

1                   A bill to be entitled  
2           An act relating to continuing implementation of  
3           Constitutional Revision 7 to Article V; amending s. 27.52,  
4           F.S.; providing an age limitation on persons seeking  
5           appointment of a public defender based upon an inability  
6           to pay; specifying conditions under which an additional  
7           affidavit need not be filed; providing for liability for  
8           fees, costs, and charges of representation in delinquency  
9           proceedings; expanding a provision imposing a lien;  
10          amending s. 27.561, F.S.; deleting authorization for a  
11          court to reduce or revoke attorney's fees or costs under  
12          certain circumstances; requiring defendant-recipients or  
13          parents defaulting on payment of attorney's fees or costs  
14          to enroll in a payment plan under certain circumstances;  
15          amending s. 28.24, F.S.; revising provisions for  
16          distributing the additional \$4 services charge relating to  
17          Comprehensive Case Management System of the Florida  
18          Association of Court Clerks and Comptroller, Inc., court-  
19          related technology needs, the Court Technology Trust Fund,  
20          court-related technology services, and the judicial  
21          circuit technology strategic plan; requiring the  
22          association to provide for an annual operational audit;  
23          providing audit requirements; requiring submission of an  
24          audit report to certain entities; authorizing the Joint  
25          Legislative Auditing Committee to require the Auditor  
26          General or other entity to conduct the audit; providing a  
27          contingency for receipt of certain funds upon a memorandum

28 | of agreement relating to ownership of the Comprehensive  
29 | Case Information System; providing for transfer of the  
30 | system to the state under certain circumstances; providing  
31 | criteria, requirements, and procedures relating to such  
32 | transfer; amending s. 28.35, F.S.; providing additional  
33 | duties of the Florida Clerks of Court Operations  
34 | Corporation; providing requirements for the corporation  
35 | and clerks of court relating to certain budget amendments;  
36 | amending s. 28.36, F.S.; correcting cross-references;  
37 | providing expenditure requirements for certain budgets;  
38 | providing expenditure recording and reporting requirements  
39 | for clerks; amending s. 29.008, F.S.; specifying  
40 | methodology, criteria, and procedures for determining  
41 | noncompliance of counties in funding court-related  
42 | functions; providing duties of a chief judge, the board of  
43 | county commissioners, the Executive Office of the  
44 | Governor, and the Administration Commission; revising  
45 | provisions for withholding certain revenue sharing  
46 | receipts by the Department of Revenue; providing  
47 | definitions; providing requirements and procedures for the  
48 | Department of Revenue relating to withholding of certain  
49 | funds to certain counties for certain fiscal years;  
50 | amending s. 29.0081, F.S.; specifying additional  
51 | provisions of an agreement for county funding of judicial  
52 | circuit personnel positions; amending s. 29.0086, F.S. ;  
53 | providing an additional reporting requirement of the  
54 | Article V Technology Board; providing for future repeal of

55 | the Article V Technology Board; creating s. 29.0087, F.S.;  
56 | establishing in each judicial circuit a Judicial Circuit  
57 | Article V Technology Advisory Council; providing for  
58 | membership; providing for terms; providing for serving  
59 | without compensation; providing for per diem and travel  
60 | expenses; providing for staff for the councils; providing  
61 | for meetings; providing duties; amending s. 44.103, F.S.;  
62 | providing additional requirements and procedures for  
63 | court-ordered nonbinding arbitration proceedings;  
64 | authorizing courts to assess certain costs against parties  
65 | requesting de novo trials after arbitration; providing  
66 | cost assessment criteria; providing a definition; amending  
67 | s. 218.245, F.S.; revising apportionment criteria for  
68 | revenue sharing distributions for certain local  
69 | governments; amending s. 318.18, F.S.; revising reporting  
70 | requirements for infraction or violation surcharge funds  
71 | used to finance court facilities; amending s. 903.286,  
72 | F.S.; requiring notice of the authority of the clerk of  
73 | court to withhold funds from return of certain cash bonds  
74 | for unpaid court fees, court costs, and criminal  
75 | penalties; prohibiting the clerk of court from withholding  
76 | certain unpaid court fees, costs, and criminal penalties  
77 | from certain cash bonds; amending s. 938.27, F.S.;  
78 | requiring convicted persons or parents of adjudicated  
79 | juveniles to enroll in certain prosecution cost-payment  
80 | plans; deleting certain cost-payment criteria; amending s.  
81 | 938.29, F.S.; revising certain provisions for liability

82 for payment of attorney's fees and costs; amending s.  
 83 948.15, F.S.; requiring misdemeanor probation service  
 84 providers to establish a process for collecting certain  
 85 payments; providing for allocating certain payments among  
 86 outstanding obligations; renumbering s. 939.185, F.S., as  
 87 s. 938.195, F.S.; creating s. 938.065, F.S., by  
 88 transferring and amending s. 775.083(2), F.S.; providing  
 89 for financing county crime prevention programs from  
 90 certain court costs; amending s. 985.203, F.S.; revising  
 91 provisions providing for a child's right to counsel;  
 92 amending ss. 938.17, 938.19, 948.08, 948.16, and 985.306,  
 93 F.S.; correcting cross-references; providing an effective  
 94 date.

95

96 Be It Enacted by the Legislature of the State of Florida:

97

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

101 27.52 Determination of indigent status.--

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

109 being sought under s. 27.51(1)(f) and the public defender or  
110 private court-appointed counsel had already been appointed for a  
111 matter arising under s. 27.51(1)(a)-(e). No affidavit of  
112 indigency shall be required of a minor.

113 (a) The application must include, at a minimum, the  
114 following financial information:

115 1. Net income, consisting of total salary and wages, minus  
116 deductions required by law, including court-ordered support  
117 payments.

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

123 3. Assets, including, but not limited to, cash, savings  
124 accounts, bank accounts, stocks, bonds, certificates of deposit,  
125 equity in real estate, and equity in a boat or a motor vehicle  
126 or in other tangible property.

127 4. All liabilities and debts.

128 5. If applicable, the amount of any bail paid for the  
129 applicant's release from incarceration and the source of the  
130 funds.

131  
132 The application must include a signature by the applicant which  
133 attests to the truthfulness of the information provided. The  
134 application form developed by the corporation must include  
135 notice that the applicant may seek court review of a clerk's

136 | determination that the applicant is not indigent, as provided in  
137 | this section.

138 |         (b) An applicant shall pay a \$40 application fee to the  
139 | clerk for each application for court-appointed counsel filed.  
140 | The applicant shall pay the fee within 7 days after submitting  
141 | the application. If the applicant does not pay the fee prior to  
142 | the disposition of the case, the clerk shall notify the court,  
143 | and the court shall:

144 |             1. Assess the application fee as part of the sentence or  
145 | as a condition of probation; or

146 |             2. Assess the application fee pursuant to s. 938.29.

147 |         (c) Notwithstanding any provision of law, court rule, or  
148 | administrative order, the clerk shall assign the first \$40 of  
149 | any fees or costs paid by an indigent person as payment of the  
150 | application fee. A person found to be indigent may not be  
151 | refused counsel or other required due process services for  
152 | failure to pay the fee.

153 |         (d) All application fees collected by the clerk under this  
154 | section shall be transferred monthly by the clerk to the  
155 | Department of Revenue for deposit in the Indigent Criminal  
156 | Defense Trust Fund administered by the Justice Administrative  
157 | Commission, to be used to as appropriated by the Legislature.  
158 | The clerk may retain 2 percent of application fees collected  
159 | monthly for administrative costs prior to remitting the  
160 | remainder to the Department of Revenue.

161 |         (e)1. The clerk shall assist a person who appears before  
162 | the clerk and requests assistance in completing the application,

163 and the clerk shall notify the court if a person is unable to  
164 complete the application after the clerk has provided  
165 assistance.

166 2. If the person seeking appointment of a public defender  
167 is incarcerated, the public defender is responsible for  
168 providing the application to the person and assisting him or her  
169 in its completion and is responsible for submitting the  
170 application to the clerk on the person's behalf. The public  
171 defender may enter into an agreement for jail employees,  
172 pretrial services employees, or employees of other criminal  
173 justice agencies to assist the public defender in performing  
174 functions assigned to the public defender under this  
175 subparagraph.

176 (2) DETERMINATION BY THE CLERK.--The clerk of the court  
177 shall determine whether an applicant seeking appointment of a  
178 public defender is indigent based upon the information provided  
179 in the application and the criteria prescribed in this  
180 subsection.

181 (a)1. An applicant, including an applicant who is ~~a minor~~  
182 ~~or~~ an adult tax-dependent person, is indigent if the applicant's  
183 income is equal to or below 200 percent of the then-current  
184 federal poverty guidelines prescribed for the size of the  
185 household of the applicant by the United States Department of  
186 Health and Human Services or if the person is receiving  
187 Temporary Assistance for Needy Families-Cash Assistance,  
188 poverty-related veterans' benefits, or Supplemental Security  
189 Income (SSI).

190           2. There is a presumption that the applicant is not  
 191 indigent if the applicant owns, or has equity in, any intangible  
 192 or tangible personal property or real property or the expectancy  
 193 of an interest in any such property having a net equity value of  
 194 \$2,500 or more, excluding the value of the person's homestead  
 195 and one vehicle having a net value not exceeding \$5,000.

196           (6) DUTIES OF PARENT OR LEGAL GUARDIAN.--A nonindigent  
 197 parent or legal guardian of an applicant who is a minor or an  
 198 adult tax-dependent person shall furnish the minor or adult tax-  
 199 dependent person with the necessary legal services and costs  
 200 incident to a delinquency proceeding or, upon transfer of such  
 201 person for criminal prosecution as an adult pursuant to chapter  
 202 985, a criminal prosecution in which the person has a right to  
 203 legal counsel under the Constitution of the United States or the  
 204 Constitution of the State of Florida. The failure of a parent or  
 205 legal guardian to furnish legal services and costs under this  
 206 section does not bar the appointment of legal counsel pursuant  
 207 to this section, s. 27.40, or s. 27.5303. When the public  
 208 defender, a private court-appointed conflict counsel, or a  
 209 private attorney is appointed to represent a minor or an adult  
 210 tax-dependent person in any proceeding in circuit court or in a  
 211 criminal or delinquency proceeding in any other court, the  
 212 parents or the legal guardian shall be liable for payment of the  
 213 fees, charges, and costs of the representation even if the  
 214 person is a minor being tried as an adult. Liability for the  
 215 fees, charges, and costs of the representation shall be imposed  
 216 in the form of a lien against the property of the ~~nonindigent~~



217 | parents or legal guardian of the minor or adult tax-dependent  
 218 | person. The lien is enforceable as provided in s. 27.561 or s.  
 219 | 938.29.

220 | Section 2. Subsection (3) of section 27.561, Florida  
 221 | Statutes, is amended to read:

222 | 27.561 Effect of nonpayment.--

223 | (3) If it appears to the satisfaction of the court that  
 224 | the default in the payment of the attorney's fees or costs is  
 225 | not contempt, the court may enter an order allowing the  
 226 | defendant-recipient or parent additional time for, ~~or reducing~~  
 227 | ~~the amount of,~~ payment ~~or revoking the assessed attorney's fees~~  
 228 | ~~or costs, or the unpaid portion thereof, in whole or in part. If~~  
 229 | the court allows additional time for payment, the defendant-  
 230 | recipient or parent shall be enrolled in a payment plan pursuant  
 231 | to s. 28.246(4).

232 | Section 3. Paragraph (e) of subsection (12) of section  
 233 | 28.24, Florida Statutes, is amended to read:

234 | 28.24 Service charges by clerk of the circuit court.--The  
 235 | clerk of the circuit court shall charge for services rendered by  
 236 | the clerk's office in recording documents and instruments and in  
 237 | performing the duties enumerated in amounts not to exceed those  
 238 | specified in this section. Notwithstanding any other provision  
 239 | of this section, the clerk of the circuit court shall provide  
 240 | without charge to the state attorney, public defender, guardian  
 241 | ad litem, public guardian, attorney ad litem, and court-  
 242 | appointed counsel paid by the state, and to the authorized staff  
 243 | acting on behalf of each, access to and a copy of any public

244 record, if the requesting party is entitled by law to view the  
 245 exempt or confidential record, as maintained by and in the  
 246 custody of the clerk of the circuit court as provided in general  
 247 law and the Florida Rules of Judicial Administration. The clerk  
 248 of the circuit court may provide the requested public record in  
 249 an electronic format in lieu of a paper format when capable of  
 250 being accessed by the requesting entity.

251

252 Charges

253

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

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

262 1.a. If the counties maintain legal responsibility for the  
 263 costs of the court-related technology needs as defined in s.  
 264 29.008(1)(f)2. and (h):

265 (I) Ten,~~10~~ cents shall be distributed to the Florida  
 266 Association of Court Clerks and Comptroller, Inc., for the cost  
 267 of development, implementation, operation, and maintenance of  
 268 the clerks' Comprehensive Case Information System, in which  
 269 system all clerks shall participate on or before January 1,  
 270 2006. The Florida Association of Court Clerks and Comptroller,

271 Inc., shall provide for an annual operational audit, as defined  
272 in s. 11.45(1)(g), of its financial accounts and records  
273 relating to the Comprehensive Case Information System fees by an  
274 independent certified public accountant. Such audit shall be  
275 performed in accordance with Government Auditing Standards as  
276 adopted by the State Board of Accountancy and include a  
277 determination as to whether the fees distributed to the Florida  
278 Association of Court Clerks and Comptroller, Inc., were expended  
279 solely for the purposes stated in this sub-sub-paragraph. The  
280 annual audit report shall be submitted within 90 days after the  
281 end of the association's fiscal year to the Governor's Office,  
282 the appropriations committees of the Senate and the House of  
283 Representatives, and the Auditor General for review. However, at  
284 its discretion, the Joint Legislative Auditing Committee may  
285 require the Auditor General or other entity to conduct the  
286 audit;

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

292 (III) Effective April 1, 2007, \$2 shall be distributed to  
293 the Court Technology Trust Fund to be used to prepare the  
294 judicial circuit technology strategic plan required by s.  
295 29.0087 and be disbursed to counties as state financial  
296 assistance to assist the counties with the costs of providing  
297 court-related technology and court technology needs as defined

298 in s. 29.008(1)(f)2. and (h) for the state trial courts, state  
299 attorney, and public defender in that county. Counties shall  
300 agree to use funds in conformance with the judicial circuit  
301 technology strategic plan required by s. 29.0087 as approved by  
302 the chief judge in order to be eligible for state financial  
303 assistance from the Court Technology Trust Fund. The amount  
304 provided to each county from the Court Technology Trust Fund  
305 shall be equal to each county's percentage of total collections  
306 of the additional recording fee required by this section applied  
307 to the total amount available to be distributed to counties. If  
308 a county is not eligible to receive funds from the Court  
309 Technology Trust Fund, the funds that would have otherwise been  
310 distributed to the county shall remain in the Court Technology  
311 Trust Fund to be used as appropriated by the Legislature ~~board~~  
312 ~~of county commissioners to be used exclusively to fund court-~~  
313 ~~related technology, and court technology needs as defined in s.~~  
314 ~~29.008(1)(f)2. and (h) for the state trial courts, state~~  
315 ~~attorney, and public defender in that county.~~

316 b. If the counties maintain legal responsibility for the  
317 costs of the court-related technology needs as defined in s.  
318 29.008(1)(f)2. and (h), notwithstanding any other provision of  
319 law, the county is not required to provide additional funding  
320 beyond that provided herein for the court-related technology  
321 needs of the clerk as defined in s. 29.008(1)(f)2. and (h). All  
322 court records and official records are the property of the State  
323 of Florida, including any records generated as part of the  
324 Comprehensive Case Information System funded pursuant to this

325 paragraph and the clerk of court is designated as the custodian  
326 of such records, except in a county where the duty of  
327 maintaining official records exists in a county office other  
328 than the clerk of court or comptroller, such county office is  
329 designated the custodian of all official records, and the clerk  
330 of court is designated the custodian of all court records. The  
331 clerk of court or any entity acting on behalf of the clerk of  
332 court, including an association, shall not charge a fee to any  
333 agency as defined in s. 119.011, the Legislature, or the State  
334 Court System for copies of records generated by the  
335 Comprehensive Case Information System or held by the clerk of  
336 court or any entity acting on behalf of the clerk of court,  
337 including an association. In order to protect the financial  
338 investment made by the state in the Comprehensive Case  
339 Information System, the receipt of the funding provided pursuant  
340 to sub-sub-subparagraph a.(I) to the Florida Association of  
341 Court Clerks and Comptroller, Inc., for the Comprehensive Case  
342 Information System shall be contingent on the Florida  
343 Association of Court Clerks and Comptroller, Inc., entering into  
344 a memorandum of agreement with the state providing that  
345 ownership of the Comprehensive Case Information System,  
346 including all associated hardware, source code, executable  
347 software, and data or databases stored by the Comprehensive Case  
348 Information System, shall be transferred to the state if the  
349 Florida Association of Court Clerks and Comptroller, Inc., is  
350 dissolved, decides to discontinue providing the Comprehensive  
351 Case Information System, or otherwise fails to maintain,

352 support, and provide the Comprehensive Case Information System  
353 in accordance with the requirements of this section. Upon  
354 entering into such memorandum of agreement, a copy of the  
355 current version of the Comprehensive Case Information System  
356 source code, executable software, data or databases stored by  
357 the Comprehensive Case Information System, and documentation  
358 shall be placed in escrow with the state named as beneficiary.  
359 Upon the deployment of a new major release, or at least annually  
360 if there is no new major release, the most current Comprehensive  
361 Case Information System source code, executable software, data  
362 or databases stored by the Comprehensive Case Information  
363 System, and documentation shall be placed in escrow. This  
364 Comprehensive Case Information System source code, executable  
365 software, data or databases stored by the Comprehensive Case  
366 Information System, and documentation shall be reviewed no less  
367 than once a year and jointly by representatives of the state and  
368 the Florida Association of Court Clerks and Comptroller, Inc.,  
369 to ensure currency and completeness. Upon any transfer of  
370 ownership of the Comprehensive Case Information System to the  
371 state, all rights to intellectual property owned by the Florida  
372 Association of Court Clerks and Comptroller, Inc., relating to  
373 the Comprehensive Case Information System shall transfer to the  
374 state.

375       2. If the state becomes legally responsible for the costs  
376 of court-related technology needs as defined in s.  
377 29.008(1)(f)2. and (h), whether by operation of general law or

378 by court order, \$4 shall be remitted to the Department of  
379 Revenue for deposit into the General Revenue Fund.

380 Section 4. Paragraphs (h) and (i) are added to subsection  
381 (2) of section 28.35, Florida Statutes, paragraph (e) of that  
382 subsection is amended, subsections (4) through (7) of that  
383 section are renumbered as subsections (5) through (8),  
384 respectively, and a new subsection (4) is added to that section,  
385 to read:

386 28.35 Florida Clerks of Court Operations Corporation.--

387 (2) The duties of the corporation shall include the  
388 following:

389 (e) Developing and certifying a uniform system of  
390 performance measures and applicable performance standards for  
391 the functions specified in paragraph (5)~~(4)~~(a) and clerk  
392 performance in meeting the performance standards. These measures  
393 and standards shall be designed to facilitate an objective  
394 determination of the performance of each clerk in accordance  
395 with minimum standards for fiscal management, operational  
396 efficiency, and effective collection of fines, fees, service  
397 charges, and court costs. When the corporation finds a clerk has  
398 not met the performance standards, the corporation shall  
399 identify the nature of each deficiency and any corrective action  
400 recommended and taken by the affected clerk of the court.

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

404        (i) Providing information regarding the budgets and  
405        expenditures of clerks and any other fiscal data related to the  
406        corporation and performance of court-related clerk duties upon  
407        request by a committee of the Legislature, the Governor, or the  
408        Office of the State Courts Administrator. The contract between  
409        the corporation and the Department of Financial Services shall  
410        provide that the failure of the corporation to comply with this  
411        paragraph shall result in the withholding by the department of  
412        not less than 5 percent of the total funding provided to the  
413        corporation pursuant to the terms of the contract. Clerks of  
414        court shall provide any information requested by the corporation  
415        in accordance with this paragraph.

416        (4) The corporation shall provide notice to the  
417        appropriations committees of the Senate and the House of  
418        Representatives of any change to a certified budget within 20  
419        days after such change. Clerks of court shall provide  
420        information to the corporation regarding any change to a  
421        certified budget within 10 days after such change.

422        Section 5. Subsections (1) through (5) of section 28.36,  
423        Florida Statutes, are amended, and subsection (8) is added to  
424        that section, to read:

425        28.36 Budget procedure.--There is hereby established a  
426        budget procedure for the court-related functions of the clerks  
427        of the court.

428        (1) Only those functions on the standard list developed  
429        pursuant to s. 28.35(5)~~(4)~~(a) may be funded from fees, service  
430        charges, court costs, and fines retained by the clerks of the



431 court. No clerk may use fees, service charges, court costs, and  
 432 fines in excess of the maximum budget amounts as established in  
 433 subsection (5).

434 (2) For the period July 1, 2004, through September 30,  
 435 2004, and for each county fiscal year ending September 30  
 436 thereafter, each clerk of the court shall prepare a budget  
 437 relating solely to the performance of the standard list of  
 438 court-related functions pursuant to s. 28.35(5)~~(4)~~(a).

439 (3) Each proposed budget shall further conform to the  
 440 following requirements:

441 (a) On or before August 15 for each fiscal year  
 442 thereafter, the proposed budget shall be prepared, summarized,  
 443 and submitted by the clerk in each county to the Clerks of Court  
 444 Operations Corporation in the manner and form prescribed by the  
 445 corporation. The proposed budget must provide detailed  
 446 information on the anticipated revenues available and  
 447 expenditures necessary for the performance of the standard list  
 448 of court-related functions of the clerk's office developed  
 449 pursuant to s. 28.35(5)~~(4)~~(a) for the county fiscal year  
 450 beginning the following October 1.

451 (b) The proposed budget must be balanced, such that the  
 452 total of the estimated revenues available equals ~~must equal~~ or  
 453 exceeds ~~exceed~~ the total of the anticipated expenditures. These  
 454 revenues include the following: cash balances brought forward  
 455 from the prior fiscal period; revenue projected to be received  
 456 from fees, service charges, court costs, and fines for court-  
 457 related functions during the fiscal period covered by the

458 budget; and supplemental revenue that may be requested pursuant  
459 to subsection (4). Both proposed and certified budgets shall  
460 clearly identify expenditures by object and subobject  
461 classifications as specified in the uniform accounting system  
462 chart of accounts adopted by the Department of Financial  
463 Services in accordance with s. 218.33 and the number of full-  
464 time equivalent positions. A budget shall specifically list any  
465 nonrecurring expenditures, including, but not limited to,  
466 employee bonuses and equipment purchases. The budget shall also  
467 specify details of any general changes to salaries and benefits,  
468 such as cost-of-living increases in salaries and improvements in  
469 benefits. ~~The anticipated expenditures must be itemized as~~  
470 ~~required by the corporation, pursuant to contract with the Chief~~  
471 ~~Financial Officer.~~

472 (c) The proposed budget may include a contingency reserve  
473 not to exceed 10 percent of the total budget, provided that,  
474 overall, the proposed budget does not exceed the limits  
475 prescribed in subsection (5).

476 (4) If a clerk of the court estimates that available funds  
477 plus projected revenues from fines, fees, service charges, and  
478 costs for court-related services are insufficient to meet the  
479 anticipated expenditures for the standard list of court-related  
480 functions in s. 28.35 (5) ~~(4)~~ (a) performed by his or her office,  
481 the clerk must report the revenue deficit to the Clerks of Court  
482 Operations Corporation in the manner and form prescribed by the  
483 corporation pursuant to contract with the Chief Financial  
484 Officer. The corporation shall verify that the proposed budget

485 is limited to the standard list of court-related functions in s.  
486 28.35(5)~~(4)~~(a).

487 (a) If the corporation verifies that the proposed budget  
488 is limited to the standard list of court-related functions in s.  
489 28.35(5)~~(4)~~(a) and a revenue deficit is projected, a clerk  
490 seeking to retain revenues pursuant to this subsection shall  
491 increase all fees, service charges, and any other court-related  
492 clerk fees and charges to the maximum amounts specified by law  
493 or the amount necessary to resolve the deficit, whichever is  
494 less. If, after increasing fees, service charges, and any other  
495 court-related clerk fees and charges to the maximum amounts  
496 specified by law, a revenue deficit is still projected, the  
497 corporation shall, pursuant to the terms of the contract with  
498 the Chief Financial Officer, certify a revenue deficit and  
499 notify the Department of Revenue that the clerk is authorized to  
500 retain revenues, in an amount necessary to fully fund the  
501 projected revenue deficit, which he or she would otherwise be  
502 required to remit to the Department of Revenue for deposit into  
503 the Department of Revenue Clerks of the Court Trust Fund  
504 pursuant to s. 28.37. If a revenue deficit is projected for that  
505 clerk after retaining all of the projected collections from the  
506 court-related fines, fees, service charges, and costs, the  
507 Department of Revenue shall certify the amount of the revenue  
508 deficit amount to the Executive Office of the Governor and  
509 request release authority for funds appropriated for this  
510 purpose from the Department of Revenue Clerks of the Court Trust  
511 Fund. Notwithstanding provisions of s. 216.192 related to the

512 release of funds, the Executive Office of the Governor may  
513 approve the release of funds appropriated to resolve projected  
514 revenue deficits in accordance with the notice, review, and  
515 objection procedures set forth in s. 216.177 and shall provide  
516 notice to the Chief Financial Officer. The Department of Revenue  
517 is directed to request monthly distributions from the Chief  
518 Financial Officer in equal amounts to each clerk certified to  
519 have a revenue deficit, in accordance with the releases approved  
520 by the Governor.

521 (b) If the Chief Financial Officer finds the court-related  
522 budget proposed by a clerk includes functions not included in  
523 the standard list of court-related functions in s.  
524 28.35(5)~~(4)~~(a), the Chief Financial Officer shall notify the  
525 clerk of the amount of the proposed budget not eligible to be  
526 funded from fees, service charges, costs, and fines for court-  
527 related functions and shall identify appropriate corrective  
528 measures to ensure budget integrity. The clerk shall then  
529 immediately discontinue all ineligible expenditures of court-  
530 related funds for this purpose and reimburse the Clerks of the  
531 Court Trust Fund for any previously ineligible expenditures made  
532 for non-court-related functions, and shall implement any  
533 corrective actions identified by the Chief Financial Officer.

534 (5) (a) For the county fiscal year October 1, 2004, through  
535 September 30, 2005, the maximum annual budget amount for the  
536 standard list of court-related functions of the clerks of court  
537 in s. 28.35(5)~~(4)~~(a) that may be funded from fees, service

538 | charges, court costs, and fines retained by the clerks of the  
 539 | court shall not exceed:

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

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

548 |         (b) For the county fiscal year 2005-2006, the maximum  
 549 | budget amount for the standard list of court-related functions  
 550 | of the clerks of court in s. 28.35(5)~~(4)~~(a) that may be funded  
 551 | from fees, service charges, court costs, and fines retained by  
 552 | the clerks of the court shall be the approved budget for county  
 553 | fiscal year 2004-2005 adjusted by the projected percentage  
 554 | change in revenue between the county fiscal years 2004-2005 and  
 555 | 2005-2006.

556 |         (c) For the county fiscal years 2006-2007 and thereafter,  
 557 | the maximum budget amount for the standard list of court-related  
 558 | functions of the clerks of court in s. 28.35(5)~~(4)~~(a) that may  
 559 | be funded from fees, service charges, court costs, and fines  
 560 | retained by the clerks of the court shall be established by  
 561 | first rebasing the prior fiscal year budget to reflect the  
 562 | actual percentage change in the prior fiscal year revenue and  
 563 | then adjusting the rebased prior fiscal year budget by the  
 564 | projected percentage change in revenue for the proposed budget

565 | year. The rebasing calculations and maximum annual budget  
566 | calculations shall be as follows:

567 |       1. For county fiscal year 2006-2007, the approved budget  
568 | for county fiscal year 2004-2005 shall be adjusted for the  
569 | actual percentage change in revenue between the two 12-month  
570 | periods ending June 30, 2005, and June 30, 2006. This result is  
571 | the rebased budget for the county fiscal year 2005-2006. Then  
572 | the rebased budget for the county fiscal year 2005-2006 shall be  
573 | adjusted by the projected percentage change in revenue between  
574 | the county fiscal years 2005-2006 and 2006-2007. This result  
575 | shall be the maximum annual budget amount for the standard list  
576 | of court-related functions of the clerks of court in s.  
577 | 28.35(5)~~(4)~~(a) that may be funded from fees, service charges,  
578 | court costs, and fines retained by the clerks of the court for  
579 | each clerk for the county fiscal year 2006-2007.

580 |       2. For county fiscal year 2007-2008, the rebased budget  
581 | for county fiscal year 2005-2006 shall be adjusted for the  
582 | actual percentage change in revenue between the two 12-month  
583 | periods ending June 30, 2006, and June 30, 2007. This result is  
584 | the rebased budget for the county fiscal year 2006-2007. The  
585 | rebased budget for county fiscal year 2006-2007 shall be  
586 | adjusted by the projected percentage change in revenue between  
587 | the county fiscal years 2006-2007 and 2007-2008. This result  
588 | shall be the maximum annual budget amount for the standard list  
589 | of court-related functions of the clerks of court in s.  
590 | 28.35(5)~~(4)~~(a) that may be funded from fees, service charges,

591 court costs, and fines retained by the clerks of the court for  
592 county fiscal year 2007-2008.

593 3. For county fiscal years 2008-2009 and thereafter, the  
594 maximum budget amount for the standard list of court-related  
595 functions of the clerks of court in s. 28.35(5)~~(4)~~(a) that may  
596 be funded from fees, service charges, court costs, and fines  
597 retained by the clerks of the court shall be calculated as the  
598 rebased budget for the prior county fiscal year adjusted by the  
599 projected percentage change in revenues between the prior county  
600 fiscal year and the county fiscal year for which the maximum  
601 budget amount is being authorized. The rebased budget for the  
602 prior county fiscal year shall always be calculated by adjusting  
603 the rebased budget for the year preceding the prior county  
604 fiscal year by the actual percentage change in revenues between  
605 the 12-month period ending June 30 of the year preceding the  
606 prior county fiscal year and the 12-month period ending June 30  
607 of the prior county fiscal year.

608 (8) Each clerk shall record and report actual expenditures  
609 in a format specified by the Clerks of Court Operations  
610 Corporation that allows reconciliation to the clerk's budget as  
611 certified by the corporation. The clerk shall submit reports of  
612 such expenditures to the corporation upon request but at least  
613 quarterly.

614 Section 6. Subsection (4) of section 29.008, Florida  
615 Statutes, is amended, and subsection (5) is added to that  
616 section, to read:

617 29.008 County funding of court-related functions.--

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

622           a. The total amount budgeted or expended by the county for  
623 any item specified in paragraph (1) (c) or (d) or subsection (3)  
624 in the upcoming, current, or previous county fiscal year, as  
625 appropriate, or the total amount budgeted or expended for any  
626 item specified in paragraph (1) (a), (e), (f), (g), or (h) minus  
627 nonrecurring expenditures for that same item by the county in  
628 the upcoming, current, or previous county fiscal year, as  
629 appropriate, is less than the base year spending, plus 1.5  
630 percent growth per year. Base year spending shall be determined  
631 as follows:

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

635           (II) For each item specified in paragraph (1) (a), (e),  
636 (f), (g), or (h), the base year spending shall be the total  
637 amount spent for that item in county fiscal year 2002-2003 minus  
638 nonrecurring expenditures for that item in county fiscal year  
639 2002-2003.

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



643        2. The process for determining whether a county is not in  
644 compliance with its funding responsibilities shall be as  
645 follows:

646        a. The chief judge shall identify in writing the specific  
647 deficiencies the chief judge certifies will be experienced or  
648 have been experienced by the circuit court associated with the  
649 county's lack of sufficient funding for that item, the  
650 recommended corrections, and an estimate of the funding required  
651 for such corrections and shall furnish this statement to the  
652 board of county commissioners.

653        b. The board shall provide a response in writing to the  
654 chief judge. If the board chooses not to amend its budget or  
655 make expenditures to provide funding sufficient to equal or  
656 exceed the funding for the item in the base year plus 1.5  
657 percent growth per year or remedy the specific deficiencies  
658 identified by the chief judge, whichever is less, within 30 days  
659 after receiving written notice of such action by the board, the  
660 chief judge may notify the Administration Commission of the  
661 alleged deficiency and explain the expected impact on the  
662 ability of the court to perform the court's constitutional and  
663 statutory functions. The notice shall set forth, in the form and  
664 manner prescribed by the Executive Office of the Governor and  
665 approved by the Administration Commission, the specific  
666 deficiencies, an estimate of the funding required to resolve the  
667 deficiencies, expenditures made by the county in the base year  
668 for the items, and the amount budgeted or amount expended for  
669 the items. The notice shall be provided to the Executive Office

670 of the Governor and the board. The board shall have 5 days from  
671 receipt of the notice to provide to the Executive Office of the  
672 Governor a reply to the notice, and the board shall provide a  
673 copy of such reply to the chief judge.

674 c. Upon receipt of the notice, the Executive Office of the  
675 Governor shall provide for a budget hearing at which the matters  
676 presented in the notice and the reply shall be considered. A  
677 report of the findings and recommendations of the Executive  
678 Office of the Governor on such matters shall be promptly  
679 submitted to the Administration Commission, which, within 30  
680 days, shall approve the action of the board as to each separate  
681 item or direct the Department of Revenue to withhold revenue  
682 sharing funds as provided in paragraph (c) in an amount  
683 determined by the Administration Commission to be sufficient to  
684 remedy the deficiency; however, in no case shall the amount  
685 withheld, when combined with the amount budgeted or expended, as  
686 appropriate, be greater than the minimum required to be budgeted  
687 or expended by a county under subparagraph 1. to avoid being  
688 determined not to be in compliance with its responsibilities to  
689 fund court-related functions. The determination of the  
690 Administration Commission shall be final and shall be provided  
691 in writing to the chief judge, the board, and the Department of  
692 Revenue.

693 (b) A county may be determined by the Administration  
694 Commission not to be in compliance with its funding  
695 responsibilities pursuant to the receipt of funds under s.  
696 28.24(12)(e)1.a.(IV) and to be subject to withholding of funds

697 by the Department of Revenue. The process for determining  
698 whether a county is not in compliance with its funding  
699 responsibilities shall be as follows:

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

705 2. The board shall provide a response in writing to the  
706 chief judge. If the board chooses not to make expenditures to  
707 comply with its funding responsibilities under s.  
708 28.24(12)(e)1.a.(IV), within 30 days after receiving written  
709 notice of such action by the board, the chief judge may notify  
710 the Administration Commission of the alleged lack of compliance.  
711 The notice shall set forth, in the form and manner prescribed by  
712 the Executive Office of the Governor and approved by the  
713 Administration Commission, the specific actions taken by the  
714 board that are not in compliance with the funding  
715 responsibilities under s. 28.24(12)(e)1.a.(IV), the recommended  
716 corrections, and the total funding received by the county  
717 pursuant to s. 28.24(12)(e)1.a.(IV) for the fiscal year  
718 addressed by the judicial circuit technology strategic plan. The  
719 notice shall be provided to the Executive Office of the Governor  
720 and the board. The board shall have 5 days from receipt of the  
721 notice to provide to the Executive Office of the Governor a  
722 reply to the notice, and the board shall provide a copy of such  
723 reply to the chief judge.

724 3. Upon receipt of the notice, the Executive Office of the  
 725 Governor shall provide for a budget hearing at which the matters  
 726 presented in the notice and the reply shall be considered. A  
 727 report of the findings and recommendations of the Executive  
 728 Office of the Governor on such matters shall be promptly  
 729 submitted to the Administration Commission, which, within 30  
 730 days, shall approve the action of the board or direct the  
 731 Department of Revenue to withhold revenue sharing funds as  
 732 provided in paragraph (c) in an amount determined by the  
 733 Administration Commission to compensate for the county's lack of  
 734 compliance with its funding responsibilities pursuant to s.  
 735 28.24(12)(e)1.a.(IV). The determination of the Administration  
 736 Commission shall be final and shall be provided in writing to  
 737 the chief judge, the board, and the Department of Revenue.

738 (c)1. If the Administration Commission determines that the  
 739 board shall provide additional funding to fulfill its  
 740 responsibilities under paragraphs (a) and (b), the commission  
 741 shall direct ~~Except for revenues used for the payment of~~  
 742 ~~principal or interest on bonds, tax anticipation certificates,~~  
 743 ~~or any other form of indebtedness as allowed under s.~~  
 744 ~~218.25(1), (2) or (4),~~ the Department of Revenue to shall  
 745 withhold revenue sharing receipts distributed pursuant to part  
 746 II of chapter 218, except for revenues used for the payment of  
 747 principal or interest on bonds, tax anticipation certificates,  
 748 or any other form of indebtedness as allowed under s. 218.25(1),  
 749 (2), or (4), from that any county determined to be not in  
 750 compliance as provided in this subsection ~~with the county~~

751 ~~funding obligations for items specified in paragraphs (1) (a),~~  
752 ~~(c), (d), (e), (f), (g), and (h) and subsection (3). The~~  
753 ~~department shall withhold an amount equal to the difference~~  
754 ~~between the amount spent by the county for the particular item~~  
755 ~~in county fiscal year 2002-2003, the base year, plus 3 percent,~~  
756 ~~and the amount budgeted by the county for these obligations in~~  
757 ~~county fiscal year 2004-2005, if the latter is less than the~~  
758 ~~former. Every year thereafter, the department shall withhold~~  
759 ~~such an amount if the amount budgeted in that year is less than~~  
760 ~~the base year plus 1.5 percent growth per year. On or before~~  
761 ~~December 31, 2004, counties shall send to the department a~~  
762 ~~certified copy of their budget documents for the respective 2~~  
763 ~~years, separately identifying expenditure amounts for each~~  
764 ~~county funding obligation specified in paragraphs (1) (a), (c),~~  
765 ~~(d), (e), (f), (g), and (h) and subsection (3). Each year~~  
766 ~~thereafter, on or before December 31 of that year, each county~~  
767 ~~shall send a certified copy of its budget document to the~~  
768 ~~department.~~

769 ~~(b) Beginning in fiscal year 2005-2006, additional amounts~~  
770 ~~shall be withheld pursuant to paragraph (a), if the amount spent~~  
771 ~~in the previous fiscal year on the items specified in paragraphs~~  
772 ~~(1) (a), (c), (d), (e), (f), (g), and (h), and subsection (3) is~~  
773 ~~less than the amount budgeted for those items. Each county shall~~  
774 ~~certify expenditures for these county obligations for the prior~~  
775 ~~fiscal year to the department within 90 days after the end of~~  
776 ~~the fiscal year.~~

777        2. ~~(e)~~ The department shall transfer the withheld payments  
778 to the General Revenue Fund within 60 days after the  
779 determination by the Administration Commission ~~by March 31 of~~  
780 ~~each year~~. These payments are hereby appropriated to the  
781 Department of Revenue to pay for these responsibilities on  
782 behalf of the county.

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

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

792        2. If the chief judge certifies in writing to the county  
793 and to the Department of Revenue by October 31, 2006, that  
794 deficiencies exist in the functioning of the circuit court due  
795 to the lack of sufficient budget, the Department of Revenue  
796 shall withhold funds for those items specified in paragraph  
797 (1)(a), (c), (d), (e), (f), (g), or (h) or subsection (3) that  
798 the chief judge certifies in writing are deficient and for which  
799 the county did not budget sufficient funds. However, in  
800 calculating whether sufficient funds were budgeted for fiscal  
801 years 2004-2005 and 2005-2006, the department shall exclude from  
802 its calculations of spending for the base year and fiscal years  
803 2004-2005 and 2005-2006 any nonrecurring expenditures made by a

804 county for an item specified in paragraph (1)(a), (e), (f), (g),  
805 or (h). Counties shall submit to the department by September 30,  
806 2006, information about such nonrecurring expenditures in the  
807 form and manner specified by the department.

808 (e) For purposes of this subsection, the term  
809 "nonrecurring expenditures" shall be limited to expenditures for  
810 furnishings, equipment, land acquisition, and other one-time  
811 major purchases or upgrades. This subsection does not relieve a  
812 county of the obligation to make nonrecurring expenditures when  
813 such nonrecurring expenditures are warranted.

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

818 Section 7. Subsection (1) of section 29.0081, Florida  
819 Statutes, is amended to read:

820 29.0081 County funding of additional court personnel.--

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

827 Section 8. Paragraph (d) is added to subsection (5) of  
828 section 29.0086, Florida Statutes, and subsection (9) of that  
829 section is amended, to read:

830 29.0086 Article V Technology Board.--

831 (5) The board shall:

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

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

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

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

845 Section 9. Section 29.0087, Florida Statutes, is created  
 846 to read:

847 29.0087 Judicial Circuit Article V Technology Advisory  
 848 Councils.--

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

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

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

854 2. The state attorney of the circuit or his or her  
 855 designee.

856 3. The public defender of the circuit or his or her  
 857 designee.



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

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

866       6. A member of a board of county commissioners from a  
867 county in the circuit selected by the chief judge, or the  
868 member's designee, who shall be appointed to an initial term of  
869 2 years and shall serve 2-year terms thereafter.

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

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

878       2. Members of the advisory council shall serve without  
879 compensation but are entitled to per diem and reimbursement for  
880 travel expenses in accordance with s. 112.061. Such per diem and  
881 reimbursement for travel expenses shall be paid by the entity  
882 employing the member, except for the member of The Florida Bar,  
883 whose per diem and reimbursement for travel expenses shall be  
884 paid by the judicial circuit.

885        (c) The judicial circuit trial court technology officer  
886 and such other judicial circuit employees as are necessary shall  
887 serve as staff to the advisory council. Employees of the  
888 entities represented by the members of the advisory council may  
889 also provide staff support to the advisory council at the  
890 request of the judicial circuit trial court technology officer.

891        (d) The first meeting of the advisory council shall be  
892 held no later than September 30, 2006. The advisory council  
893 shall meet at the call of the chair but no less frequently than  
894 quarterly.

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

896        (a) Developing an initial judicial circuit technology  
897 strategic plan and subsequent updated judicial circuit  
898 technology strategic plans to address court-related technology  
899 and court technology needs as defined in s. 29.008(1)(f)2. and  
900 (h). The initial judicial circuit technology strategic plan or  
901 subsequent updated judicial circuit technology strategic plans  
902 shall be provided to the chief judge no later than March 31 of  
903 each year.

904        (b) Promoting secure and reliable data integration,  
905 interoperability, and access among the information systems under  
906 the control of the chief judge, state attorney, and public  
907 defender; the clerks of court, sheriffs, and counties of the  
908 circuit; and the various state agencies involved in the justice  
909 system and the other court systems of the state.

910        Section 10. Subsections (4) and (6) of section 44.103,  
911 Florida Statutes, are amended to read:

912           44.103 Court-ordered, nonbinding arbitration.--

913           (4) An arbitrator or, in the case of a panel, the chief

914 arbitrator, shall have such power to administer oaths or

915 affirmation and to conduct the proceedings as the rules of court

916 shall provide. The proceedings shall be conducted informally.

917 Presentation of testimony and evidence shall be kept to a

918 minimum and matters shall be presented to the arbitrators

919 primarily through the statements and arguments of counsel. ~~At~~

920 the request of Any party to the arbitration may petition the

921 court in the underlying action, for good cause shown, to

922 authorize the, ~~such~~ arbitrator to ~~shall~~ issue subpoenas for the

923 attendance of witnesses and the production of books, records,

924 documents, and other evidence at the arbitration and may

925 petition apply to the court for orders compelling such

926 attendance and production at the arbitration. Subpoenas shall be

927 served and shall be enforceable in the manner provided by law.

928           (6) Upon motion made by either party within 30 days after

929 entry of a judgment, the court may assess costs against the

930 party requesting a trial de novo, including arbitration costs,

931 court costs, reasonable attorney's fees, and other reasonable

932 costs, such as investigation expenses and expenses for expert or

933 other testimony that were incurred after the arbitration hearing

934 and continuing through the trial of the case, in accordance with

935 the guidelines for taxation of costs as adopted by the Supreme

936 Court. Such costs may be assessed if:

937           (a) The plaintiff, having filed for a trial de novo,

938 obtains a judgment at trial that is at least 25 percent less

939 than the arbitration award. In such an instance, the costs and  
940 attorney's fees assessed pursuant to this subsection shall be  
941 set off against the award. When the costs and attorney's fees  
942 assessed pursuant to this subsection total more than the amount  
943 of the judgment, the court shall enter judgment for the  
944 defendant against the plaintiff for the amount of the costs and  
945 attorney's fees, less the amount of the award to the plaintiff.  
946 For purposes of a determination under this paragraph, the term  
947 "judgment" means the amount of the net judgment entered plus all  
948 taxable costs pursuant to the guidelines for taxation of costs  
949 as adopted by the Supreme Court, any postarbitration collateral  
950 source payments received or due as of the date of the judgment,  
951 and any postarbitration settlement amounts by which the verdict  
952 was reduced; or

953 (b) The defendant, having filed for a trial de novo, has a  
954 judgment entered against the defendant that is a least 25  
955 percent more than the arbitration award. For purposes of a  
956 determination under this paragraph, the term "judgment" means  
957 the amount of the net judgment entered plus any postarbitration  
958 settlement amounts by which the verdict was reduced. ~~The party~~  
959 ~~having filed for a trial de novo may be assessed the arbitration~~  
960 ~~costs, court costs, and other reasonable costs of the party,~~  
961 ~~including attorney's fees, investigation expenses, and expenses~~  
962 ~~for expert or other testimony or evidence incurred after the~~  
963 ~~arbitration hearing if the judgment upon the trial de novo is~~  
964 ~~not more favorable than the arbitration decision.~~

965 Section 11. Subsection (3) of section 218.245, Florida  
 966 Statutes, as amended by section 44 of chapter 2005-236, Laws of  
 967 Florida, is amended to read:

968 218.245 Revenue sharing; apportionment.--

969 (3) Revenues attributed to the increase in distribution to  
 970 the Revenue Sharing Trust Fund for Municipalities pursuant to s.  
 971 212.20(6)(d)6. from 1.0715 percent to 1.3409 percent provided in  
 972 chapter 2003-402, Laws of Florida, shall be distributed to each  
 973 eligible municipality and any unit of local government which is  
 974 consolidated as provided by s. 9, Art. VIII of the State  
 975 Constitution of 1885, as preserved by s. 6(e), Art. VIII, 1968  
 976 revised constitution, as follows: each eligible local  
 977 government's allocation shall be based on the amount it received  
 978 from the half-cent sales tax under s. 218.61 in the prior state  
 979 fiscal year divided by the total receipts under s. 218.61 in the  
 980 prior state fiscal year for all eligible local governments;  
 981 provided, however, for the purpose of calculating this  
 982 distribution, the amount received from the half-cent sales tax  
 983 under s. 218.61 in the prior state fiscal year by a unit of  
 984 local government which is consolidated as provided by s. 9, Art.  
 985 VIII of the State Constitution of 1885, as amended, and as  
 986 preserved by s. 6(e), Art. VIII, of the Constitution as revised  
 987 in 1968, shall be reduced by 42 ~~50~~ percent for such local  
 988 government and for the total receipts. For eligible  
 989 municipalities that began participating in the allocation of  
 990 half-cent sales tax under s. 218.61 in the previous state fiscal  
 991 year, their annual receipts shall be calculated by dividing

992 | their actual receipts by the number of months they participated,  
 993 | and the result multiplied by 12.

994 |       Section 12. Subsection (13) of section 318.18, Florida  
 995 | Statutes, is amended to read:

996 |           318.18 Amount of civil penalties.--The penalties required  
 997 | for a noncriminal disposition pursuant to s. 318.14 are as  
 998 | follows:

999 |       (13) In addition to any penalties imposed for noncriminal  
 1000 | traffic infractions pursuant to this chapter or imposed for  
 1001 | criminal violations listed in s. 318.17, a board of county  
 1002 | commissioners or any unit of local government which is  
 1003 | consolidated as provided by s. 9, Art. VIII of the State  
 1004 | Constitution of 1885, as preserved by s. 6(e), Art. VIII of the  
 1005 | Constitution of 1968:

1006 |       (a) May impose by ordinance a surcharge of up to \$15 for  
 1007 | any infraction or violation to fund state court facilities. The  
 1008 | court shall not waive this surcharge. Up to 25 percent of the  
 1009 | revenue from such surcharge may be used to support local law  
 1010 | libraries provided that the county or unit of local government  
 1011 | provides a level of service equal to that provided prior to July  
 1012 | 1, 2004, which shall include the continuation of library  
 1013 | facilities located in or near the county courthouse or annexes.

1014 |       (b) That imposed increased fees or service charges by  
 1015 | ordinance under s. 28.2401, s. 28.241, or s. 34.041 for the  
 1016 | purpose of securing payment of the principal and interest on  
 1017 | bonds issued by the county before July 1, 2003, to finance state  
 1018 | court facilities, may impose by ordinance a surcharge for any

1019 | infraction or violation for the exclusive purpose of securing  
 1020 | payment of the principal and interest on bonds issued by the  
 1021 | county before July 1, 2003, to fund state court facilities until  
 1022 | the date of stated maturity. The court shall not waive this  
 1023 | surcharge. Such surcharge may not exceed an amount per violation  
 1024 | calculated as the quotient of the maximum annual payment of the  
 1025 | principal and interest on the bonds as of July 1, 2003, divided  
 1026 | by the number of traffic citations for county fiscal year 2002-  
 1027 | 2003 certified as paid by the clerk of the court of the county.  
 1028 | Such quotient shall be rounded up to the next highest dollar  
 1029 | amount. The bonds may be refunded only if savings will be  
 1030 | realized on payments of debt service and the refunding bonds are  
 1031 | scheduled to mature on the same date or before the bonds being  
 1032 | refunded.

1033 |  
 1034 | A county may not impose both of the surcharges authorized under  
 1035 | paragraphs (a) and (b) concurrently. The county ~~clerk of court~~  
 1036 | shall report, no later than 30 days after the end of the  
 1037 | quarter, the amount of funds collected, the amount of funds  
 1038 | expended, and the uses of the funds under this subsection during  
 1039 | each quarter of the fiscal year. The county ~~clerk~~ shall submit  
 1040 | the report, in a format developed by the Office of State Courts  
 1041 | Administrator, to the chief judge of the circuit, the Governor,  
 1042 | the President of the Senate, and the Speaker of the House of  
 1043 | Representatives.

1044 |         Section 13. Section 903.286, Florida Statutes, is amended  
 1045 | to read:

1046           903.286 Return of cash bond; requirement to withhold  
1047 unpaid fines, fees, and court costs.--Notwithstanding the  
1048 provisions of s. 903.31(2), the clerk of the court shall  
1049 withhold from the return of a cash bond posted on behalf of a  
1050 criminal defendant by a person other than a bail bond agent  
1051 licensed pursuant to chapter 648 sufficient funds to pay any  
1052 unpaid court fees, court costs, and criminal penalties. The  
1053 clerk of the court shall provide notice to the person posting  
1054 the cash bond prior to the posting of such bond that the  
1055 proceeds are subject to withholding to pay any unpaid court  
1056 fees, court costs, and criminal penalties. In the event that  
1057 sufficient funds are not available to pay all unpaid court fees,  
1058 court costs, and criminal penalties, the clerk of the court  
1059 shall immediately obtain payment from the defendant or enroll  
1060 the defendant in a payment plan pursuant to s. 28.246. However,  
1061 the clerk may not withhold any unpaid court fees, court costs,  
1062 or criminal penalties from a cash bond posted prior to July 1,  
1063 2005, by a person other than the defendant.

1064           Section 14. Subsections (1) and (2) of section 938.27,  
1065 Florida Statutes, are amended to read:

1066           938.27 Judgment for costs on conviction.--

1067           (1) In all criminal cases, convicted persons or parents of  
1068 adjudicated juveniles are liable for payment of the documented  
1069 costs of prosecution, including investigative costs incurred by  
1070 law enforcement agencies, by fire departments for arson  
1071 investigations, and by investigations of the Department of  
1072 Financial Services or the Office of Financial Regulation of the



1073 Financial Services Commission, ~~if requested by such agencies.~~

1074 These costs shall be included and entered in the judgment  
1075 rendered against the convicted person or adjudicated juvenile.

1076 (2) (a) If the court allows additional time for payment of  
1077 such costs, the convicted person or the parents of the  
1078 adjudicated juvenile shall be enrolled in a payment plan  
1079 pursuant to s. 28.246(4) ~~The court shall require the defendant~~  
1080 ~~to pay the costs within a specified period or in specified~~  
1081 ~~installments.~~

1082 ~~(b) The end of such period or the last such installment~~  
1083 ~~shall not be later than:~~

1084 1. ~~The end of the period of probation or community~~  
1085 ~~control, if probation or community control is ordered;~~

1086 2. ~~Five years after the end of the term of imprisonment~~  
1087 ~~imposed, if the court does not order probation or community~~  
1088 ~~control; or~~

1089 3. ~~Five years after the date of sentencing in any other~~  
1090 ~~case.~~

1091  
1092 ~~However, in no event shall the obligation to pay any unpaid~~  
1093 ~~amounts expire if not paid in full within the period specified~~  
1094 ~~in this paragraph.~~

1095 (b)(e) If not otherwise provided by the court under this  
1096 section, costs shall be paid immediately.

1097 Section 15. Paragraph (a) of subsection (1) of section  
1098 938.29, Florida Statutes, is amended to read:

1099 938.29 Legal assistance; lien for payment of attorney's  
 1100 fees or costs.--

1101 (1) (a) A defendant determined to be guilty of a criminal  
 1102 act or found to have committed a delinquent act by a court or  
 1103 jury or through a plea of guilty or nolo contendere, regardless  
 1104 of adjudication, and who has received the assistance of the  
 1105 public defender's office, ~~a special assistant public defender,~~  
 1106 or a court-appointed ~~conflict~~ attorney shall be liable for  
 1107 payment of attorney's fees and costs. The court shall determine  
 1108 the amount of the obligation. Such costs shall include, but not  
 1109 be limited to, the cost of depositions; cost of transcripts of  
 1110 depositions, including the cost of defendant's copy, which  
 1111 transcripts are certified by the defendant's attorney as having  
 1112 served a useful purpose in the disposition of the case;  
 1113 investigative costs; witness fees; the cost of psychiatric  
 1114 examinations; or other reasonable costs specially incurred by  
 1115 the state and the clerk of court for the defense of the  
 1116 defendant in criminal prosecutions. Costs shall not include  
 1117 expenses inherent in providing a constitutionally guaranteed  
 1118 jury trial or expenditures in connection with the maintenance  
 1119 and operation of government agencies that must be made by the  
 1120 public irrespective of specific violations of law. Any costs  
 1121 assessed pursuant to this paragraph shall be reduced by any  
 1122 amount assessed against a defendant pursuant to s. 938.05.

1123 Section 16. Subsections (4) and (5) of section 948.15,  
 1124 Florida Statutes, are renumbered as subsections (5) and (6),  
 1125 respectively, present subsection (3) is renumbered as subsection

1126 (4), paragraph (e) of that subsection is amended, and a new  
 1127 subsection (3) is added to that section, to read:

1128 948.15 Misdemeanor probation services.--

1129 (3) (a) The entity providing probation services for  
 1130 offenders sentenced by the county court shall establish a  
 1131 process to collect payments for all offender fees, fines, and  
 1132 costs imposed by the court, restitution owed by the misdemeanor  
 1133 probationer, and the cost of supervision. The entity providing  
 1134 probation services shall provide any funds collected in  
 1135 accordance with this subsection to the payee to whom they are  
 1136 owed within 30 days.

1137 (b) For programs provided by a county with its own  
 1138 employees, if a payment made by the misdemeanor probationer is  
 1139 not sufficient to cover the total installment required under a  
 1140 payment plan imposed by the court plus any additional payments  
 1141 that are outstanding, the payment made by the misdemeanor  
 1142 probationer shall be allocated proportionally among any fees,  
 1143 fines, and costs imposed by the court, restitution owed by the  
 1144 misdemeanor probationer, and the cost of supervision based on  
 1145 the percentage that the sum owed for each type of payment  
 1146 comprises of the total installment owed for all types of  
 1147 payments.

1148 (4) ~~(3)~~ Any private entity providing services for the  
 1149 supervision of misdemeanor probationers must contract with the  
 1150 county in which the services are to be rendered. In a county  
 1151 with a population of less than 70,000, the county court judge,  
 1152 or the administrative judge of the county court in a county that

1153 | has more than one county court judge, must approve the contract.

1154 | Terms of the contract must state, but are not limited to:

1155 |       (e) Procedures for handling the collection in accordance  
 1156 | with subsection (3) of all payments owed by an offender fees and  
 1157 | restitution.

1158 |  
 1159 | In addition, the entity shall supply the chief judge's office  
 1160 | with a quarterly report summarizing the number of offenders  
 1161 | supervised by the private entity, payment of the required  
 1162 | contribution under supervision or rehabilitation, and the number  
 1163 | of offenders for whom supervision or rehabilitation will be  
 1164 | terminated. All records of the entity must be open to inspection  
 1165 | upon the request of the county, the court, the Auditor General,  
 1166 | the Office of Program Policy Analysis and Government  
 1167 | Accountability, or agents thereof.

1168 |       Section 17. Section 939.185, Florida Statutes, is  
 1169 | renumbered as section 938.195, Florida Statutes.

1170 |       Section 18. Subsection (3) of section 775.083, Florida  
 1171 | Statutes, is renumbered as subsection (2) of that section, and  
 1172 | present subsection (2) of that section is transferred to section  
 1173 | 938.065, Florida Statutes, which is created, and amended to  
 1174 | read:

1175 |       938.065 County crime prevention programs.--

1176 |       ~~(2) In addition to the fines set forth in subsection (1),~~  
 1177 | Court costs shall be assessed and collected in each instance a  
 1178 | defendant pleads nolo contendere to, or is convicted of, or  
 1179 | adjudicated delinquent for, a felony, a misdemeanor, or a

1180 criminal traffic offense under state law, or a violation of any  
 1181 municipal or county ordinance if the violation constitutes a  
 1182 misdemeanor under state law. The court costs imposed by this  
 1183 section shall be \$50 for a felony and \$20 for any other offense  
 1184 and shall be deposited by the clerk of the court into an  
 1185 appropriate county account for disbursement for the purposes  
 1186 provided in this subsection. A county shall account for the  
 1187 funds separately from other county funds as crime prevention  
 1188 funds. The county, in consultation with the sheriff, must expend  
 1189 such funds for crime prevention programs in the county,  
 1190 including safe neighborhood programs under ss. 163.501-163.523.

1191 Section 19. Subsections (1), (2), and (4) of section  
 1192 938.17, Florida Statutes, are amended to read:

1193 938.17 County delinquency prevention; juvenile assessment  
 1194 centers and school board suspension programs.--

1195 (1) Prior to the use of costs received pursuant to s.  
 1196 938.195 ~~939.185~~, the sheriff's office of the county must be a  
 1197 partner in a written agreement with the Department of Juvenile  
 1198 Justice to participate in a juvenile assessment center or with  
 1199 the district school board to participate in a suspension  
 1200 program.

1201 (2) Assessments collected by clerks of the circuit courts  
 1202 comprised of more than one county shall remit the funds  
 1203 collected pursuant to s. 938.195 ~~939.185~~ to the county in which  
 1204 the offense at issue was committed for deposit and disbursement.

1205 (4) A sheriff's office that receives proceeds pursuant to  
 1206 s. 938.195 ~~939.185~~ shall account for all funds annually by

1207 August 1 in a written report to the juvenile justice county  
 1208 council if funds are used for assessment centers, and to the  
 1209 district school board if funds are used for suspension programs.

1210 Section 20. Subsection (7) of section 938.19, Florida  
 1211 Statutes, is amended to read:

1212 938.19 Teen courts.--

1213 (7) A teen court administered in a county that adopts an  
 1214 ordinance to assess court costs under this section may not  
 1215 receive court costs collected under s. 938.195(1)(a)4.

1216 ~~939.185(1)(a)4.~~

1217 Section 21. Paragraph (d) of subsection (6) of section  
 1218 948.08, Florida Statutes, is amended to read:

1219 948.08 Pretrial intervention program.--

1220 (6)

1221 (d) Any entity, whether public or private, providing a  
 1222 pretrial substance abuse education and treatment intervention  
 1223 program under this subsection must contract with the county or  
 1224 appropriate governmental entity, and the terms of the contract  
 1225 must include, but need not be limited to, the requirements  
 1226 established for private entities under s. 948.15(4)~~(3)~~.

1227 Section 22. Subsection (3) of section 948.16, Florida  
 1228 Statutes, is amended to read:

1229 948.16 Misdemeanor pretrial substance abuse education and  
 1230 treatment intervention program.--

1231 (3) Any public or private entity providing a pretrial  
 1232 substance abuse education and treatment program under this  
 1233 section shall contract with the county or appropriate

1234 governmental entity. The terms of the contract shall include,  
 1235 but not be limited to, the requirements established for private  
 1236 entities under s. 948.15 (4) ~~(3)~~.

1237 Section 23. Subsections (1), (2), and (3) of section  
 1238 985.203, Florida Statutes, are amended to read:

1239 985.203 Right to counsel.--

1240 (1) A child is entitled to representation by legal counsel  
 1241 at all stages of any proceedings under this part. If the ~~child~~  
 1242 ~~and the~~ parents or other legal guardian is ~~are~~ indigent ~~and~~  
 1243 ~~unable to employ counsel for the child~~, the court shall appoint  
 1244 counsel pursuant to s. 27.52. However, if a parent or legal  
 1245 guardian is also the alleged victim in the case, the court shall  
 1246 appoint counsel to represent the child without requiring an  
 1247 affidavit from the parent or legal guardian. Determination of  
 1248 indigence and costs of representation shall be as provided by  
 1249 ss. 27.52 and 938.29. Legal counsel representing a child ~~who~~  
 1250 ~~exercises the right to counsel~~ shall be allowed to provide  
 1251 advice and counsel to the child at any time subsequent to the  
 1252 child's arrest, including prior to a detention hearing while in  
 1253 secure detention care. A child shall be represented by legal  
 1254 counsel at all stages of all court proceedings unless the right  
 1255 to counsel is freely, knowingly, and intelligently waived by the  
 1256 child. If the child appears without counsel, the court shall  
 1257 appoint counsel if the parents or legal guardian is indigent  
 1258 ~~advise the child of his or her rights with respect to~~  
 1259 ~~representation of court appointed counsel.~~

1260 (2) If the parents or legal guardian of an indigent child  
1261 is ~~are~~ not indigent but refuses ~~refuse~~ to employ counsel, the  
1262 court shall appoint counsel pursuant to s. 27.52 to represent  
1263 the child at the detention hearing and until counsel is  
1264 provided. Costs of representation are hereby imposed as provided  
1265 by ss. 27.52 and 938.29. Thereafter, the court shall not appoint  
1266 counsel for an indigent child with nonindigent parents or legal  
1267 guardian but shall order the parents or legal guardian to obtain  
1268 private counsel. A parent or legal guardian of an indigent child  
1269 who has been ordered to obtain private counsel for the child and  
1270 who willfully fails to follow the court order shall be punished  
1271 by the court in civil contempt proceedings. If a nonindigent  
1272 parent or legal guardian is also the alleged victim in the case,  
1273 the court shall not order that parent or legal guardian to  
1274 obtain private counsel but shall appoint counsel pursuant to s.  
1275 27.52 to represent the indigent child.

1276 (3) An indigent child with nonindigent parents or legal  
1277 guardian may have counsel appointed pursuant to s. 27.52 if the  
1278 parents or legal guardian has ~~have~~ willfully refused to obey the  
1279 court order to obtain counsel for the child and has ~~have~~ been  
1280 punished by civil contempt and then still has ~~have~~ willfully  
1281 refused to obey the court order. Costs of representation are  
1282 hereby imposed as provided by ss. 27.52 and 938.29.

1283 Section 24. Paragraph (d) of subsection (1) of section  
1284 985.306, Florida Statutes, is amended to read:

1285 985.306 Delinquency pretrial intervention program.--

1286 (1)



1287 (d) Any entity, whether public or private, providing  
1288 pretrial substance abuse education, treatment intervention, and  
1289 a urine monitoring program under this section must contract with  
1290 the county or appropriate governmental entity, and the terms of  
1291 the contract must include, but need not be limited to, the  
1292 requirements established for private entities under s.  
1293 948.15 (4) ~~(3)~~. It is the intent of the Legislature that public or  
1294 private entities providing substance abuse education and  
1295 treatment intervention programs involve the active participation  
1296 of parents, schools, churches, businesses, law enforcement  
1297 agencies, and the department or its contract providers.

1298 Section 25. This act shall take effect July 1, 2006.