61 in the prior state  
 1014 fiscal year divided by the total receipts under s. 218.61 in the  
 1015 prior state fiscal year for all eligible local governments;  
 1016 provided, however, for the purpose of calculating this  
 1017 distribution, the amount received from the half-cent sales tax  
 1018 under s. 218.61 in the prior state fiscal year by a unit of  
 1019 local government which is consolidated as provided by s. 9, Art.

1020 VIII of the State Constitution of 1885, as amended, and as  
 1021 preserved by s. 6(e), Art. VIII, of the Constitution as revised  
 1022 in 1968, shall be reduced by 42 ~~50~~ percent for such local  
 1023 government and for the total receipts. For eligible  
 1024 municipalities that began participating in the allocation of  
 1025 half-cent sales tax under s. 218.61 in the previous state fiscal  
 1026 year, their annual receipts shall be calculated by dividing  
 1027 their actual receipts by the number of months they participated,  
 1028 and the result multiplied by 12.

1029 Section 13. Subsection (13) of section 318.18, Florida  
 1030 Statutes, is amended to read:

1031 318.18 Amount of civil penalties.--The penalties required  
 1032 for a noncriminal disposition pursuant to s. 318.14 are as  
 1033 follows:

1034 (13) In addition to any penalties imposed for noncriminal  
 1035 traffic infractions pursuant to this chapter or imposed for  
 1036 criminal violations listed in s. 318.17, a board of county  
 1037 commissioners or any unit of local government which is  
 1038 consolidated as provided by s. 9, Art. VIII of the State  
 1039 Constitution of 1885, as preserved by s. 6(e), Art. VIII of the  
 1040 Constitution of 1968:

1041 (a) May impose by ordinance a surcharge of up to \$15 for  
 1042 any infraction or violation to fund state court facilities. The  
 1043 court shall not waive this surcharge. Up to 25 percent of the  
 1044 revenue from such surcharge may be used to support local law  
 1045 libraries provided that the county or unit of local government  
 1046 provides a level of service equal to that provided prior to July

1047 1, 2004, which shall include the continuation of library  
1048 facilities located in or near the county courthouse or annexes.

1049 (b) That imposed increased fees or service charges by  
1050 ordinance under s. 28.2401, s. 28.241, or s. 34.041 for the  
1051 purpose of securing payment of the principal and interest on  
1052 bonds issued by the county before July 1, 2003, to finance state  
1053 court facilities, may impose by ordinance a surcharge for any  
1054 infraction or violation for the exclusive purpose of securing  
1055 payment of the principal and interest on bonds issued by the  
1056 county before July 1, 2003, to fund state court facilities until  
1057 the date of stated maturity. The court shall not waive this  
1058 surcharge. Such surcharge may not exceed an amount per violation  
1059 calculated as the quotient of the maximum annual payment of the  
1060 principal and interest on the bonds as of July 1, 2003, divided  
1061 by the number of traffic citations for county fiscal year 2002-  
1062 2003 certified as paid by the clerk of the court of the county.  
1063 Such quotient shall be rounded up to the next highest dollar  
1064 amount. The bonds may be refunded only if savings will be  
1065 realized on payments of debt service and the refunding bonds are  
1066 scheduled to mature on the same date or before the bonds being  
1067 refunded.

1068  
1069 A county may not impose both of the surcharges authorized under  
1070 paragraphs (a) and (b) concurrently. The county clerk of court  
1071 shall report, no later than 30 days after the end of the  
1072 quarter, the amount of funds collected, the amount of funds  
1073 expended, and the uses of the funds under this subsection during



1074 each quarter of the fiscal year. The county clerk shall submit  
1075 the report, in a format developed by the Office of State Courts  
1076 Administrator, to the chief judge of the circuit, the Governor,  
1077 the President of the Senate, and the Speaker of the House of  
1078 Representatives.

1079 Section 14. Section 903.286, Florida Statutes, is amended  
1080 to read:

1081 903.286 Return of cash bond; requirement to withhold  
1082 unpaid fines, fees, and court costs.--Notwithstanding the  
1083 provisions of s. 903.31(2), the clerk of the court shall  
1084 withhold from the return of a cash bond posted on behalf of a  
1085 criminal defendant by a person other than a bail bond agent  
1086 licensed pursuant to chapter 648 sufficient funds to pay any  
1087 unpaid court fees, court costs, and criminal penalties. The  
1088 clerk of the court shall provide notice to the person posting  
1089 the cash bond prior to the posting of such bond that the  
1090 proceeds are subject to withholding to pay any unpaid court  
1091 fees, court costs, and criminal penalties. In the event that  
1092 sufficient funds are not available to pay all unpaid court fees,  
1093 court costs, and criminal penalties, the clerk of the court  
1094 shall immediately obtain payment from the defendant or enroll  
1095 the defendant in a payment plan pursuant to s. 28.246. However,  
1096 the clerk may not withhold any unpaid court fees, court costs,  
1097 or criminal penalties from a cash bond posted prior to July 1,  
1098 2005, by a person other than the defendant.

1099 Section 15. Subsections (1) and (2) of section 938.27,  
1100 Florida Statutes, are amended to read:

1101 938.27 Judgment for costs on conviction.--

1102 (1) In all criminal cases, convicted persons or parents of  
 1103 adjudicated juveniles are liable for payment of the documented  
 1104 costs of prosecution, including investigative costs incurred by  
 1105 law enforcement agencies, by fire departments for arson  
 1106 investigations, and by investigations of the Department of  
 1107 Financial Services or the Office of Financial Regulation of the  
 1108 Financial Services Commission, ~~if requested by such agencies.~~  
 1109 These costs shall be included and entered in the judgment  
 1110 rendered against the convicted person or adjudicated juvenile.

1111 (2) (a) If the court allows additional time for payment of  
 1112 such costs, the convicted person or the parents of the  
 1113 adjudicated juvenile shall be enrolled in a payment plan  
 1114 pursuant to s. 28.246(4) ~~The court shall require the defendant~~  
 1115 ~~to pay the costs within a specified period or in specified~~  
 1116 ~~installments.~~

1117 ~~(b) The end of such period or the last such installment~~  
 1118 ~~shall not be later than:~~

1119 ~~1. The end of the period of probation or community~~  
 1120 ~~control, if probation or community control is ordered;~~

1121 ~~2. Five years after the end of the term of imprisonment~~  
 1122 ~~imposed, if the court does not order probation or community~~  
 1123 ~~control; or~~

1124 ~~3. Five years after the date of sentencing in any other~~  
 1125 ~~case.~~

1126

1127 ~~However, in no event shall the obligation to pay any unpaid~~  
1128 ~~amounts expire if not paid in full within the period specified~~  
1129 ~~in this paragraph.~~

1130 (b)~~(e)~~ If not otherwise provided by the court under this  
1131 section, costs shall be paid immediately.

1132 Section 16. Paragraph (a) of subsection (1) of section  
1133 938.29, Florida Statutes, is amended to read:

1134 938.29 Legal assistance; lien for payment of attorney's  
1135 fees or costs.--

1136 (1) (a) A defendant determined to be guilty of a criminal  
1137 act or found to have committed a delinquent act by a court or  
1138 jury or through a plea of guilty or nolo contendere, regardless  
1139 of adjudication, and who has received the assistance of the  
1140 public defender's office, ~~a special assistant public defender,~~  
1141 or a court-appointed ~~conflict~~ attorney shall be liable for  
1142 payment of attorney's fees and costs. The court shall determine  
1143 the amount of the obligation. Such costs shall include, but not  
1144 be limited to, the cost of depositions; cost of transcripts of  
1145 depositions, including the cost of defendant's copy, which  
1146 transcripts are certified by the defendant's attorney as having  
1147 served a useful purpose in the disposition of the case;  
1148 investigative costs; witness fees; the cost of psychiatric  
1149 examinations; or other reasonable costs specially incurred by  
1150 the state and the clerk of court for the defense of the  
1151 defendant in criminal prosecutions. Costs shall not include  
1152 expenses inherent in providing a constitutionally guaranteed  
1153 jury trial or expenditures in connection with the maintenance

1154 and operation of government agencies that must be made by the  
1155 public irrespective of specific violations of law. Any costs  
1156 assessed pursuant to this paragraph shall be reduced by any  
1157 amount assessed against a defendant pursuant to s. 938.05.

1158 Section 17. Subsections (4) and (5) of section 948.15,  
1159 Florida Statutes, are renumbered as subsections (5) and (6),  
1160 respectively, present subsection (3) is renumbered as subsection  
1161 (4), paragraph (e) of that subsection is amended, and a new  
1162 subsection (3) is added to that section, to read:

1163 948.15 Misdemeanor probation services.--

1164 (3) (a) The entity providing probation services for  
1165 offenders sentenced by the county court shall establish a  
1166 process to collect payments for all offender fees, fines, and  
1167 costs imposed by the court, restitution owed by the misdemeanor  
1168 probationer, and the cost of supervision. The entity providing  
1169 probation services shall provide any funds collected in  
1170 accordance with this subsection to the payee to whom they are  
1171 owed within 30 days.

1172 (b) For programs provided by a county with its own  
1173 employees, if a payment made by the misdemeanor probationer is  
1174 not sufficient to cover the total installment required under a  
1175 payment plan imposed by the court plus any additional payments  
1176 that are outstanding, the payment made by the misdemeanor  
1177 probationer shall be allocated proportionally among any fees,  
1178 fines, and costs imposed by the court, restitution owed by the  
1179 misdemeanor probationer, and the cost of supervision based on  
1180 the percentage that the sum owed for each type of payment

1181 comprises of the total installment owed for all types of  
1182 payments.

1183 (4)~~(3)~~ Any private entity providing services for the  
1184 supervision of misdemeanor probationers must contract with the  
1185 county in which the services are to be rendered. In a county  
1186 with a population of less than 70,000, the county court judge,  
1187 or the administrative judge of the county court in a county that  
1188 has more than one county court judge, must approve the contract.  
1189 Terms of the contract must state, but are not limited to:

1190 (e) Procedures for handling the collection in accordance  
1191 with subsection (3) of all payments owed by an offender fees and  
1192 restitution.

1193  
1194 In addition, the entity shall supply the chief judge's office  
1195 with a quarterly report summarizing the number of offenders  
1196 supervised by the private entity, payment of the required  
1197 contribution under supervision or rehabilitation, and the number  
1198 of offenders for whom supervision or rehabilitation will be  
1199 terminated. All records of the entity must be open to inspection  
1200 upon the request of the county, the court, the Auditor General,  
1201 the Office of Program Policy Analysis and Government  
1202 Accountability, or agents thereof.

1203 Section 18. Section 939.185, Florida Statutes, is  
1204 renumbered as section 938.195, Florida Statutes.

1205 Section 19. Subsection (3) of section 775.083, Florida  
1206 Statutes, is renumbered as subsection (2) of that section, and  
1207 present subsection (2) of that section is transferred to section

1208 938.065, Florida Statutes, which is created, and amended to  
 1209 read:

1210 938.065 County crime prevention programs.--

1211 ~~(2) In addition to the fines set forth in subsection (1),~~  
 1212 Court costs shall be assessed and collected in each instance a  
 1213 defendant pleads nolo contendere to, or is convicted of, or  
 1214 adjudicated delinquent for, a felony, a misdemeanor, or a  
 1215 criminal traffic offense under state law, or a violation of any  
 1216 municipal or county ordinance if the violation constitutes a  
 1217 misdemeanor under state law. The court costs imposed by this  
 1218 section shall be \$50 for a felony and \$20 for any other offense  
 1219 and shall be deposited by the clerk of the court into an  
 1220 appropriate county account for disbursement for the purposes  
 1221 provided in this subsection. A county shall account for the  
 1222 funds separately from other county funds as crime prevention  
 1223 funds. The county, in consultation with the sheriff, must expend  
 1224 such funds for crime prevention programs in the county,  
 1225 including safe neighborhood programs under ss. 163.501-163.523.

1226 Section 20. Subsections (1), (2), and (4) of section  
 1227 938.17, Florida Statutes, are amended to read:

1228 938.17 County delinquency prevention; juvenile assessment  
 1229 centers and school board suspension programs.--

1230 (1) Prior to the use of costs received pursuant to s.  
 1231 938.195 ~~939.185~~, the sheriff's office of the county must be a  
 1232 partner in a written agreement with the Department of Juvenile  
 1233 Justice to participate in a juvenile assessment center or with

1234 the district school board to participate in a suspension  
 1235 program.

1236 (2) Assessments collected by clerks of the circuit courts  
 1237 comprised of more than one county shall remit the funds  
 1238 collected pursuant to s. 938.195 ~~939.185~~ to the county in which  
 1239 the offense at issue was committed for deposit and disbursement.

1240 (4) A sheriff's office that receives proceeds pursuant to  
 1241 s. 938.195 ~~939.185~~ shall account for all funds annually by  
 1242 August 1 in a written report to the juvenile justice county  
 1243 council if funds are used for assessment centers, and to the  
 1244 district school board if funds are used for suspension programs.

1245 Section 21. Subsection (7) of section 938.19, Florida  
 1246 Statutes, is amended to read:

1247 938.19 Teen courts.--

1248 (7) A teen court administered in a county that adopts an  
 1249 ordinance to assess court costs under this section may not  
 1250 receive court costs collected under s. 938.195(1)(a)4.  
 1251 ~~939.185(1)(a)4.~~

1252 Section 22. Paragraph (d) of subsection (6) of section  
 1253 948.08, Florida Statutes, is amended to read:

1254 948.08 Pretrial intervention program.--

1255 (6)

1256 (d) Any entity, whether public or private, providing a  
 1257 pretrial substance abuse education and treatment intervention  
 1258 program under this subsection must contract with the county or  
 1259 appropriate governmental entity, and the terms of the contract

1260 must include, but need not be limited to, the requirements  
 1261 established for private entities under s. 948.15(4)~~(3)~~.

1262 Section 23. Subsection (3) of section 948.16, Florida  
 1263 Statutes, is amended to read:

1264 948.16 Misdemeanor pretrial substance abuse education and  
 1265 treatment intervention program.--

1266 (3) Any public or private entity providing a pretrial  
 1267 substance abuse education and treatment program under this  
 1268 section shall contract with the county or appropriate  
 1269 governmental entity. The terms of the contract shall include,  
 1270 but not be limited to, the requirements established for private  
 1271 entities under s. 948.15(4)~~(3)~~.

1272 Section 24. Subsections (1), (2), and (3) of section  
 1273 985.203, Florida Statutes, are amended to read:

1274 985.203 Right to counsel.--

1275 (1) A child is entitled to representation by legal counsel  
 1276 at all stages of any proceedings under this part. If the ~~child~~  
 1277 ~~and the~~ parents or other legal guardian is ~~are~~ indigent ~~and~~  
 1278 ~~unable to employ counsel for the child~~, the court shall appoint  
 1279 counsel pursuant to s. 27.52. However, if a parent or legal  
 1280 guardian is also the alleged victim in the case, the court shall  
 1281 appoint counsel to represent the child without requiring an  
 1282 affidavit from the parent or legal guardian. Determination of  
 1283 indigence and costs of representation shall be as provided by  
 1284 ss. 27.52 and 938.29. Legal counsel representing a child ~~who~~  
 1285 ~~exercises the right to counsel~~ shall be allowed to provide  
 1286 advice and counsel to the child at any time subsequent to the



1287 child's arrest, including prior to a detention hearing while in  
1288 secure detention care. A child shall be represented by legal  
1289 counsel at all stages of all court proceedings unless the right  
1290 to counsel is freely, knowingly, and intelligently waived by the  
1291 child after the child has been given a meaningful opportunity to  
1292 confer with counsel. If the child appears without counsel, the  
1293 court shall appoint counsel if the parents or legal guardian is  
1294 indigent ~~advise the child of his or her rights with respect to~~  
1295 ~~representation of court-appointed counsel.~~

1296 (2) If the parents or legal guardian of an indigent child  
1297 is ~~are~~ not indigent but refuses ~~refuse~~ to employ counsel, the  
1298 court shall appoint counsel pursuant to s. 27.52 to represent  
1299 the child at the detention hearing and until counsel is  
1300 provided. Costs of representation are hereby imposed as provided  
1301 by ss. 27.52 and 938.29. Thereafter, the court shall not appoint  
1302 counsel for an indigent child with nonindigent parents or legal  
1303 guardian but shall order the parents or legal guardian to obtain  
1304 private counsel. A parent or legal guardian of an indigent child  
1305 who has been ordered to obtain private counsel for the child and  
1306 who willfully fails to follow the court order shall be punished  
1307 by the court in civil contempt proceedings. If a nonindigent  
1308 parent or legal guardian is also the alleged victim in the case,  
1309 the court shall not order that parent or legal guardian to  
1310 obtain private counsel but shall appoint counsel pursuant to s.  
1311 27.52 to represent the indigent child.

1312 (3) An indigent child with nonindigent parents or legal  
1313 guardian may have counsel appointed pursuant to s. 27.52 if the

1314 | parents or legal guardian has ~~have~~ willfully refused to obey the  
 1315 | court order to obtain counsel for the child and has ~~have~~ been  
 1316 | punished by civil contempt and then still has ~~have~~ willfully  
 1317 | refused to obey the court order. Costs of representation are  
 1318 | hereby imposed as provided by ss. 27.52 and 938.29.

1319 |       Section 25. Paragraph (d) of subsection (1) of section  
 1320 | 985.306, Florida Statutes, is amended to read:

1321 |       985.306 Delinquency pretrial intervention program.--

1322 |       (1)

1323 |       (d) Any entity, whether public or private, providing  
 1324 | pretrial substance abuse education, treatment intervention, and  
 1325 | a urine monitoring program under this section must contract with  
 1326 | the county or appropriate governmental entity, and the terms of  
 1327 | the contract must include, but need not be limited to, the  
 1328 | requirements established for private entities under s.  
 1329 | 948.15 (4) ~~(3)~~. It is the intent of the Legislature that public or  
 1330 | private entities providing substance abuse education and  
 1331 | treatment intervention programs involve the active participation  
 1332 | of parents, schools, churches, businesses, law enforcement  
 1333 | agencies, and the department or its contract providers.

1334 |       Section 26. This act shall take effect July 1, 2006.