

Bill No. CS for SB 1088

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	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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11 The Conference Committee on CS for SB 1088 recommended the
12 following amendment:

14 **Conference Committee Amendment (with title amendment)**

15 Delete everything after the enacting clause

17 and insert:

18 Section 1. Effective October 1, 2007, subsections (1),
19 (2), (3), (7), and (9) of section 27.40, Florida Statutes, are
20 amended to read:

21 27.40 Court-appointed counsel; circuit registries;
22 minimum requirements; appointment by court.--

23 (1) Counsel shall be appointed to represent any
24 individual in a criminal or civil proceeding entitled to
25 court-appointed counsel under the Federal or State
26 Constitution or as authorized by general law. The court shall
27 appoint a public defender to represent indigent persons as
28 authorized in s. 27.51. The office of criminal conflict and
29 civil regional counsel shall be appointed to represent persons
30 in those cases in which provision is made for court-appointed
31 counsel but the public defender is unable to provide

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1 representation due to a conflict of interest or is not
2 authorized to provide representation.

3 (2)(a) Private counsel shall be appointed to represent
4 persons ~~indigents~~ in those cases in which provision is made
5 for court-appointed counsel but the office of criminal
6 conflict and civil regional counsel ~~public defender~~ is unable
7 to provide representation due to a conflict of interest ~~or is~~
8 ~~not authorized to provide representation.~~

9 ~~(b)(2)~~ Private counsel appointed by the court to
10 provide representation shall be selected from a registry of
11 individual attorneys maintained under this section ~~established~~
12 ~~by the circuit Article V indigent services committee or~~
13 ~~procured through a competitive bidding process.~~

14 (3) In utilizing a registry:

15 (a) The chief judge of the circuit ~~Each circuit~~
16 ~~Article V indigent services committee~~ shall compile ~~and~~
17 ~~maintain~~ a list of attorneys in private practice, by county
18 and by category of cases and provide the list to the clerk of
19 court in each county. From October 1, 2005, through September
20 30, 2007, the list of attorneys compiled by the Eleventh
21 Judicial Circuit shall provide the race, gender, and national
22 origin of assigned attorneys. To be included on a registry,
23 attorneys shall certify that they meet any minimum
24 requirements established in general law for court appointment,
25 are available to represent indigent defendants in cases
26 requiring court appointment of private counsel, and are
27 willing to abide by the terms of the contract for services. To
28 be included on a registry, an attorney also must enter into a
29 contract for services with the Justice Administrative
30 Commission. Failure to comply with the terms of the contract
31 for services may result in termination of the contract and

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1 removal from the registry. Each attorney on the registry shall
 2 be responsible for notifying the clerk of the court ~~circuit~~
 3 ~~Article V indigent services committee~~ and the Justice
 4 Administrative Commission of any change in his or her status.
 5 Failure to comply with this requirement shall be cause for
 6 termination of the contract for services and removal from the
 7 registry until the requirement is fulfilled.

8 (b) The court shall appoint attorneys in rotating
 9 order in the order in which names appear on the applicable
 10 registry, unless the court makes a finding of good cause on
 11 the record for appointing an attorney out of order. The clerk
 12 of court shall maintain the registry and provide to the court
 13 the name of the attorney for appointment. An attorney not
 14 appointed in the order in which his or her name appears on the
 15 list shall remain next in order.

16 (c) If ~~it finds~~ the number of attorneys on the
 17 registry in a county or circuit for a particular category of
 18 cases is inadequate, ~~the circuit Article V indigent services~~
 19 ~~committee shall notify~~ the chief judge of the particular
 20 circuit ~~in writing.~~ The chief judge shall provide to the clerk
 21 of court ~~submit~~ the names of at least three private attorneys
 22 who have ~~with~~ relevant experience. The clerk of court shall
 23 send an application to each of these attorneys to register for
 24 appointment.

25 (d) Quarterly, each chief judge ~~circuit Article V~~
 26 ~~indigent services committee~~ shall provide a current copy of
 27 each registry to the Chief Justice of the Supreme Court, ~~the~~
 28 ~~chief judge,~~ the state attorney and public defender in each
 29 judicial circuit, the office of criminal conflict and civil
 30 regional counsel, the clerk of court in each county, and the
 31 Justice Administrative Commission, ~~and the Indigent Services~~

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1 ~~Advisory Board.~~ From October 1, 2005, through September 30,
 2 2007, the report submitted by the Eleventh Judicial Circuit
 3 shall include the race, gender, and national origin of all
 4 attorneys listed in and appointed under the registry.

5 (7)(a) A private ~~An~~ attorney appointed by the court
 6 from the registry to represent a ~~defendant or other~~ client is
 7 entitled to payment as provided in ~~pursuant to~~ s. 27.5304. An
 8 attorney appointed by the court who is not on the registry
 9 list may be compensated under s. 27.5304 if the court finds in
 10 the order of appointment that there were no registry attorneys
 11 available for representation for that case., only upon full
 12 performance by the attorney of specified duties, approval of
 13 payment by the court, except for payment based on a flat fee
 14 per case as provided in s. 27.5304; and attorney submission of
 15 a payment request to the Justice Administrative Commission.
 16 ~~Upon being permitted to withdraw from a case, a~~
 17 ~~court-appointed attorney shall submit a copy of the order to~~
 18 ~~the Justice Administrative Commission at the time it is issued~~
 19 ~~by the court. If an attorney is permitted to withdraw or is~~
 20 ~~otherwise removed from representation prior to full~~
 21 ~~performance of the duties specified in this section for~~
 22 ~~reasons other than breach of duty, the trial court shall~~
 23 ~~approve payment of attorney's fees and costs for work~~
 24 ~~performed in an amount not to exceed the amounts specified in~~
 25 ~~s. 27.5304. Withdrawal from a case prior to full performance~~
 26 ~~of the duties specified shall create a rebuttable presumption~~
 27 ~~that the attorney is not entitled to the entire flat fee for~~
 28 ~~those cases paid on a flat fee per case basis.~~

29 (b) The attorney shall maintain appropriate
 30 documentation, including contemporaneous ~~a current~~ and
 31 detailed hourly accounting of time spent representing the

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1 ~~defendant or other~~ client. If the attorney fails to maintain
 2 such contemporaneous and detailed hourly records, the attorney
 3 waives the right to seek compensation in excess of the flat
 4 fee established in s. 27.5304 and the General Appropriations
 5 Act. These records and documents are subject to review by the
 6 Justice Administrative Commission, subject to the
 7 attorney-client privilege and work product privilege.

8 (9) ~~A circuit Article V indigent services committee or~~
 9 Any interested person may advise the court of any circumstance
 10 affecting the quality of representation, including, but not
 11 limited to, false or fraudulent billing, misconduct, failure
 12 to meet continuing legal education requirements, solicitation
 13 to receive compensation from the ~~defendant or other~~ client the
 14 attorney is appointed to represent, or failure to file
 15 appropriate motions in a timely manner.

16 (10) The attorney shall provide information in the
 17 form specified by the Justice Administrative Commission
 18 pursuant to s. 27.405, subject to the attorney-client
 19 privilege and work product privilege.

20 Section 2. Effective October 1, 2007, section 27.405,
 21 Florida Statutes, is created to read:

22 27.405 Court-appointed counsel; Justice Administrative
 23 Commission tracking and reporting.--

24 (1) The Justice Administrative Commission shall
 25 separately track expenditures and performance measures for
 26 private court-appointed counsel for the each of the categories
 27 of criminal or civil cases in which private counsel may be
 28 appointed.

29 (2) The commission shall prepare and issue on a
 30 quarterly basis a statewide report comparing actual
 31 year-to-date expenditures to budget amounts for each of the

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1 judicial circuits. The commission shall prepare and issue on
 2 an annual basis a statewide report comparing performance
 3 measures for each of the judicial circuits. The commission
 4 shall distribute copies of the quarterly and annual reports to
 5 the Governor, the Chief Justice of the Supreme Court, the
 6 President of the Senate, and the Speaker of the House of
 7 Representatives.

8 (3) From October 1, 2005, through September 30, 2007,
 9 the commission shall also track and issue a report on the
 10 race, gender, and national origin of private court-appointed
 11 counsel for the Eleventh Judicial Circuit.

12 Section 3. Effective October 1, 2007, section 27.425,
 13 Florida Statutes, is created to read:

14 27.425 Due process service rates; responsibilities of
 15 chief judge.--

16 (1) The chief judge of each circuit shall recommend
 17 compensation rates for state-funded due process service
 18 providers in cases in which the court has appointed private
 19 counsel or declared a person indigent for costs. For purposes
 20 of this section, due process compensation rates do not include
 21 attorney's fees for legal representation of the client.

22 (2) Annually, the chief judge shall submit proposed
 23 due process compensation rates to the Office of the State
 24 Courts Administrator for inclusion in the legislative budget
 25 request for the state courts system.

26 (3) The maximum rates shall be specified annually in
 27 the General Appropriations Act. For the 2007-2008 fiscal year,
 28 the maximum rates shall be the rates in effect on June 30,
 29 2007.

30 (4) The total amount expended for providers of due
 31 process services in eligible cases may not exceed the amount

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1 budgeted in the General Appropriations Act for the particular
2 due process service.

3 Section 4. Section 27.511, Florida Statutes, is
4 created to read:

5 27.511 Offices of criminal conflict and civil regional
6 counsel; legislative intent; qualifications; appointment;
7 duties.--

8 (1) It is the intent of the Legislature to provide
9 adequate representation to persons entitled to court-appointed
10 counsel under the Federal or State Constitution or as
11 authorized by general law. It is the further intent of the
12 Legislature to provide adequate representation in a fiscally
13 sound manner, while safeguarding constitutional principles.
14 Therefore, an office of criminal conflict and civil regional
15 counsel is created within the geographic boundaries of each of
16 the five district courts of appeal. The regional counsel shall
17 be appointed as set forth in subsection (3) for each of the
18 five regional offices. The offices shall commence fulfilling
19 their constitutional and statutory purpose and duties on
20 October 1, 2007.

21 (2) Each office of criminal conflict and civil
22 regional counsel shall be assigned to the Justice
23 Administrative Commission for administrative purposes. The
24 commission shall provide administrative support and service to
25 the offices to the extent requested by each regional counsel
26 within the available resources of the commission. The regional
27 counsel and the offices are not subject to control,
28 supervision, or direction by the commission in the performance
29 of their duties, but the employees of the offices shall be
30 governed by the classification plan and the salary and
31 benefits plan for the commission.

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1 (3) Each regional counsel must be, and must have been
2 for the preceding 5 years, a member in good standing of The
3 Florida Bar or a similar organization in another state. Each
4 regional counsel shall be appointed by the Governor and is
5 subject to confirmation by the Senate. The Supreme Court
6 Judicial Nominating Commission shall recommend to the Governor
7 three qualified candidates for appointment to each of the five
8 regional counsel positions. The Governor shall appoint the
9 regional counsel for the five regions from among the
10 recommendations, or, if it is in the best interest of the fair
11 administration of justice, the Governor may reject the
12 nominations and request that the Supreme Court Judicial
13 Nominating Commission submit three new nominees. The regional
14 counsel shall be appointed to a term of 4 years, the first
15 term beginning on July 1, 2007. Vacancies shall be filled in
16 the same manner as appointments.

17 (4) Each regional counsel shall serve on a full-time
18 basis and may not engage in the private practice of law while
19 holding office. Assistant regional counsel shall give priority
20 and preference to their duties as assistant regional counsel
21 and may not otherwise engage in the practice of criminal law
22 or in civil proceedings for which the state compensates
23 attorneys for representation.

24 (5) Effective October 1, 2007, when the Office of the
25 Public Defender, at any time during the representation of two
26 or more defendants, determines that the interests of those
27 accused are so adverse or hostile that they cannot all be
28 counseled by the public defender or his or her staff without a
29 conflict of interest, or that none can be counseled by the
30 public defender or his or her staff because of a conflict of
31 interest, and the court grants the public defender's motion to

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1 withdraw, the office of criminal conflict and civil regional
2 counsel shall be appointed and shall provide legal services,
3 without additional compensation, to any person determined to
4 be indigent under s. 27.52, who is:

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

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

7 1. A misdemeanor authorized for prosecution by the
8 state attorney;

9 2. A violation of chapter 316 punishable by
10 imprisonment;

11 3. Criminal contempt; or

12 4. A violation of a special law or county or municipal
13 ordinance ancillary to a state charge, or if not ancillary to
14 a state charge, only if the office of criminal conflict and
15 civil regional counsel contracts with the county or
16 municipality to provide representation pursuant to ss. 27.54
17 and 125.69.

18
19 The office of criminal conflict and civil regional counsel may
20 not provide representation pursuant to this paragraph if the
21 court, prior to trial, files in the cause an order of no
22 imprisonment as provided in s. 27.512;

23 (c) Alleged to be a delinquent child pursuant to a
24 petition filed before a circuit court;

25 (d) Sought by petition filed in such court to be
26 involuntarily placed as a mentally ill person under part I of
27 chapter 394, involuntarily committed as a sexually violent
28 predator under part V of chapter 394, or involuntarily
29 admitted to residential services as a person with
30 developmental disabilities under chapter 393;

31 (e) Convicted and sentenced to death, for purposes of

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1 handling an appeal to the Supreme Court; or

2 (f) Is appealing a matter in a case arising under
3 paragraphs (a)-(d).

4 (6)(a) Effective October 1, 2007, the office of
5 criminal conflict and civil regional counsel has primary
6 responsibility for representing persons entitled to
7 court-appointed counsel under the Federal or State
8 Constitution or as authorized by general law in civil
9 proceedings, including, but not limited to, proceedings under
10 s. 393.12 and chapters 39, 390, 392, 397, 415, 743, 744, and
11 984.

12 (b) If constitutional principles or general law
13 provide for court-appointed counsel in civil proceedings, the
14 court shall first appoint the regional counsel unless general
15 law specifically provides for appointment of the public
16 defender, in which case the court shall appoint the regional
17 counsel if the public defender has a conflict of interest.

18 (c) Notwithstanding paragraph (b) or any provision of
19 chapter 744 to the contrary, when chapter 744 provides for
20 appointment of counsel, the court, in consultation with the
21 clerk of court and prior to appointing counsel, shall
22 determine, if possible, whether the person entitled to
23 representation is indigent, using the best available evidence.

24 1. If the person is indigent, the court shall appoint
25 the regional counsel. If at any time after appointment the
26 regional counsel determines that the person is not indigent
27 and that there are sufficient assets available for the payment
28 of legal representation under s. 744.108, the regional counsel
29 shall move the court to reassign the case to a private
30 attorney.

31 2. If the person is not indigent or if the court and

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1 the clerk are not able to determine whether the person is
 2 indigent at the time of appointment, the court shall appoint a
 3 private attorney. If at any time after appointment the private
 4 attorney determines that the person is indigent and that there
 5 are not sufficient assets available for the payment of legal
 6 representation under s. 744.108, the private attorney shall
 7 move the court to reassign the case to the regional counsel.
 8 When a case is reassigned, the private attorney may seek
 9 compensation from the Justice Administrative Commission for
 10 representation not recoverable from any assets of the person
 11 in an amount approved by the court as a pro rata portion of
 12 the compensation limits prescribed in the General
 13 Appropriations Act.

14 (d) The regional counsel may not represent any
 15 plaintiff in a civil action brought under the Florida Rules of
 16 Civil Procedure, the Federal Rules of Civil Procedure, or
 17 federal statutes, and may not represent a petitioner in a rule
 18 challenge under chapter 120, unless specifically authorized by
 19 law.

20 (7) The court may not appoint the office of criminal
 21 conflict and civil regional counsel to represent, even on a
 22 temporary basis, any person who is not indigent, except to the
 23 extent that appointment of counsel is specifically provided
 24 for in chapters 390, 394, 415, 743, and 744 without regard to
 25 the indigent status of the person entitled to representation.

26 (8) The office of criminal conflict and civil regional
 27 counsel shall handle all circuit court appeals within the
 28 state courts system and any authorized appeals to the federal
 29 courts which are required in cases in which the office of
 30 criminal conflict and civil regional counsel is appointed
 31 under this section.

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1 (9) When direct appellate proceedings prosecuted by
2 the office of criminal conflict and civil regional counsel on
3 behalf of an accused and challenging a judgment of conviction
4 and sentence of death terminate in an affirmance of such
5 conviction and sentence, whether by the Supreme Court or by
6 the United States Supreme Court or by expiration of any
7 deadline for filing such appeal in a state or federal court,
8 the office of criminal conflict and civil regional counsel
9 shall notify the accused of his or her rights pursuant to Rule
10 3.850, Florida Rules of Criminal Procedure, including any time
11 limits pertinent thereto, and shall advise such person that
12 representation in any collateral proceedings is the
13 responsibility of the capital collateral regional counsel. The
14 office of criminal conflict and civil regional counsel shall
15 forward all original files on the matter to the capital
16 collateral regional counsel, retaining such copies for his or
17 her files as may be desired or required by law. However, the
18 trial court shall retain the power to appoint the office of
19 criminal conflict and civil regional counsel or other attorney
20 not employed by the capital collateral regional counsel to
21 represent such person in proceedings for relief by executive
22 clemency pursuant to ss. 27.40 and 27.5303.

23 Section 5. Effective July 1, 2007, subsection (1) of
24 section 27.512, Florida Statutes, is amended to read:

25 27.512 Order of no imprisonment.--

26 (1) In each case in which the court determines that it
27 will not sentence the defendant to imprisonment if convicted,
28 the court shall issue an order of no imprisonment and the
29 court may not appoint the public defender or other counsel to
30 represent the defendant. If the court issues an order of no
31 imprisonment following the appointment of the public defender

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1 or other counsel, the court shall immediately terminate the
 2 appointed counsel's ~~public defender's~~ services. However, if at
 3 any time the court withdraws the order of no imprisonment with
 4 respect to an indigent defendant, the court shall appoint the
 5 public defender to represent the defendant.

6 Section 6. Effective October 1, 2007, subsections (2),
 7 (3), (4), (5), (6), and (7) of section 27.52, Florida
 8 Statutes, are amended to read:

9 27.52 Determination of indigent status.--

10 (2) DETERMINATION BY THE CLERK.--The clerk of the
 11 court shall determine whether an applicant seeking appointment
 12 of a public defender is indigent based upon the information
 13 provided in the application and the criteria prescribed in
 14 this subsection.

15 (a)1. An applicant, including an applicant who is a
 16 minor or an adult tax-dependent person, is indigent if the
 17 applicant's income is equal to or below 200 percent of the
 18 then-current federal poverty guidelines prescribed for the
 19 size of the household of the applicant by the United States
 20 Department of Health and Human Services or if the person is
 21 receiving Temporary Assistance for Needy Families-Cash
 22 Assistance, poverty-related veterans' benefits, or
 23 Supplemental Security Income (SSI).

24 2. There is a presumption that the applicant is not
 25 indigent if the applicant owns, or has equity in, any
 26 intangible or tangible personal property or real property or
 27 the expectancy of an interest in any such property having a
 28 net equity value of \$2,500 or more, excluding the value of the
 29 person's homestead and one vehicle having a net value not
 30 exceeding \$5,000.

31 (b) Based upon its review, the clerk shall make one of

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1 the following determinations:

2 1. The applicant is not indigent.

3 2. The applicant is indigent.

4 (c)1. If the clerk determines that the applicant is
5 indigent, the clerk shall submit the determination to the
6 office of the public defender and immediately file the
7 determination in the case file.

8 2. If the public defender is unable to provide
9 representation due to a conflict pursuant to s. 27.5303, the
10 public defender shall move the court for withdrawal from
11 representation and appointment of the office of criminal
12 conflict and civil regional ~~private~~ counsel.

13 (d) The duty of the clerk in determining whether an
14 applicant is indigent shall be limited to receiving the
15 application and comparing the information provided in the
16 application to the criteria prescribed in this subsection. The
17 determination of indigent status is a ministerial act of the
18 clerk and not a decision based on further investigation or the
19 exercise of independent judgment by the clerk. The clerk may
20 contract with third parties to perform functions assigned to
21 the clerk under this section.

22 (e) The applicant may seek review of the clerk's
23 determination that the applicant is not indigent in the court
24 having jurisdiction over the matter at the next scheduled
25 hearing. If the applicant seeks review of the clerk's
26 determination of indigent status, the court shall make a final
27 determination as provided in subsection (4).

28 (3) APPOINTMENT OF COUNSEL ON INTERIM BASIS.--If the
29 clerk of the court has not made a determination of indigent
30 status at the time a person requests appointment of a public
31 defender, the court shall make a preliminary determination of

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1 indigent status, pending further review by the clerk, and may,
2 by court order, appoint a public defender, the office of
3 criminal conflict and civil regional counsel, or private
4 counsel on an interim basis.

5 (4) REVIEW OF CLERK'S DETERMINATION.--

6 (a) If the clerk of the court determines that the
7 applicant is not indigent, and the applicant seeks review of
8 the clerk's determination, the court shall make a final
9 determination of indigent status by reviewing the information
10 provided in the application against the criteria prescribed in
11 subsection (2) and by considering the following additional
12 factors:

13 1. Whether the applicant has been released on bail in
14 an amount of \$5,000 or more.

15 2. Whether a bond has been posted, the type of bond,
16 and who paid the bond.

17 3. Whether paying for private counsel in an amount
18 that exceeds the limitations in s. 27.5304, or other due
19 process services creates a substantial hardship for the
20 applicant or the applicant's family.

21 4. Any other relevant financial circumstances of the
22 applicant or the applicant's family.

23 (b) Based upon its review, the court shall make one of
24 the following determinations and, if the applicant is
25 indigent, shall appoint a public defender, the office of
26 criminal conflict and civil regional counsel, or, if
27 appropriate, private counsel:

28 1. The applicant is not indigent.

29 2. The applicant is indigent.

30 (5) INDIGENT FOR COSTS.--A person who is eligible to
31 be represented by a public defender under s. 27.51 but who is

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1 represented by private counsel not appointed by the court for
 2 a reasonable fee as approved by the court, on a pro bono
 3 basis, or who is proceeding pro se, may move the court for a
 4 determination that he or she is indigent for costs and
 5 eligible for the provision of due process services, as
 6 prescribed by ss. 29.006 and 29.007, funded by the state.

7 (a) The person must submit to the court:

8 1. The completed application prescribed in subsection
 9 (1).

10 2. In the case of a person represented by counsel, an
 11 affidavit attesting to the estimated amount of attorney's fees
 12 and the source of payment for these fees.

13 (b) In reviewing the motion, the court shall consider:

14 1. Whether the applicant applied for a determination
 15 of indigent status under subsection (1) and the outcome of
 16 such application.

17 2. The extent to which the person's income equals or
 18 exceeds the income criteria prescribed in subsection (2).

19 3. The additional factors prescribed in subsection
 20 (4).

21 4. Whether the applicant is proceeding pro se.

22 5. When the applicant retained private counsel.

23 6. The amount of any attorney's fees and who is paying
 24 the fees.

25 (c) Based upon its review, the court shall make one of
 26 the following determinations:

27 1. The applicant is not indigent for costs.

28 2. The applicant is indigent for costs.

29 (d) The provision of due process services based upon a
 30 determination that a person is indigent for costs under this
 31 subsection must be effectuated pursuant to a court order, a

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1 copy of which the clerk shall provide to counsel representing
 2 the person, or to the person directly if he or she is
 3 proceeding pro se, for use in requesting payment of due
 4 process expenses through the Justice Administrative
 5 Commission. Private counsel representing a person declared
 6 indigent for costs shall execute the Justice Administrative
 7 Commission's contract for counsel representing persons
 8 determined to be indigent for costs.

9 (6) DUTIES OF PARENT OR LEGAL GUARDIAN.--A nonindigent
 10 parent or legal guardian of an applicant who is a minor or an
 11 adult tax-dependent person shall furnish the minor or adult
 12 tax-dependent person with the necessary legal services and
 13 costs incident to a delinquency proceeding or, upon transfer
 14 of such person for criminal prosecution as an adult pursuant
 15 to chapter 985, a criminal prosecution in which the person has
 16 a right to legal counsel under the Constitution of the United
 17 States or the Constitution of the State of Florida. The
 18 failure of a parent or legal guardian to furnish legal
 19 services and costs under this section does not bar the
 20 appointment of legal counsel pursuant to this section, s.
 21 27.40, or s. 27.5303. When the public defender, the office of
 22 criminal conflict and civil regional counsel, a private
 23 court-appointed conflict counsel, or a private attorney is
 24 appointed to represent a minor or an adult tax-dependent
 25 person in any proceeding in circuit court or in a criminal
 26 proceeding in any other court, the parents or the legal
 27 guardian shall be liable for payment of the fees, charges, and
 28 costs of the representation even if the person is a minor
 29 being tried as an adult. Liability for the fees, charges, and
 30 costs of the representation shall be imposed in the form of a
 31 lien against the property of the nonindigent parents or legal

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1 guardian of the minor or adult tax-dependent person. The lien
2 is enforceable as provided in s. 27.561 or s. 938.29.

3 (7) FINANCIAL DISCREPANCIES; FRAUD; FALSE
4 INFORMATION.--

5 (a) If the court learns of discrepancies between the
6 application or motion and the actual financial status of the
7 person found to be indigent or indigent for costs, the court
8 shall determine whether the public defender, office of
9 criminal conflict and civil regional counsel, or private
10 attorney shall continue representation or whether the
11 authorization for any other due process services previously
12 authorized shall be revoked. The person may be heard regarding
13 the information learned by the court. If the court, based on
14 the information, determines that the person is not indigent or
15 indigent for costs, the court shall order the public defender,
16 office of criminal conflict and civil regional counsel, or
17 private attorney to discontinue representation and revoke the
18 provision of any other authorized due process services.

19 (b) If the court has reason to believe that any
20 applicant, through fraud or misrepresentation, was improperly
21 determined to be indigent or indigent for costs, the matter
22 shall be referred to the state attorney. Twenty-five percent
23 of any amount recovered by the state attorney as reasonable
24 value of the services rendered, including fees, charges, and
25 costs paid by the state on the person's behalf, shall be
26 remitted to the Department of Revenue for deposit into the
27 Grants and Donations Trust Fund within the Justice
28 Administrative Commission. Seventy-five percent of any amount
29 recovered shall be remitted to the Department of Revenue for
30 deposit into the General Revenue Fund.

31 (c) A person who knowingly provides false information

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1 to the clerk or the court in seeking a determination of
2 indigent status under this section commits a misdemeanor of
3 the first degree, punishable as provided in s. 775.082 or s.
4 775.083.

5 Section 7. Effective July 1, 2007, section 27.525,
6 Florida Statutes, is amended to read:

7 27.525 Indigent Criminal Defense Trust Fund.--The
8 Indigent Criminal Defense Trust Fund is ~~hereby~~ created, to be
9 administered by the Justice Administrative Commission. Funds
10 shall be credited to the trust fund as provided in s. 27.52,
11 to be used for the purposes of indigent criminal defense as
12 appropriated by the Legislature to the public defender or the
13 office of criminal conflict and civil regional counsel set
14 forth therein. The Justice Administrative Commission shall
15 account for these funds on a circuit basis, and appropriations
16 from the fund shall be proportional to each circuit's
17 collections.

18 Section 8. Effective July 1, 2007, subsections (4) and
19 (5) are added to section 27.53, Florida Statutes, to read:

20 27.53 Appointment of assistants and other staff;
21 method of payment.--

22 (4) The five criminal conflict and civil regional
23 counsel may employ and establish, in the numbers authorized by
24 the General Appropriations Act, assistant regional counsel and
25 other staff and personnel in each judicial district pursuant
26 to s. 29.006, who shall be paid from funds appropriated for
27 that purpose. Notwithstanding s. 790.01, s. 790.02, or s.
28 790.25(2)(a), an investigator employed by an office of
29 criminal conflict and civil regional counsel, while actually
30 carrying out official duties, is authorized to carry concealed
31 weapons if the investigator complies with s. 790.25(3)(o).

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1 However, such investigators are not eligible for membership in
 2 the Special Risk Class of the Florida Retirement System. The
 3 five regional counsel shall jointly develop recommended
 4 modifications to the classification plan and the salary and
 5 benefits plan for the Justice Administrative Commission. The
 6 recommendations shall be submitted to the commission, the
 7 office of the President of the Senate, and the office of the
 8 Speaker of the House of Representatives by September 15, 2007,
 9 for the regional offices' initial establishment and before
 10 January 1 of each year thereafter. Such recommendations shall
 11 be developed in accordance with policies and procedures of the
 12 Executive Office of the Governor established in s. 216.181.
 13 Each assistant regional counsel appointed by the regional
 14 counsel under this section shall serve at the pleasure of the
 15 regional counsel. Each investigator employed by the regional
 16 counsel shall have full authority to serve any witness
 17 subpoena or court order issued by any court or judge in a
 18 criminal case in which the regional counsel has been appointed
 19 to represent the accused.

20 (5) The appropriations for the offices of criminal
 21 conflict and civil regional counsel shall be determined by a
 22 funding formula and other factors that are considered
 23 appropriate in a manner to be determined by this section and
 24 the General Appropriations Act.

25 Section 9. Effective July 1, 2007, section 27.5301,
 26 Florida Statutes, is amended to read:

27 27.5301 Salaries of public defenders, ~~and~~ assistant
 28 public defenders, criminal conflict and civil regional
 29 counsel, and assistant regional counsel.--

30 (1) The salaries of public defenders shall be as
 31 provided in the General Appropriations Act and shall be paid

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1 in equal monthly installments.

2 (2) The salary for each assistant public defender
3 shall be set by the public defender of the same judicial
4 circuit in an amount not to exceed 100 percent of that public
5 defender's salary and shall be paid from funds appropriated
6 for that purpose. Assistant public defenders who serve in less
7 than a full-time capacity shall be compensated for services
8 performed in an amount to be in proportion to the salary
9 allowed for full-time services.

10 (3) The salary of the criminal conflict and civil
11 regional counsel shall be as provided in the General
12 Appropriations Act and shall be paid in equal monthly
13 installments.

14 (4) The salary for each assistant regional counsel
15 shall be set by the regional counsel in an amount not to
16 exceed 100 percent of the regional counsel's salary and shall
17 be paid from funds appropriated for that purpose. Assistant
18 regional counsel who serve in less than a full-time capacity
19 shall be compensated for services performed in an amount that
20 is in proportion to the salary allowed for full-time services.

21 Section 10. Effective October 1, 2007, section
22 27.5303, Florida Statutes, is amended to read:

23 27.5303 Public defenders; criminal conflict and civil
24 regional counsel; conflict of interest.--

25 (1)(a) If, at any time during the representation of
26 two or more defendants, a public defender determines that the
27 interests of those accused are so adverse or hostile that they
28 cannot all be counseled by the public defender or his or her
29 staff without conflict of interest, or that none can be
30 counseled by the public defender or his or her staff because
31 of a conflict of interest, then the public defender shall file

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1 a motion to withdraw and move the court to appoint other
2 counsel. ~~If requested by the Justice Administrative~~
3 ~~Commission, the public defender shall submit a copy of the~~
4 ~~motion to the Justice Administrative Commission at the time it~~
5 ~~is filed with the court. The Justice Administrative Commission~~
6 ~~shall have standing to appear before the court to contest any~~
7 ~~motion to withdraw due to a conflict of interest. The Justice~~
8 ~~Administrative Commission may contract with other public or~~
9 ~~private entities or individuals to appear before the court for~~
10 ~~the purpose of contesting any motion to withdraw due to a~~
11 ~~conflict of interest. The court shall review and may inquire~~
12 ~~or conduct a hearing into the adequacy of the public~~
13 ~~defender's representations regarding a conflict of interest~~
14 ~~without requiring the disclosure of any confidential~~
15 ~~communications. The court shall deny the motion to withdraw if~~
16 ~~the court finds the grounds for withdrawal are insufficient or~~
17 ~~the asserted conflict is not prejudicial to the indigent~~
18 ~~client. If the court grants the motion to withdraw, the court~~
19 ~~shall appoint one or more attorneys to represent the accused,~~
20 as provided in s. 27.40. The public defender shall submit to
21 the Justice Administrative Commission a copy of the order
22 granting the motion to withdraw within 30 days after the
23 motion is granted. The commission shall report quarterly to
24 the Governor, the President of the Senate, and the Speaker of
25 the House of Representatives on the number of orders granting
26 motions to withdraw for each circuit.

27 (b) If, at any time during the representation of two
28 or more persons in a criminal or civil proceeding, a criminal
29 conflict and civil regional counsel determines that the
30 interests of those clients are so adverse or hostile that they
31 cannot all be counseled by the regional counsel or his or her

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1 staff without conflict of interest, or that none can be
 2 counseled by the regional counsel or his or her staff because
 3 of a conflict of interest, the regional counsel shall file a
 4 motion to withdraw and move the court to appoint other
 5 counsel. If requested by the Justice Administrative
 6 Commission, the regional counsel shall submit a copy of the
 7 motion to the Justice Administrative Commission at the time it
 8 is filed with the court. The court shall review and may
 9 inquire or conduct a hearing into the adequacy of the regional
 10 counsel's representations regarding a conflict of interest
 11 without requiring the disclosure of any confidential
 12 communications. The court shall deny the motion to withdraw if
 13 the court finds the grounds for withdrawal are insufficient or
 14 the asserted conflict is not prejudicial to the client. If the
 15 court grants the motion to withdraw, the court shall appoint
 16 one or more private attorneys to represent the person as
 17 provided in s. 27.40. The clerk of court shall inform the
 18 regional office and the commission when the court appoints
 19 private counsel.

20 (c)(b) Upon its own motion, the court shall appoint
 21 such other counsel when the facts developed upon the face of
 22 the record and court files in the case disclose a conflict of
 23 interest. The clerk court shall advise the appropriate public
 24 defender or criminal conflict and civil regional counsel and
 25 clerk of court, in writing, with an electronic a copy to the
 26 Justice Administrative Commission, ~~if so requested by the~~
 27 ~~Justice Administrative Commission~~, when the court makes making
 28 the motion and appoints ~~appointing~~ one or more attorneys ~~to~~
 29 ~~represent the accused~~. The court shall specify the basis for
 30 the conflict.

31 (d)(c) In no case shall the court approve a withdrawal

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1 by the public defender or criminal conflict and civil regional
2 counsel based solely upon inadequacy of funding or excess
3 workload of the public defender or regional counsel.

4 ~~(e)(d)~~ In determining whether or not there is a
5 conflict of interest, the public defender or regional counsel
6 shall apply the standards contained in the Uniform Standards
7 for Use in Conflict of Interest Cases found in appendix C to
8 the Final Report of the Article V Indigent Services Advisory
9 Board dated January 6, 2004. Before a motion to withdraw is
10 filed under this section, the public defender or regional
11 counsel serving the circuit, or his or her designee, must:

12 1. Determine if there is a viable alternative to
13 withdrawal from representation which would remedy the conflict
14 of interest and, if its exists, implement that alternative;
15 and

16 2. Approve in writing the filing of the motion to
17 withdraw.

18 (2) The court shall appoint conflict counsel pursuant
19 to s. 27.40, first appointing the office of criminal conflict
20 and civil regional counsel and, if the office is found to have
21 a conflict, appointing private counsel. The appointed private
22 attorney may not be affiliated with the public defender, ~~or~~
23 any assistant public defender, the regional counsel, or any
24 assistant regional counsel in his or her official capacity or
25 any other private attorney appointed to represent a
26 codefendant. The public defender or regional counsel may not
27 participate in case-related decisions, performance
28 evaluations, or expense determinations in conflict cases.

29 (3) Private court-appointed counsel shall be
30 compensated as provided in s. 27.5304.

31 (4)(a) If a defendant is convicted and the death

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1 sentence is imposed, the appointed attorney shall continue
 2 representation through appeal to the Supreme Court. The
 3 attorney shall be compensated as provided in s. 27.5304. If
 4 the attorney first appointed is unable to handle the appeal,
 5 the court shall appoint another attorney and that attorney
 6 shall be compensated as provided in s. 27.5304.

7 (b) The public defender or an attorney appointed
 8 pursuant to this section may be appointed by the court
 9 rendering the judgment imposing the death penalty to represent
 10 an indigent defendant who has applied for executive clemency
 11 as relief from the execution of the judgment imposing the
 12 death penalty.

13 (c) When the appointed attorney in a capital case has
 14 completed the duties imposed by this section, the attorney
 15 shall file a written report in the trial court stating the
 16 duties performed by the attorney and apply for discharge.

17 Section 11. Section 27.5304, Florida Statutes, is
 18 amended to read:

19 27.5304 Private court-appointed counsel;
 20 compensation.--

21 (1) Private court-appointed counsel shall be
 22 compensated by the Justice Administrative Commission as
 23 provided in an amount not to exceed the fee limits established
 24 in this section and the General Appropriations Act. The flat
 25 fees prescribed in this section are limitations on
 26 compensation. The specific flat fee amounts for compensation
 27 shall be established annually in the General Appropriations
 28 Act. The attorney also shall be reimbursed for reasonable and
 29 necessary expenses in accordance with s. 29.007. If the
 30 attorney is representing a defendant charged with more than
 31 one offense in the same case, the attorney shall be

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1 compensated at the rate provided for the most serious offense
 2 for which he or she represented the defendant. This section
 3 does not allow stacking of the fee limits established by this
 4 section. ~~Private court-appointed counsel providing~~
 5 ~~representation under an alternative model shall enter into a~~
 6 ~~uniform contract with the Justice Administrative Commission~~
 7 ~~and shall use the Justice Administrative Commission's uniform~~
 8 ~~procedures and forms in support of billing for attorney's~~
 9 ~~fees, costs, and related expenses. Failure to comply with the~~
 10 ~~terms of the contract for services may result in termination~~
 11 ~~of the contract.~~

12 (2) The Justice Administrative Commission shall review
 13 an intended billing by private court-appointed counsel for
 14 attorney's fees based on a flat fee per case for completeness
 15 and compliance with contractual and, ~~statutory, and circuit~~
 16 ~~Article V indigent services committee~~ requirements. The
 17 commission may approve the intended bill for a flat fee per
 18 case for payment without approval by the court if the intended
 19 billing is correct. An intended billing that seeks
 20 compensation for any amount exceeding the flat fee established
 21 for a particular type of representation, as prescribed in the
 22 General Appropriations Act, shall comply with subsections (11)
 23 and (12). ~~For all other intended billings, prior to filing a~~
 24 ~~motion for an order approving payment of attorney's fees,~~
 25 ~~costs, or related expenses, the private court-appointed~~
 26 ~~counsel shall deliver a copy of the intended billing, together~~
 27 ~~with supporting affidavits and all other necessary~~
 28 ~~documentation, to the Justice Administrative Commission. The~~
 29 ~~Justice Administrative Commission shall review the billings,~~
 30 ~~affidavit, and documentation for completeness and compliance~~
 31 ~~with contractual and statutory requirements. If the Justice~~

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1 ~~Administrative Commission objects to any portion of the~~
2 ~~proposed billing, the objection and reasons therefor shall be~~
3 ~~communicated to the private court appointed counsel. The~~
4 ~~private court appointed counsel may thereafter file his or her~~
5 ~~motion for order approving payment of attorney's fees, costs,~~
6 ~~or related expenses together with supporting affidavits and~~
7 ~~all other necessary documentation. The motion must specify~~
8 ~~whether the Justice Administrative Commission objects to any~~
9 ~~portion of the billing or the sufficiency of documentation and~~
10 ~~shall attach the Justice Administrative Commission's letter~~
11 ~~stating its objection. The attorney shall have the burden to~~
12 ~~prove the entitlement to attorney's fees, costs, or related~~
13 ~~expenses. A copy of the motion and attachments shall be served~~
14 ~~on the Justice Administrative Commission at least 5 business~~
15 ~~days prior to the date of a hearing. The Justice~~
16 ~~Administrative Commission shall have standing to appear before~~
17 ~~the court to contest any motion for order approving payment of~~
18 ~~attorney's fees, costs, or related expenses and may~~
19 ~~participate in a hearing on the motion by use of telephonic or~~
20 ~~other communication equipment unless ordered otherwise. The~~
21 ~~Justice Administrative Commission may contract with other~~
22 ~~public or private entities or individuals to appear before the~~
23 ~~court for the purpose of contesting any motion for order~~
24 ~~approving payment of attorney's fees, costs, or related~~
25 ~~expenses. The fact that the Justice Administrative Commission~~
26 ~~has not objected to any portion of the billing or to the~~
27 ~~sufficiency of the documentation is not binding on the court.~~

28 (3) The court retains primary authority and
29 responsibility for determining the reasonableness of all
30 billings for attorney's fees, costs, and related expenses,
31 subject to statutory limitations. Private court-appointed

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1 counsel is entitled to compensation upon final disposition of
2 a case, ~~except as provided in subsections (7), (8), and (10).~~

3 (4) The attorney shall submit a bill for attorney's
4 fees, costs, and related expenses within 90 days after the
5 disposition of the case at the lower court level,
6 notwithstanding any appeals. The Justice Administrative
7 Commission shall provide by contract with the attorney for
8 imposition of a penalty of 15 percent of the allowable
9 attorney's fees, costs, and related expenses for a bill that
10 is submitted more than 90 days after the disposition of the
11 case at the lower court level, notwithstanding any appeals.
12 ~~Before final disposition of a case, a private court-appointed~~
13 ~~counsel may file a motion for fees, costs, and related~~
14 ~~expenses for services completed up to the date of the motion~~
15 ~~in any case or matter in which legal services have been~~
16 ~~provided by the attorney for more than 1 year. The amount~~
17 ~~approved by the court may not exceed 80 percent of the fees~~
18 ~~earned, or costs and related expenses incurred, to date, or an~~
19 ~~amount proportionate to the maximum fees permitted under this~~
20 ~~section based on legal services provided to date, whichever is~~
21 ~~less. The court may grant the motion if counsel shows that~~
22 ~~failure to grant the motion would work a particular hardship~~
23 ~~upon counsel.~~

24 (5)(3) The compensation for representation in a
25 criminal proceeding shall not exceed the following:

26 (a)1. For misdemeanors and juveniles represented at
27 the trial level: \$1,000.

28 2. For noncapital, nonlife felonies represented at the
29 trial level: \$2,500.

30 3. For life felonies represented at the trial level:
31 \$3,000.

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1 4. For capital cases represented at the trial level:
 2 ~~\$15,000~~ ~~\$3,500~~. For purposes of this subparagraph, a "capital
 3 case" is any offense for which the potential sentence is death
 4 and the state has not waived seeking the death penalty.

5 5. For representation on appeal: \$2,000.

6 (b) If a death sentence is imposed and affirmed on
 7 appeal to the Supreme Court, the appointed attorney shall be
 8 allowed compensation, not to exceed \$1,000, for attorney's
 9 fees and costs incurred in representing the defendant as to an
 10 application for executive clemency, with compensation to be
 11 paid out of general revenue from funds budgeted to the
 12 Department of Corrections.

13 ~~(4) By January 1 of each year, the Article V Indigent~~
 14 ~~Services Advisory Board shall recommend to the Legislature any~~
 15 ~~adjustments to the compensation provisions of this section.~~

16 ~~(6)(5)~~ For compensation for representation pursuant to
 17 a court appointment in a proceeding under chapter 39:

18 (a) At the trial level, compensation for
 19 representation for dependency proceedings shall not exceed
 20 \$1,000 for the first year following the date of appointment
 21 and shall not exceed \$200 each year thereafter. Compensation
 22 shall be paid based upon representation of a parent
 23 irrespective of the number of case numbers that may be
 24 assigned or the number of children involved, including any
 25 children born during the pendency of the proceeding. Any
 26 appeal, except for an appeal from an adjudication of
 27 dependency, shall be completed by the trial attorney and is
 28 considered compensated by the flat fee for dependency
 29 proceedings.

30 1. Counsel may bill the flat fee not exceeding \$1,000
 31 following disposition or upon dismissal of the petition.

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1 2. Counsel may bill the annual flat fee not exceeding
2 \$200 following the first judicial review in the second year
3 following the date of appointment and each year thereafter as
4 long as the case remains under protective supervision.

5 3. If the court grants a motion to reactivate
6 protective supervision, the attorney shall receive the annual
7 flat fee not exceeding \$200 following the first judicial
8 review and up to an additional \$200 each year thereafter.

9 4. If, during the course of dependency proceedings, a
10 proceeding to terminate parental rights is initiated,
11 compensation shall be as set forth in paragraph (b). If
12 counsel handling the dependency proceeding is not authorized
13 to handle proceedings to terminate parental rights, the
14 counsel must withdraw and new counsel must be appointed.

15 (b) At the trial level, compensation for
16 representation in termination of parental rights proceedings
17 shall not exceed \$1,000 for the first year following the date
18 of appointment and shall not exceed \$200 each year thereafter.
19 Compensation shall be paid based upon representation of a
20 parent irrespective of the number of case numbers that may be
21 assigned or the number of children involved, including any
22 children born during the pendency of the proceeding. Any
23 appeal, except for an appeal from an order granting or denying
24 termination of parental rights, shall be completed by trial
25 counsel and is considered compensated by the flat fee for
26 termination of parental rights proceedings. If the individual
27 has dependency proceedings ongoing as to other children, those
28 proceedings are considered part of the termination of parental
29 rights proceedings as long as that termination of parental
30 rights proceeding is ongoing.

31 1. Counsel may bill the flat fee not exceeding \$1,000

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1 30 days after rendition of the final order. Each request for
2 payment submitted to the Justice Administrative Commission
3 must include the trial counsel's certification that:

4 a. Counsel discussed grounds for appeal with the
5 parent or that counsel attempted and was unable to contact the
6 parent; and

7 b. No appeal will be filed or that a notice of appeal
8 and a motion for appointment of appellate counsel, containing
9 the signature of the parent, have been filed.

10 2. Counsel may bill the annual flat fee not exceeding
11 \$200 following the first judicial review in the second year
12 after the date of appointment and each year thereafter as long
13 as the termination of parental rights proceedings are still
14 ongoing.

15 (c) For appeals from an adjudication of dependency,
16 compensation may not exceed \$1,000.

17 1. Counsel may bill a flat fee not exceeding \$750 upon
18 filing the initial brief or the granting of a motion to
19 withdraw.

20 2. If a brief is filed, counsel may bill an additional
21 flat fee not exceeding \$250 upon rendition of the mandate.

22 (d) For an appeal from an adjudication of termination
23 of parental rights, compensation may not exceed \$2,000.

24 1. Counsel may bill a flat fee not exceeding \$1,000
25 upon filing the initial brief or the granting of a motion to
26 withdraw.

27 2. If a brief is filed, counsel may bill an additional
28 flat fee not exceeding \$1,000 upon rendition of the mandate.

29 ~~If counsel is entitled to receive compensation for~~
30 ~~representation pursuant to court appointment in a termination~~
31 ~~of parental rights proceeding under chapter 39, such~~

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1 ~~compensation shall not exceed \$1,000 at the trial level and~~
2 ~~\$2,500 at the appellate level.~~

3 ~~(7)(b)~~ Counsel entitled to receive compensation from
4 the state for representation pursuant to court appointment in
5 a proceeding under chapter 384, chapter 390, ~~or~~ chapter 392,
6 chapter 393, chapter 394, chapter 397, chapter 415, chapter
7 743, chapter 744, or chapter 984 shall receive ~~reasonable~~
8 compensation not to exceed the limits prescribed in the
9 General Appropriations Act ~~as fixed by the court making the~~
10 ~~appointment.~~

11 ~~(8)(6)~~ A private attorney appointed in lieu of the
12 public defender or the criminal conflict and civil regional
13 counsel to represent an indigent defendant may not reassign or
14 subcontract the case to another attorney or allow another
15 attorney to appear at a critical stage of a case who is not on
16 the registry developed under s. 27.40.

17 ~~(7)~~ Private court-appointed counsel representing a
18 parent in a dependency case that is open may submit a request
19 for payment to the Justice Administrative Commission at the
20 following intervals:

21 ~~(a)~~ Upon entry of an order of disposition as to the
22 parent being represented.

23 ~~(b)~~ Upon conclusion of a 12-month permanency review.

24 ~~(c)~~ Following a judicial review hearing.

25
26 ~~In no case, however, may counsel submit requests under this~~
27 ~~subsection more than once per quarter, unless the court finds~~
28 ~~extraordinary circumstances justifying more frequent~~
29 ~~submission of payment requests.~~

30 ~~(9)(8)~~ Private court-appointed counsel representing an
31 individual in an appeal to a district court of appeal or the

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1 Supreme Court may submit a request for payment to the Justice
2 Administrative Commission at the following intervals:

3 (a) Upon the filing of an appellate brief, including,
4 but not limited to, a reply brief.

5 (b) When the opinion of the appellate court is
6 finalized.

7 ~~(10)(9) Private court-appointed counsel may not bill
8 for preparation of invoices whether or not the case is paid on
9 the basis of an hourly rate or by flat fee.~~

10 ~~(10) The Justice Administrative Commission shall
11 develop a schedule to provide partial payment of criminal
12 attorney fees for cases that are not resolved within 6 months.
13 The schedule must provide that the aggregate payments shall
14 not exceed limits established by law. Any partial payment made
15 pursuant to this subsection shall not exceed the actual value
16 of services provided to date. Any partial payment shall be
17 proportionate to the value of services provided based on
18 payment rates included in the contract, not to exceed any
19 limit provided by law.~~

20 (11) It is the intent of the Legislature that the flat
21 fees prescribed under this section and the General
22 Appropriations Act comprise the full and complete compensation
23 for private court-appointed counsel. It is further the intent
24 of the Legislature that the fees in this section are
25 prescribed for the purpose of providing counsel with notice of
26 the limit on the amount of compensation for representation in
27 particular proceedings.

28 (a) If court-appointed counsel moves to withdraw prior
29 to the full performance of his or her duties through the
30 completion of the case, the court shall presume that the
31 attorney is not entitled to the payment of the full flat fee

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1 established under this section and the General Appropriations
2 Act.

3 (b) If court-appointed counsel is allowed to withdraw
4 from representation prior to the full performance of his or
5 her duties through the completion of the case and the court
6 appoints a subsequent attorney, the total compensation for the
7 initial and any and all subsequent attorneys may not exceed
8 the flat fee established under this section and the General
9 Appropriations Act, except as provided in subsection (12).

10

11 This subsection constitutes notice to any subsequently
12 appointed attorney that he or she will not be compensated the
13 full flat fee.

14 (12) The Legislature recognizes that on rare occasions
15 an attorney may receive a case that requires extraordinary and
16 unusual effort.

17 (a) If counsel seeks compensation that exceeds the
18 limits prescribed under this section and the General
19 Appropriations Act, he or she must file a motion with the
20 chief judge for an order approving payment of attorney's fees
21 in excess of these limits.

22 1. Prior to filing the motion, the counsel shall
23 deliver a copy of the intended billing, together with
24 supporting affidavits and all other necessary documentation,
25 to the Justice Administrative Commission.

26 2. The Justice Administrative Commission shall review
27 the billings, affidavit, and documentation for completeness
28 and compliance with contractual and statutory requirements. If
29 the Justice Administrative Commission objects to any portion
30 of the proposed billing, the objection and reasons therefor
31 shall be communicated in writing to the private

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1 court-appointed counsel. The counsel may thereafter file his
2 or her motion, which must specify whether the commission
3 objects to any portion of the billing or the sufficiency of
4 documentation, and shall attach the commission's letter
5 stating its objection.

6 (b) Following receipt of the motion to exceed the fee
7 limits, the chief judge or a designee shall hold an
8 evidentiary hearing.

9 1. At the hearing, the attorney seeking compensation
10 must prove by competent and substantial evidence that the case
11 required extraordinary and unusual efforts. The chief judge or
12 designee shall consider criteria such as the number of
13 witnesses, the complexity of the factual and legal issues, and
14 the length of trial. The fact that a trial was conducted in a
15 case does not, by itself, constitute competent substantial
16 evidence of an extraordinary and unusual effort. In a criminal
17 case, relief under this section may not be granted if the
18 number of work hours does not exceed 75 or the number of the
19 state's witnesses deposed does not exceed 20.

20 2. The chief judge or designee shall enter a written
21 order detailing his or her findings and identifying the
22 extraordinary nature of the time and efforts of the attorney
23 in the case which warrant exceeding the flat fee established
24 by this section and the General Appropriations Act.

25 (c) A copy of the motion and attachments shall be
26 served on the Justice Administrative Commission at least 5
27 business days prior to the date of a hearing. The Justice
28 Administrative Commission shall have standing to appear before
29 the court, including at the hearing under paragraph (b), to
30 contest any motion for an order approving payment of
31 attorney's fees, costs, or related expenses and may

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1 participate in a hearing on the motion by use of telephonic or
2 other communication equipment unless ordered otherwise. The
3 Justice Administrative Commission may contract with other
4 public or private entities or individuals to appear before the
5 court for the purpose of contesting any motion for an order
6 approving payment of attorney's fees, costs, or related
7 expenses. The fact that the Justice Administrative Commission
8 has not objected to any portion of the billing or to the
9 sufficiency of the documentation is not binding on the court.

10 (d) If the chief judge or designee finds that counsel
11 has proved by competent and substantial evidence that the case
12 required extraordinary and unusual efforts, the chief judge or
13 designee shall order the compensation to be paid to the
14 attorney at a percentage above the flat fee rate, depending on
15 the extent of the unusual and extraordinary effort required.
16 The percentage shall be only the rate necessary to ensure that
17 the fees paid are not confiscatory under common law. The
18 percentage may not exceed 200 percent of the established flat
19 fee, absent a specific finding that 200 percent of the flat
20 fee in the case would be confiscatory. If the chief judge or
21 designee determines that 200 percent of the flat fee would be
22 confiscatory, he or she shall order the amount of compensation
23 using an hourly rate not to exceed \$75 per hour for a
24 noncapital case and \$100 per hour for a capital case. However,
25 the compensation calculated by using the hourly rate shall be
26 only that amount necessary to ensure that the total fees paid
27 are not confiscatory.

28 (e) Any order granting relief under this subsection
29 must be attached to the final request for a payment submitted
30 to the Justice Administrative Commission.

31 (f) The Justice Administrative Commission shall

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1 provide to the Office of the State Courts Administrator data
 2 concerning the number of cases approved for compensation in
 3 excess of the limitation and the amount of these awards by
 4 circuit and by judge. The Office of the State Courts
 5 Administrator shall report the data quarterly to the President
 6 of the Senate, the Speaker of the House of Representatives,
 7 the Chief Justice of the Supreme Court, and the chief judge of
 8 each circuit.

9 Section 12. Effective July 1, 2007, section 27.54,
 10 Florida Statutes, is amended to read:

11 27.54 Limitation on payment of expenditures ~~for public~~
 12 ~~defender's office~~ other than by the state.--

13 (1) All payments for the salary of the public defender
 14 and the criminal conflict and civil regional counsel and for
 15 the necessary expenses of office, including salaries of
 16 assistants and staff, shall be considered as being for a valid
 17 public purpose. Travel expenses shall be paid in accordance
 18 with the provisions of s. 112.061.

19 (2) A county or municipality may contract with, or
 20 appropriate or contribute funds to, the operation of the
 21 offices of the various public defenders and regional counsel
 22 as provided in this subsection. A public defender or regional
 23 counsel defending violations of special laws or county or
 24 municipal ordinances punishable by incarceration and not
 25 ancillary to a state charge shall contract with counties and
 26 municipalities to recover the full cost of services rendered
 27 on an hourly basis or reimburse the state for the full cost of
 28 assigning one or more full-time equivalent attorney positions
 29 to work on behalf of the county or municipality.

30 Notwithstanding any other provision of law, in the case of a
 31 county with a population of less than 75,000, the public

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1 defender or regional counsel shall contract for full
2 reimbursement, or for reimbursement as the parties otherwise
3 agree. In local ordinance violation cases, the county or
4 municipality shall pay for due process services that are
5 approved by the court, including deposition costs, deposition
6 transcript costs, investigative costs, witness fees, expert
7 witness costs, and interpreter costs. The person charged with
8 the violation shall be assessed a fee for the services of a
9 public defender or regional counsel and other costs and fees
10 paid by the county or municipality, which assessed fee may be
11 reduced to a lien, in all instances in which the person enters
12 a plea of guilty or no contest or is found to be in violation
13 or guilty of any count or lesser included offense of the
14 charge or companion case charges, regardless of adjudication.
15 The court shall determine the amount of the obligation. The
16 county or municipality may recover assessed fees through
17 collections court or as otherwise permitted by law, and any
18 fees recovered pursuant to this section shall be forwarded to
19 the applicable county or municipality as reimbursement.

20 (a) A contract for reimbursement on an hourly basis
21 shall require a county or municipality to reimburse the public
22 defender or regional counsel for services rendered at a rate
23 of \$50 per hour. If an hourly rate is specified in the General
24 Appropriations Act, that rate shall control.

25 (b) A contract for assigning one or more full-time
26 equivalent attorney positions to perform work on behalf of the
27 county or municipality shall assign one or more full-time
28 equivalent positions based on estimates by the public defender
29 or regional counsel of the number of hours required to handle
30 the projected workload. The full cost of each full-time
31 equivalent attorney position on an annual basis shall be \$50,

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1 or the amount specified in the General Appropriations Act,
 2 multiplied by the legislative budget request standard for
 3 available work hours for one full-time equivalent attorney
 4 position, or, in the absence of that standard, 1,854 hours.
 5 The contract may provide for funding full-time equivalent
 6 positions in one-quarter increments.

7 (c) Any payments received pursuant to this subsection
 8 shall be deposited into the Grants and Donations Trust Fund
 9 within the Justice Administrative Commission for appropriation
 10 by the Legislature.

11 (3) No public defender, ~~or~~ assistant public defender,
 12 regional counsel, or assistant regional counsel shall receive
 13 from any county or municipality any supplemental salary,
 14 except as provided in this section.

15 (4) Unless expressly authorized by law or in the
 16 General Appropriations Act, public defenders and regional
 17 counsel are prohibited from spending state-appropriated funds
 18 on county funding obligations under s. 14, Art. V of the State
 19 Constitution beginning January 1, 2005. This includes
 20 expenditures on communications services and facilities as
 21 defined in s. 29.008. This does not prohibit a public defender
 22 from spending funds for these purposes in exceptional
 23 circumstances when necessary to maintain operational
 24 continuity in the form of a short-term advance pending
 25 reimbursement from the county. If a public defender or
 26 regional counsel provides short-term advance funding for a
 27 county responsibility as authorized by this subsection, the
 28 public defender or regional counsel shall request full
 29 reimbursement from the board of county commissioners prior to
 30 making the expenditure or at the next meeting of the board of
 31 county commissioners after the expenditure is made. The total

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1 of all short-term advances authorized by this subsection shall
 2 not exceed 2 percent of the public defender's or regional
 3 counsel's approved operating budget in any given year. No
 4 short-term advances authorized by this subsection shall be
 5 permitted until all reimbursements arising from advance
 6 funding in the prior state fiscal year have been received by
 7 the public defender or regional counsel. All reimbursement
 8 payments received by the public defender or regional counsel
 9 shall be deposited into the General Revenue Fund.

10 Notwithstanding the provisions of this subsection, the public
 11 defender or regional counsel may expend funds for the purchase
 12 of computer systems, including associated hardware and
 13 software, and for personnel related to this function.

14 Section 13. Effective October 1, 2007, section 27.59,
 15 Florida Statutes, is amended to read:

16 27.59 Access to prisoners.--The public defenders, ~~and~~
 17 assistant public defenders, criminal conflict and civil
 18 regional counsel, and assistant regional counsel shall be
 19 empowered to inquire of all persons who are incarcerated in
 20 lieu of bond and to tender them advice and counsel at any
 21 time, but the provisions of this section shall not apply with
 22 respect to persons who have engaged private counsel.

23 Section 14. Effective October 1, 2007, section 28.24,
 24 Florida Statutes, is amended to read:

25 28.24 Service charges by clerk of the circuit
 26 court.--The clerk of the circuit court shall charge for
 27 services rendered by the clerk's office in recording documents
 28 and instruments and in performing the duties enumerated in
 29 amounts not to exceed those specified in this section.

30 Notwithstanding any other provision of this section, the clerk
 31 of the circuit court shall provide without charge to the state

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1 attorney, public defender, guardian ad litem, public guardian,
 2 attorney ad litem, criminal conflict and civil regional
 3 counsel, and private court-appointed counsel paid by the
 4 state, and to the authorized staff acting on behalf of each,
 5 access to and a copy of any public record, if the requesting
 6 party is entitled by law to view the exempt or confidential
 7 record, as maintained by and in the custody of the clerk of
 8 the circuit court as provided in general law and the Florida
 9 Rules of Judicial Administration. The clerk of the circuit
 10 court may provide the requested public record in an electronic
 11 format in lieu of a paper format when capable of being
 12 accessed by the requesting entity.

Charges

- 16 (1) For examining, comparing, correcting, verifying,
 17 and certifying transcripts of record in appellate proceedings,
 18 prepared by attorney for appellant or someone else other than
 19 clerk per page.....4.50
- 20 (2) For preparing, numbering, and indexing an original
 21 record of appellate proceedings, per instrument.....3.00
- 22 (3) For certifying copies of any instrument in the
 23 public records.....1.50
- 24 (4) For verifying any instrument presented for
 25 certification prepared by someone other than clerk, per page
 263.00
- 27 (5)(a) For making copies by photographic process of
 28 any instrument in the public records consisting of pages of
 29 not more than 14 inches by 8 1/2 inches, per page.....1.00
- 30 (b) For making copies by photographic process of any
 31 instrument in the public records of more than 14 inches by 8

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1	1/2 inches, per page.....	5.00
2	(6) For making microfilm copies of any public records:	
3	(a) 16 mm 100' microfilm roll.....	37.50
4	(b) 35 mm 100' microfilm roll.....	52.50
5	(c) Microfiche, per fiche.....	3.00
6	(7) For copying any instrument in the public records	
7	by other than photographic process, per page.....	6.00
8	(8) For writing any paper other than herein	
9	specifically mentioned, same as for copying, including signing	
10	and sealing.....	6.00
11	(9) For indexing each entry not recorded.....	1.00
12	(10) For receiving money into the registry of court:	
13	(a)1. First \$500, percent.....	3
14	2. Each subsequent \$100, percent.....	1.5
15	(b) Eminent domain actions, per deposit.....	\$150.00
16	(11) For examining, certifying, and recording plats	
17	and for recording condominium exhibits larger than 14 inches	
18	by 8 1/2 inches:	
19	(a) First page.....	30.00
20	(b) Each additional page.....	15.00
21	(12) For recording, indexing, and filing any	
22	instrument not more than 14 inches by 8 1/2 inches, including	
23	required notice to property appraiser where applicable:	
24	(a) First page or fraction thereof.....	5.00
25	(b) Each additional page or fraction thereof.....	4.00
26	(c) For indexing instruments recorded in the official	
27	records which contain more than four names, per additional	
28	name.....	1.00
29	(d) An additional service charge shall be paid to the	
30	clerk of the circuit court to be deposited in the Public	
31	Records Modernization Trust Fund for each instrument listed in	

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1 s. 28.222, except judgments received from the courts and
2 notices of lis pendens, recorded in the official records:

- 3 1. First page.....1.00
- 4 2. Each additional page.....0.50

5

6 Said fund shall be held in trust by the clerk and used

7 exclusively for equipment and maintenance of equipment,

8 personnel training, and technical assistance in modernizing

9 the public records system of the office. In a county where the

10 duty of maintaining official records exists in an office other

11 than the office of the clerk of the circuit court, the clerk

12 of the circuit court is entitled to 25 percent of the moneys

13 deposited into the trust fund for equipment, maintenance of

14 equipment, training, and technical assistance in modernizing

15 the system for storing records in the office of the clerk of

16 the circuit court. The fund may not be used for the payment of

17 travel expenses, membership dues, bank charges,

18 staff-recruitment costs, salaries or benefits of employees,

19 construction costs, general operating expenses, or other costs

20 not directly related to obtaining and maintaining equipment

21 for public records systems or for the purchase of furniture or

22 office supplies and equipment not related to the storage of

23 records. On or before December 1, 1995, and on or before

24 December 1 of each year immediately preceding each year during

25 which the trust fund is scheduled for legislative review under

26 s. 19(f)(2), Art. III of the State Constitution, each clerk of

27 the circuit court shall file a report on the Public Records

28 Modernization Trust Fund with the President of the Senate and

29 the Speaker of the House of Representatives. The report must

30 itemize each expenditure made from the trust fund since the

31 last report was filed; each obligation payable from the trust

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1 fund on that date; and the percentage of funds expended for
2 each of the following: equipment, maintenance of equipment,
3 personnel training, and technical assistance. The report must
4 indicate the nature of the system each clerk uses to store,
5 maintain, and retrieve public records and the degree to which
6 the system has been upgraded since the creation of the trust
7 fund.

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

13 1. If the counties maintain legal responsibility for
14 the costs of the court-related technology needs as defined in
15 s. 29.008(1)(f)2. and (h), 10 cents shall be distributed to
16 the Florida Association of Court Clerks and Comptroller, Inc.,
17 for the cost of development, implementation, operation, and
18 maintenance of the clerks' Comprehensive Case Information
19 System, in which system all clerks shall participate on or
20 before January 1, 2006; \$1.90 shall be retained by the clerk
21 to be deposited in the Public Records Modernization Trust Fund
22 and used exclusively for funding court-related technology
23 needs of the clerk as defined in s. 29.008(1)(f)2. and (h);
24 and \$2 shall be distributed to the board of county
25 commissioners to be used exclusively to fund court-related
26 technology, and court technology needs as defined in s.
27 29.008(1)(f)2. and (h) for the state trial courts, state
28 attorney, ~~and~~ public defender, and criminal conflict and civil
29 regional counsel in that county. If the counties maintain
30 legal responsibility for the costs of the court-related
31 technology needs as defined in s. 29.008(1)(f)2. and (h),

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1 notwithstanding any other provision of law, the county is not
2 required to provide additional funding beyond that provided
3 herein for the court-related technology needs of the clerk as
4 defined in s. 29.008(1)(f)2. and (h). All court records and
5 official records are the property of the State of Florida,
6 including any records generated as part of the Comprehensive
7 Case Information System funded pursuant to this paragraph and
8 the clerk of court is designated as the custodian of such
9 records, except in a county where the duty of maintaining
10 official records exists in a county office other than the
11 clerk of court or comptroller, such county office is
12 designated the custodian of all official records, and the
13 clerk of court is designated the custodian of all court
14 records. The clerk of court or any entity acting on behalf of
15 the clerk of court, including an association, shall not charge
16 a fee to any agency as defined in s. 119.011, the Legislature,
17 or the State Court System for copies of records generated by
18 the Comprehensive Case Information System or held by the clerk
19 of court or any entity acting on behalf of the clerk of court,
20 including an association.

21 2. If the state becomes legally responsible for the
22 costs of court-related technology needs as defined in s.
23 29.008(1)(f)2. and (h), whether by operation of general law or
24 by court order, \$4 shall be remitted to the Department of
25 Revenue for deposit into the General Revenue Fund.

26 (13) Oath, administering, attesting, and sealing, not
27 otherwise provided for herein.....3.00

28 (14) For validating certificates, any authorized
29 bonds, each.....3.00

30 (15) For preparing affidavit of domicile.....5.00

31 (16) For exemplified certificates, including signing

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1	and sealing.....	6.00
2	(17) For authenticated certificates, including signing	
3	and sealing.....	6.00
4	(18)(a) For issuing and filing a subpoena for a	
5	witness, not otherwise provided for herein (includes writing,	
6	preparing, signing, and sealing).....	6.00
7	(b) For signing and sealing only.....	1.50
8	(19) For approving bond.....	7.50
9	(20) For searching of records, for each year's search	
10	1.50
11	(21) For processing an application for a tax deed sale	
12	(includes application, sale, issuance, and preparation of tax	
13	deed, and disbursement of proceeds of sale), other than excess	
14	proceeds.....	60.00
15	(22) For disbursement of excess proceeds of tax deed	
16	sale, first \$100 or fraction thereof.....	10.00
17	(23) Upon receipt of an application for a marriage	
18	license, for preparing and administering of oath; issuing,	
19	sealing, and recording of the marriage license; and providing	
20	a certified copy.....	30.00
21	(24) For solemnizing matrimony.....	30.00
22	(25) For sealing any court file or expungement of any	
23	record.....	37.50
24	(26)(a) For receiving and disbursing all restitution	
25	payments, per payment.....	3.00
26	(b) For receiving and disbursing all partial payments,	
27	other than restitution payments, for which an administrative	
28	processing service charge is not imposed pursuant to s.	
29	28.246, per month.....	5.00
30	(c) For setting up a payment plan, a one-time	
31	administrative processing charge in lieu of a per month charge	

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1 under paragraph (b).....25.00

2 (27) Postal charges incurred by the clerk of the
3 circuit court in any mailing by certified or registered mail
4 shall be paid by the party at whose instance the mailing is
5 made.

6 (28) For furnishing an electronic copy of information
7 contained in a computer database: a fee as provided for in
8 chapter 119.

9 Section 15. Effective October 1, 2007, section 28.345,
10 Florida Statutes, is amended to read:

11 28.345 Exemption from court-related fees and
12 charges.--Notwithstanding any other provision of this chapter
13 or law to the contrary, judges and those court staff acting on
14 behalf of judges, state attorneys, guardians ad litem, public
15 guardians, attorneys ad litem, court-appointed private
16 counsel, criminal conflict and civil regional counsel, and
17 public defenders, acting in their official capacity, and state
18 agencies, are exempt from all court-related fees and charges
19 assessed by the clerks of the circuit courts.

20 Section 16. Effective July 1, 2007, section 29.001,
21 Florida Statutes, is amended to read:

22 29.001 State courts system elements and definitions.--

23 (1) For the purpose of implementing s. 14, Art. V of
24 the State Constitution, the state courts system is defined to
25 include the enumerated elements of the Supreme Court, district
26 courts of appeal, circuit courts, county courts, and certain
27 supports thereto. The offices of public defenders and state
28 attorneys are defined to include the enumerated elements of
29 the 20 state attorneys' offices and the enumerated elements of
30 the 20 public defenders' offices and five offices of criminal
31 conflict and civil regional counsel. Court-appointed counsel

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1 are defined to include the enumerated elements for counsel
 2 appointed to ensure due process in criminal and civil
 3 proceedings in accordance with state and federal
 4 constitutional guarantees. Funding for the state courts
 5 system, the state attorneys' offices, the public defenders'
 6 offices, the offices of criminal conflict and civil regional
 7 counsel, and other court-appointed counsel shall be provided
 8 from state revenues appropriated by general law.

9 (2) Although a program or function currently may be
 10 funded by the state or prescribed or established in general
 11 law, this does not designate the program or function as an
 12 element of the state courts system, state attorneys' offices,
 13 public defenders' offices, or the offices of the circuit and
 14 county court clerks performing court-related functions as
 15 described in s. 14, Art. V of the State Constitution.

16 Section 17. Effective July 1, 2007, section 29.006,
 17 Florida Statutes, is amended to read:

18 29.006 ~~Public defenders and~~ Indigent defense
 19 costs.--For purposes of implementing s. 14, Art. V of the
 20 State Constitution, the elements of the public defenders'
 21 offices and criminal conflict and civil regional counsel
 22 offices to be provided from state revenues appropriated by
 23 general law are as follows:

24 (1) The public defender of each judicial circuit and
 25 assistant public defenders and other staff as determined by
 26 general law. The regional counsel of each judicial district,
 27 the assistant regional counsel, and other staff as determined
 28 by general law.

29 (2) Reasonable court reporting and transcription
 30 services necessary to meet constitutional or statutory
 31 requirements, including the cost of transcribing and copying

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1 depositions of witnesses and the cost of foreign language and
2 sign-language interpreters and translators.

3 (3) Witnesses, including expert witnesses, summoned to
4 appear for an investigation, preliminary hearing, or trial in
5 a case when the witnesses are summoned on behalf of an
6 indigent defendant, and any other expert witnesses required in
7 a court hearing by law or whomever the public defender or
8 regional counsel deems necessary for the performance of his or
9 her duties.

10 (4) Mental health professionals appointed pursuant to
11 s. 394.473 and required in a court hearing involving an
12 indigent, and mental health professionals appointed pursuant
13 to s. 916.115(2) and required in a court hearing involving an
14 indigent.

15 (5) Reasonable transportation services in the
16 performance of constitutional and statutory responsibilities.
17 Motor vehicles owned by counties and provided exclusively to
18 public defenders as of July 1, 2003, and any additional
19 vehicles owned by the counties and provided exclusively to
20 public defenders during fiscal year 2003-2004 shall be
21 transferred by title to the state effective July 1, 2004.

22 (6) Travel expenses reimbursable under s. 112.061
23 reasonably necessary in the performance of constitutional and
24 statutory responsibilities.

25 (7) Reasonable library and electronic legal research
26 services, other than a public law library.

27 (8) Reasonable pretrial consultation fees and costs.

28 Section 18. Effective October 1, 2007, section 29.007,
29 Florida Statutes, is amended to read:

30 29.007 Court-appointed counsel.--For purposes of
31 implementing s. 14, Art. V of the State Constitution, the

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1 elements of court-appointed counsel to be provided from state
2 revenues appropriated by general law are as follows:

3 (1) Private attorneys appointed by the court to handle
4 cases where the defendant is indigent and cannot be
5 represented by the public defender or the office of criminal
6 conflict and civil regional counsel ~~under ss. 27.42 and 27.53.~~

7 (2) When the office of criminal conflict and civil
8 regional counsel has a conflict of interest, private attorneys
9 appointed by the court to represent indigents or other classes
10 of litigants in civil proceedings requiring court-appointed
11 counsel in accordance with state and federal constitutional
12 guarantees and federal and state statutes.

13 (3) Reasonable court reporting and transcription
14 services necessary to meet constitutional or statutory
15 requirements, including the cost of transcribing and copying
16 depositions of witnesses and the cost of foreign language and
17 sign-language interpreters and translators.

18 (4) Witnesses, including expert witnesses, summoned to
19 appear for an investigation, preliminary hearing, or trial in
20 a case when the witnesses are summoned on behalf of an
21 indigent, and any other expert witnesses approved by the
22 court.

23 (5) Mental health professionals appointed pursuant to
24 s. 394.473 and required in a court hearing involving an
25 indigent, mental health professionals appointed pursuant to s.
26 916.115(2) and required in a court hearing involving an
27 indigent, and any other mental health professionals required
28 by law for the full adjudication of any civil case involving
29 an indigent person.

30 (6) Reasonable pretrial consultation fees and costs.

31 (7) Travel expenses reimbursable under s. 112.061

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1 reasonably necessary in the performance of constitutional and
2 statutory responsibilities.

3
4 Subsections (3), (4), (5), (6), and (7) apply when
5 court-appointed counsel is appointed; when the court
6 determines that the litigant is indigent for costs; or when
7 the litigant is acting pro se and the court determines that
8 the litigant is indigent for costs at the trial or appellate
9 level. This section applies in any situation in which the
10 court appoints counsel to protect a litigant's due process
11 rights. The Justice Administrative Commission shall approve
12 uniform contract forms for use in processing payments for due
13 process services under this section. In each case in which a
14 private attorney represents a person determined by the court
15 to be indigent for costs, the attorney shall execute the
16 commission's contract for private attorneys representing
17 persons determined to be indigent for costs.

18 Section 19. Effective July 1, 2007, subsections (1)
19 and (2) of section 29.008, Florida Statutes, are amended to
20 read:

21 29.008 County funding of court-related functions.--

22 (1) Counties are required by s. 14, Art. V of the
23 State Constitution to fund the cost of communications
24 services, existing radio systems, existing multiagency
25 criminal justice information systems, and the cost of
26 construction or lease, maintenance, utilities, and security of
27 facilities for the circuit and county courts, public
28 defenders' offices, state attorneys' offices, guardian ad
29 litem offices, and the offices of the clerks of the circuit
30 and county courts performing court-related functions. For
31 purposes of this section, the term "circuit and county courts"

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1 includes ~~shall include~~ the offices and staffing of the
 2 guardian ad litem programs, and the term "public defenders'
 3 offices" includes the offices of criminal conflict and civil
 4 regional counsel. The county designated under s. 35.05(1) as
 5 the headquarters for each appellate district shall fund these
 6 costs for the appellate division of the public defender's
 7 office in that county. For purposes of implementing these
 8 requirements, the term:

9 (a) "Facility" means reasonable and necessary
 10 buildings and office space and appurtenant equipment and
 11 furnishings, structures, real estate, easements, and related
 12 interests in real estate, including, but not limited to, those
 13 for the purpose of housing legal materials for use by the
 14 general public and personnel, equipment, or functions of the
 15 circuit or county courts, public defenders' offices, state
 16 attorneys' offices, and court-related functions of the office
 17 of the clerks of the circuit and county courts and all
 18 storage. The term "facility" includes all wiring necessary for
 19 court reporting services. The term also includes access to
 20 parking for such facilities in connection with such
 21 court-related functions that may be available free or from a
 22 private provider or a local government for a fee. The office
 23 space provided by a county may not be less than the standards
 24 for space allotment adopted by the Department of Management
 25 Services, except this requirement applies only to facilities
 26 that are leased, or on which construction commences, after
 27 June 30, 2003. County funding must include physical
 28 modifications and improvements to all facilities as are
 29 required for compliance with the Americans with Disabilities
 30 Act. Upon mutual agreement of a county and the affected entity
 31 in this paragraph, the office space provided by the county may

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1 vary from the standards for space allotment adopted by the
2 Department of Management Services.

3 1. As of July 1, 2005, equipment and furnishings shall
4 be limited to that appropriate and customary for courtrooms,
5 hearing rooms, jury facilities, and other public areas in
6 courthouses and any other facility occupied by the courts,
7 state attorneys, ~~and~~ public defenders, guardians ad litem, and
8 criminal conflict and civil regional counsel. Court reporting
9 equipment in these areas or facilities is not a responsibility
10 of the county.

11 2. Equipment and furnishings under this paragraph in
12 existence and owned by counties on July 1, 2005, except for
13 that in the possession of the clerks, for areas other than
14 courtrooms, hearing rooms, jury facilities, and other public
15 areas in courthouses and any other facility occupied by the
16 courts, state attorneys, and public defenders, shall be
17 transferred to the state at no charge. This provision does not
18 apply to any communication services as defined in paragraph
19 (f).

20 (b) "Construction or lease" includes, but is not
21 limited to, all reasonable and necessary costs of the
22 acquisition or lease of facilities for all judicial officers,
23 staff, jurors, volunteers of a tenant agency, and the public
24 for the circuit and county courts, the public defenders'
25 offices, state attorneys' offices, and for performing the
26 court-related functions of the offices of the clerks of the
27 circuit and county courts. This includes expenses related to
28 financing such facilities and the existing and future cost and
29 bonded indebtedness associated with placing the facilities in
30 use.

31 (c) "Maintenance" includes, but is not limited to, all

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1 reasonable and necessary costs of custodial and groundskeeping
2 services and renovation and reconstruction as needed to
3 accommodate functions for the circuit and county courts, the
4 public defenders' offices, and state attorneys' offices and
5 for performing the court-related functions of the offices of
6 the clerks of the circuit and county court and for maintaining
7 the facilities in a condition appropriate and safe for the use
8 intended.

9 (d) "Utilities" means all electricity services for
10 light, heat, and power; natural or manufactured gas services
11 for light, heat, and power; water and wastewater services and
12 systems, stormwater or runoff services and systems, sewer
13 services and systems, all costs or fees associated with these
14 services and systems, and any costs or fees associated with
15 the mitigation of environmental impacts directly related to
16 the facility.

17 (e) "Security" includes but is not limited to, all
18 reasonable and necessary costs of services of law enforcement
19 officers or licensed security guards and all electronic,
20 cellular, or digital monitoring and screening devices
21 necessary to ensure the safety and security of all persons
22 visiting or working in a facility; to provide for security of
23 the facility, including protection of property owned by the
24 county or the state; and for security of prisoners brought to
25 any facility. This includes bailiffs while providing courtroom
26 and other security for each judge and other quasi-judicial
27 officers.

28 (f) "Communications services" are defined as any
29 reasonable and necessary transmission, emission, and reception
30 of signs, signals, writings, images, and sounds of
31 intelligence of any nature by wire, radio, optical, audio

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1 equipment, or other electromagnetic systems and includes all
 2 facilities and equipment owned, leased, or used by judges,
 3 clerks, public defenders, state attorneys, guardians ad litem,
 4 criminal conflict and civil regional counsel, and all staff of
 5 the state courts system, state attorneys' offices, public
 6 defenders' offices, and clerks of the circuit and county
 7 courts performing court-related functions. Such system or
 8 services shall include, but not be limited to:

9 1. Telephone system infrastructure, including computer
 10 lines, telephone switching equipment, and maintenance, and
 11 facsimile equipment, wireless communications, cellular
 12 telephones, pagers, and video teleconferencing equipment and
 13 line charges. Each county shall continue to provide access to
 14 a local carrier for local and long distance service and shall
 15 pay toll charges for local and long distance service.

16 2. All computer networks, systems and equipment,
 17 including computer hardware and software, modems, printers,
 18 wiring, network connections, maintenance, support staff or
 19 services including any county-funded support staff located in
 20 the offices of the circuit court, county courts, state
 21 attorneys, ~~and~~ public defenders, guardians ad litem, and
 22 criminal conflict and civil regional counsel; training,
 23 supplies, and line charges necessary for an integrated
 24 computer system to support the operations and management of
 25 the state courts system, the offices of the public defenders,
 26 the offices of the state attorneys, the guardian ad litem
 27 offices, the offices of criminal conflict and civil regional
 28 counsel, and the offices of the clerks of the circuit and
 29 county courts; and the capability to connect those entities
 30 and reporting data to the state as required for the
 31 transmission of revenue, performance accountability, case

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1 management, data collection, budgeting, and auditing purposes.
 2 The integrated computer system shall be operational by July 1,
 3 2006, and, at a minimum, permit the exchange of financial,
 4 performance accountability, case management, case disposition,
 5 and other data across multiple state and county information
 6 systems involving multiple users at both the state level and
 7 within each judicial circuit and be able to electronically
 8 exchange judicial case background data, sentencing
 9 scoresheets, and video evidence information stored in
 10 integrated case management systems over secure networks. Once
 11 the integrated system becomes operational, counties may reject
 12 requests to purchase communication services included in this
 13 subparagraph not in compliance with standards, protocols, or
 14 processes adopted by the board established pursuant to s.
 15 29.0086.

16 3. Courier messenger and subpoena services.

17 4. Auxiliary aids and services for qualified
 18 individuals with a disability which are necessary to ensure
 19 access to the courts. Such auxiliary aids and services
 20 include, but are not limited to, sign language interpretation
 21 services required under the federal Americans with
 22 Disabilities Act other than services required to satisfy
 23 due-process requirements and identified as a state funding
 24 responsibility pursuant to ss. 29.004, 29.005, 29.006, and
 25 29.007, real-time transcription services for individuals who
 26 are hearing impaired, and assistive listening devices and the
 27 equipment necessary to implement such accommodations.

28 (g) "Existing radio systems" includes, but is not
 29 limited to, law enforcement radio systems that are used by the
 30 circuit and county courts, the offices of the public
 31 defenders, the offices of the state attorneys, and for

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1 court-related functions of the offices of the clerks of the
2 circuit and county courts. This includes radio systems that
3 were operational or under contract at the time Revision No. 7,
4 1998, to Art. V of the State Constitution was adopted and any
5 enhancements made thereafter, the maintenance of those
6 systems, and the personnel and supplies necessary for
7 operation.

8 (h) "Existing multiagency criminal justice information
9 systems" includes, but is not limited to, those components of
10 the multiagency criminal justice information system as defined
11 in s. 943.045, supporting the offices of the circuit or county
12 courts, the public defenders' offices, the state attorneys'
13 offices, or those portions of the offices of the clerks of the
14 circuit and county courts performing court-related functions
15 that are used to carry out the court-related activities of
16 those entities. This includes upgrades and maintenance of the
17 current equipment, maintenance and upgrades of supporting
18 technology infrastructure and associated staff, and services
19 and expenses to assure continued information sharing and
20 reporting of information to the state. The counties shall also
21 provide additional information technology services, hardware,
22 and software as needed for new judges and staff of the state
23 courts system, state attorneys' offices, public defenders'
24 offices, guardian ad litem offices, and the offices of the
25 clerks of the circuit and county courts performing
26 court-related functions.

27 (2) Counties shall pay reasonable and necessary
28 salaries, costs, and expenses of the state courts system,
29 including associated staff and expenses, to meet local
30 requirements.

31 (a) Local requirements are those specialized programs,

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1 nonjudicial staff, and other expenses associated with
 2 specialized court programs, specialized prosecution needs,
 3 specialized defense needs, or resources required of a local
 4 jurisdiction as a result of special factors or circumstances.

5 Local requirements exist:

6 1. When imposed pursuant to an express statutory
 7 directive, based on such factors as provided in paragraph (b);
 8 or

9 2. When:

10 a. The county has enacted an ordinance, adopted a
 11 local program, or funded activities with a financial or
 12 operational impact on the circuit or a county within the
 13 circuit; or

14 b. Circumstances in a given circuit or county result
 15 in or necessitate implementation of specialized programs, the
 16 provision of nonjudicial staff and expenses to specialized
 17 court programs, special prosecution needs, specialized defense
 18 needs, or the commitment of resources to the court's
 19 jurisdiction.

20 (b) Factors and circumstances resulting in the
 21 establishment of a local requirement include, but are not
 22 limited to:

- 23 1. Geographic factors;
- 24 2. Demographic factors;
- 25 3. Labor market forces;
- 26 4. The number and location of court facilities; or
- 27 5. The volume, severity, complexity, or mix of court
- 28 cases.

29 (c) Local requirements under subparagraph (a)2. must
 30 be determined by the following method:

- 31 1. The chief judge of the circuit, in conjunction with

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1 the state attorney, ~~and~~ the public defender, and the criminal
 2 conflict and civil regional counsel only on matters that
 3 impact their offices, shall identify all local requirements
 4 within the circuit or within each county in the circuit and
 5 shall identify the reasonable and necessary salaries, costs,
 6 and expenses to meet these local requirements.

7 2. On or before June 1 of each year, the chief judge
 8 shall submit to the board of county commissioners a tentative
 9 budget request for local requirements for the ensuing fiscal
 10 year. The tentative budget must certify a listing of all local
 11 requirements and the reasonable and necessary salaries, costs,
 12 and expenses for each local requirement. The board of county
 13 commissioners may, by resolution, require the certification to
 14 be submitted earlier.

15 3. The board of county commissioners shall thereafter
 16 treat the certification in accordance with the county's
 17 budgetary procedures. A board of county commissioners may:

18 a. Determine whether to provide funding, and to what
 19 extent it will provide funding, for salaries, costs, and
 20 expenses under this section;

21 b. Require a county finance officer to conduct a
 22 preaudit review of any county funds provided under this
 23 section prior to disbursement;

24 c. Require review or audit of funds expended under
 25 this section by the appropriate county office; and

26 d. Provide additional financial support for the courts
 27 system, state attorneys, ~~or~~ public defenders, or criminal
 28 conflict and civil regional counsel.

29 (d) Counties may satisfy these requirements by
 30 entering into interlocal agreements for the collective funding
 31 of these reasonable and necessary salaries, costs, and

1 expenses.

2 Section 20. Effective July 1, 2007, subsections (1),
3 (2), (3), and (5) of section 29.015, Florida Statutes, are
4 amended to read:

5 29.015 Contingency fund; limitation of authority to
6 transfer funds in contracted due process services
7 appropriation categories.--

8 (1) An appropriation may be provided in the General
9 Appropriations Act in the Justice Administrative Commission to
10 serve as a contingency fund for the purpose of alleviating
11 deficits in contracted due process services appropriation
12 categories, including private court-appointed counsel
13 appropriation categories, that may occur from time to time due
14 to extraordinary cases ~~events~~ that lead to unexpected
15 expenditures.

16 (2) In the event that a state attorney, ~~or~~ public
17 defender, or criminal conflict and civil regional counsel
18 incurs a deficit in a contracted due process services
19 appropriation category or conflict counsel category, the
20 following steps shall be taken in order:

21 (a) The state attorney, ~~or~~ public defender, or
22 regional counsel shall first attempt to identify surplus funds
23 from other appropriation categories within his or her office
24 and submit a budget amendment pursuant to chapter 216 to
25 transfer funds from within the office.

26 (b) In the event that the state attorney, ~~or~~ public
27 defender, or regional counsel is unable to identify surplus
28 funds from within his or her office, he or she shall certify
29 this to the Justice Administrative Commission along with a
30 complete explanation of the circumstances which led to the
31 deficit and steps the office has taken to reduce or alleviate

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1 the deficit. The Justice Administrative Commission shall
 2 inquire as to whether any other office has surplus funds in
 3 its contracted due process services appropriation categories
 4 which can be transferred to the office that is experiencing
 5 the deficit. If other offices indicate that surplus funds are
 6 available within the same budget entity ~~appropriation~~
 7 ~~category~~, the Justice Administrative Commission shall transfer
 8 the amount needed to fund the deficit and notify the Governor
 9 and the chair and vice chair of the Legislative Budget
 10 Commission 14 days prior to a transfer pursuant to the notice,
 11 review, and objection provisions of s. 216.177. If funds
 12 appropriated for this purpose are available in a different
 13 budget entity, the Justice Administrative Commission shall
 14 request a budget amendment pursuant to chapter 216.

15 (c) If no office indicates that surplus funds are
 16 available to alleviate the deficit, the Justice Administrative
 17 Commission may request a budget amendment to transfer funds
 18 from the contingency fund. Such transfers shall be in
 19 accordance with all applicable provisions of chapter 216 and
 20 shall be subject to review and approval by the Legislative
 21 Budget Commission. The Justice Administrative Commission shall
 22 submit the documentation provided by the office explaining the
 23 circumstances that led to the deficit and the steps taken by
 24 the office and the Justice Administrative Commission to
 25 identify surplus funds to the Legislative Budget Commission.

26 (3) In the event that there is a deficit in a
 27 statewide contracted due process services appropriation
 28 category provided for private court-appointed counsel
 29 necessary due to withdrawal of the public defender and
 30 criminal conflict and civil regional counsel due to an ethical
 31 conflict, the following steps shall be taken in order:

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1 (a) The Justice Administrative Commission shall first
2 attempt to identify surplus funds from other contracted due
3 process services appropriation categories within the Justice
4 Administrative Commission and submit a budget amendment
5 pursuant to chapter 216 to transfer funds from within the
6 commission.

7 (b) In the event that the Justice Administrative
8 Commission is unable to identify surplus funds from within the
9 commission, the commission shall inquire of each of the public
10 defenders and regional counsel as to whether any office has
11 surplus funds in its contracted due process services
12 appropriations categories which can be transferred. If any
13 public defender or regional counsel office or offices indicate
14 that surplus funds are available, the Justice Administrative
15 Commission shall request a budget amendment to transfer funds
16 from the office or offices to alleviate the deficit upon
17 agreement of the contributing office or offices.

18 (c) If no public defender or regional counsel office
19 has surplus funds available to alleviate the deficit, the
20 Justice Administrative Commission may request a budget
21 amendment to transfer funds from the contingency fund. Such
22 transfers shall be in accordance with all applicable
23 provisions of chapter 216 and shall be subject to review and
24 approval by the Legislative Budget Commission. The Justice
25 Administrative Commission shall submit the documentation
26 provided by the office explaining the circumstances that led
27 to the deficit and the steps taken by the Justice
28 Administrative Commission to identify surplus funds to the
29 Legislative Budget Commission.

30 (5) Notwithstanding any provisions in chapter 216 to
31 the contrary, no office shall transfer funds from a contracted

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1 due process services appropriation category or from a
 2 contingency fund category authorized in this section except as
 3 specifically authorized in this section. In addition, funds
 4 shall not be transferred from a state attorney office to
 5 alleviate a deficit in a public defender office or an office
 6 of criminal conflict and civil regional counsel, and funds
 7 shall not be transferred from a public defender office or
 8 regional counsel office to alleviate a deficit in a state
 9 attorney office.

10 Section 21. Effective October 1, 2007, section 29.018,
 11 Florida Statutes, is amended to read:

12 29.018 Cost sharing of due-process services;
 13 legislative intent.--It is the intent of the Legislature to
 14 provide state-funded due-process services to the state courts
 15 system, state attorneys, public defenders, criminal conflict
 16 and civil regional counsel, and private court-appointed
 17 counsel in the most cost-effective and efficient manner. The
 18 state courts system, state attorneys, public defenders,
 19 criminal conflict and civil regional counsel, and the Justice
 20 Administrative Commission on behalf of private court-appointed
 21 counsel may enter into contractual agreements to share, on a
 22 pro rata basis, the costs associated with court reporting
 23 services, court interpreter and translation services, court
 24 experts, and all other due-process services funded by the
 25 state pursuant to this chapter. These costs shall be budgeted
 26 within the funds appropriated to each of the affected users of
 27 services.

28 Section 22. Subsection (1) of section 39.815, Florida
 29 Statutes, is amended to read:

30 39.815 Appeal.--
 31 (1) Any child, any parent or guardian ad litem of any

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1 child, any other party to the proceeding who is affected by an
 2 order of the court, or the department may appeal to the
 3 appropriate district court of appeal within the time and in
 4 the manner prescribed by the Florida Rules of Appellate
 5 Procedure. The district court of appeal shall give an appeal
 6 from an order terminating parental rights priority in
 7 docketing and shall render a decision on the appeal as
 8 expeditiously as possible. Appointed counsel shall be
 9 compensated as provided in s. 27.5304(6) ~~s. 27.5304(5)~~.

10 Section 23. Subsections (5) and (6) of section 43.16,
 11 Florida Statutes, are amended to read:

12 43.16 Justice Administrative Commission; membership,
 13 powers and duties.--

14 (5) The duties of the commission shall include, but
 15 not be limited to, the following:

16 (a) The maintenance of a central state office for
 17 administrative services and assistance when possible to and on
 18 behalf of the state attorneys and public defenders of Florida,
 19 the capital collateral regional counsel of Florida, the
 20 criminal conflict and civil regional counsel, and the Guardian
 21 Ad Litem Program.

22 (b) Each state attorney, ~~and~~ public defender, and
 23 criminal conflict and civil regional counsel and the Guardian
 24 Ad Litem Program shall continue to prepare necessary budgets,
 25 vouchers that ~~which~~ represent valid claims for reimbursement
 26 by the state for authorized expenses, and other things
 27 incidental to the proper administrative operation of the
 28 office, such as revenue transmittals to the Chief Financial
 29 Officer and automated systems plans, but will forward same to
 30 the commission for recording and submission to the proper
 31 state officer. However, when requested by a state attorney, ~~or~~

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1 a public defender, a criminal conflict and civil regional
 2 counsel, or the Guardian Ad Litem Program, the commission will
 3 either assist in the preparation of budget requests, voucher
 4 schedules, and other forms and reports or accomplish the
 5 entire project involved.

6 (6) The provisions contained in this section shall be
 7 supplemental to those of chapter 27, relating to state
 8 attorneys, ~~and~~ public defenders, criminal conflict and civil
 9 regional counsel, and capital collateral regional counsel; to
 10 those of chapter 39, relating to the Guardian Ad Litem
 11 Program; or to other laws pertaining hereto.

12 Section 24. Effective October 1, 2007, section 57.082,
 13 Florida Statutes, is amended to read:

14 57.082 Determination of civil indigent status.--

15 (1) APPLICATION TO THE CLERK.--A person seeking
 16 appointment of an ~~a private~~ attorney in a civil case eligible
 17 for court-appointed counsel, or seeking relief from prepayment
 18 of fees and costs under s. 57.081, based upon an inability to
 19 pay must apply to the clerk of the court for a determination
 20 of civil indigent status using an application form developed
 21 by the Florida Clerks of Court Operations Corporation with
 22 final approval by the Supreme Court.

23 (a) The application must include, at a minimum, the
 24 following financial information:

25 1. Net income, consisting of total salary and wages,
 26 minus deductions required by law, including court-ordered
 27 support payments.

28 2. Other income, including, but not limited to, social
 29 security benefits, union funds, veterans' benefits, workers'
 30 compensation, other regular support from absent family
 31 members, public or private employee pensions, unemployment

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1 compensation, dividends, interest, rent, trusts, and gifts.

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

6 4. All liabilities and debts.
7

8 The application must include a signature by the applicant
9 which attests to the truthfulness of the information provided.
10 The application form developed by the corporation must include
11 notice that the applicant may seek court review of a clerk's
12 determination that the applicant is not indigent, as provided
13 in this section.

14 (b) The clerk shall assist a person who appears before
15 the clerk and requests assistance in completing the
16 application, and the clerk shall notify the court if a person
17 is unable to complete the application after the clerk has
18 provided assistance.

19 (c) The clerk shall accept an application that is
20 signed by the applicant and submitted on his or her behalf by
21 a private attorney who is representing the applicant in the
22 applicable matter.

23 (2) DETERMINATION BY THE CLERK.--The clerk of the
24 court shall determine whether an applicant seeking such
25 designation is indigent based upon the information provided in
26 the application and the criteria prescribed in this
27 subsection.

28 (a)1. An applicant, including an applicant who is a
29 minor or an adult tax-dependent person, is indigent if the
30 applicant's income is equal to or below 200 percent of the
31 then-current federal poverty guidelines prescribed for the

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1 size of the household of the applicant by the United States
2 Department of Health and Human Services.

3 2. There is a presumption that the applicant is not
4 indigent if the applicant owns, or has equity in, any
5 intangible or tangible personal property or real property or
6 the expectancy of an interest in any such property having a
7 net equity value of \$2,500 or more, excluding the value of the
8 person's homestead and one vehicle having a net value not
9 exceeding \$5,000.

10 (b) Based upon its review, the clerk shall make one of
11 the following determinations:

12 1. The applicant is not indigent.

13 2. The applicant is indigent.

14 (c) If the clerk determines that the applicant is
15 indigent, the clerk shall immediately file the determination
16 in the case record.

17 (d) The duty of the clerk in determining whether an
18 applicant is indigent is limited to receiving the application
19 and comparing the information provided in the application to
20 the criteria prescribed in this subsection. The determination
21 of indigent status is a ministerial act of the clerk and may
22 not be based on further investigation or the exercise of
23 independent judgment by the clerk. The clerk may contract with
24 third parties to perform functions assigned to the clerk under
25 this section.

26 (e) The applicant may seek review of the clerk's
27 determination that the applicant is not indigent in the court
28 having jurisdiction over the matter by filing a petition to
29 review the clerk's determination of nonindigent status, for
30 which a filing fee may not be charged. If the applicant seeks
31 review of the clerk's determination of indigent status, the

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1 court shall make a final determination as provided in
2 subsection (4).

3 (3) APPOINTMENT OF COUNSEL ON AN INTERIM BASIS.--If
4 the clerk of the court has not made a determination of
5 indigent status at the time a person requests appointment of
6 an ~~a private~~ attorney in a civil case eligible for
7 court-appointed counsel, the court shall make a preliminary
8 determination of indigent status, pending further review by
9 the clerk, and may, by court order, appoint ~~private~~ counsel on
10 an interim basis.

11 (4) REVIEW OF THE CLERK'S DETERMINATION.--

12 (a) If the clerk of the court determines that the
13 applicant is not indigent and the applicant seeks review of
14 the clerk's determination, the court shall make a final
15 determination of indigent status by reviewing the information
16 provided in the application against the criteria prescribed in
17 subsection (2) and by considering the following additional
18 factors:

19 1. Whether paying for private counsel or other fees
20 and costs creates a substantial hardship for the applicant or
21 the applicant's family.

22 2. Whether the applicant is proceeding pro se or is
23 represented by a private attorney for a fee or on a pro bono
24 basis.

25 3. When the applicant retained private counsel.

26 4. The amount of any attorney's fees and who is paying
27 the fees.

28 5. Any other relevant financial circumstances of the
29 applicant or the applicant's family.

30 (b) Based upon its review, the court shall make one of
31 the following determinations and shall, if appropriate,

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1 appoint ~~private~~ counsel:

2 1. The applicant is not indigent.

3 2. The applicant is indigent.

4 (5) APPOINTMENT OF COUNSEL.--In appointing counsel
5 after a determination that a person is indigent under this
6 section, the court shall first appoint the office of criminal
7 conflict and civil regional counsel, as provided in s. 27.511,
8 unless specific provision is made in law for the appointment
9 of the public defender in the particular civil proceeding.

10 (6)(5) PROCESSING CHARGE; PAYMENT PLANS.--A person who
11 the clerk or the court determines is indigent for civil
12 proceedings under this section shall be enrolled in a payment
13 plan under s. 28.246 and shall be charged a one-time
14 administrative processing charge under s. 28.24(26)(c). A
15 monthly payment amount, calculated based upon all fees and all
16 anticipated costs, is presumed to correspond to the person's
17 ability to pay if it does not exceed 2 percent of the person's
18 annual net income, as defined in subsection (1), divided by
19 12. The person may seek review of the clerk's decisions
20 regarding a payment plan established under s. 28.246 in the
21 court having jurisdiction over the matter. A case may not be
22 impeded in any way, delayed in filing, or delayed in its
23 progress, including the final hearing and order, due to
24 nonpayment of any fees by an indigent person.

25 (7)(6) FINANCIAL DISCREPANCIES; FRAUD; FALSE
26 INFORMATION.--

27 (a) If the court learns of discrepancies between the
28 application and the actual financial status of the person
29 found to be indigent, the court shall determine whether the
30 status and any relief provided as a result of that status
31 shall be revoked. The person may be heard regarding the

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1 information learned by the court. If the court, based on the
2 information, determines that the person is not indigent, the
3 court shall revoke the provision of any relief under this
4 section.

5 (b) If the court has reason to believe that any
6 applicant, through fraud or misrepresentation, was improperly
7 determined to be indigent, the matter shall be referred to the
8 state attorney. Twenty-five percent of any amount recovered by
9 the state attorney as reasonable value of the services
10 rendered, including fees, charges, and costs paid by the state
11 on the person's behalf, shall be remitted to the Department of
12 Revenue for deposit into the Grants and Donations Trust Fund
13 within the Justice Administrative Commission. Seventy-five
14 percent of any amount recovered shall be remitted to the
15 Department of Revenue for deposit into the General Revenue
16 Fund.

17 (c) A person who knowingly provides false information
18 to the clerk or the court in seeking a determination of
19 indigent status under this section commits a misdemeanor of
20 the first degree, punishable as provided in s. 775.082 or s.
21 775.083.

22 Section 25. Paragraph (y) of subsection (2) of section
23 110.205, Florida Statutes, is amended to read:

24 110.205 Career service; exemptions.--

25 (2) EXEMPT POSITIONS.--The exempt positions that are
26 not covered by this part include the following:

27 (y) All officers and employees of the Justice
28 Administrative Commission, Office of the State Attorney,
29 Office of the Public Defender, regional offices of capital
30 collateral counsel, offices of criminal conflict and civil
31 regional counsel, and Statewide Guardian Ad Litem Office,

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1 including the circuit guardian ad litem programs.

2 Section 26. Effective October 1, 2007, subsection (2)
3 of section 125.69, Florida Statutes, is amended to read:

4 125.69 Penalties; enforcement by code inspectors.--

5 (2) Each county is authorized and required to pay any
6 attorney appointed by the court to represent a defendant
7 charged with a criminal violation of a special law or county
8 ordinance not ancillary to a state charge if the defendant is
9 indigent and otherwise entitled to court-appointed counsel
10 under the Constitution of the United States or the
11 Constitution of the State of Florida. In these cases, the
12 court shall appoint counsel to represent the defendant in
13 accordance with s. 27.40, and shall order the county to pay
14 the reasonable attorney's fees, costs, and related expenses of
15 the defense. The county may contract with the public defender
16 or the office of criminal conflict and civil regional counsel
17 for ~~of~~ the judicial circuit in which the county is located to
18 serve as court-appointed counsel pursuant to s. 27.54.

19 Section 27. Paragraph (qq) of subsection (1) of
20 section 216.011, Florida Statutes, is amended to read:

21 216.011 Definitions.--

22 (1) For the purpose of fiscal affairs of the state,
23 appropriations acts, legislative budgets, and approved
24 budgets, each of the following terms has the meaning
25 indicated:

26 (qq) "State agency" or "agency" means any official,
27 officer, commission, board, authority, council, committee, or
28 department of the executive branch of state government. For
29 purposes of this chapter and chapter 215, "state agency" or
30 "agency" includes, but is not limited to, state attorneys,
31 public defenders, criminal conflict and civil regional

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1 counsel, capital collateral regional counsel, the Justice
 2 Administrative Commission, the Florida Housing Finance
 3 Corporation, and the Florida Public Service Commission. Solely
 4 for the purposes of implementing s. 19(h), Art. III of the
 5 State Constitution, the terms "state agency" or "agency"
 6 include the judicial branch.

7 Section 28. Effective October 1, 2007, subsection (2)
 8 of section 744.331, Florida Statutes, is amended to read:

9 744.331 Procedures to determine incapacity.--

10 (2) ATTORNEY FOR THE ALLEGED INCAPACITATED PERSON.--

11 (a) When a court appoints an attorney for an alleged
 12 incapacitated person, the court must appoint the office of
 13 criminal conflict and civil regional counsel or a private an
 14 attorney as prescribed in s. 27.511(6). A private attorney
 15 must be one who is included in the attorney registry compiled
 16 pursuant to s. 27.40 ~~ss. 27.40 and 27.42 by the circuit's~~
 17 ~~Article V indigent services committee~~. Appointments of private
 18 attorneys must be made on a rotating basis, taking into
 19 consideration conflicts arising under this chapter.

20 (b) The court shall appoint an attorney for each
 21 person alleged to be incapacitated in all cases involving a
 22 petition for adjudication of incapacity. The alleged
 23 incapacitated person may substitute her or his own attorney
 24 for the attorney appointed by the court.

25 (c) Any attorney representing an alleged incapacitated
 26 person may not serve as guardian of the alleged incapacitated
 27 person or as counsel for the guardian of the alleged
 28 incapacitated person or the petitioner.

29 (d) Effective January 1, 2007, an attorney seeking to
 30 be appointed by a court for incapacity and guardianship
 31 proceedings must have completed a minimum of 8 hours of

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1 education in guardianship. A court may waive the initial
 2 training requirement for an attorney who has served as a
 3 court-appointed attorney in incapacity proceedings or as an
 4 attorney of record for guardians for not less than 3 years.
 5 The education requirement of this paragraph does not apply to
 6 the office of criminal conflict and civil regional counsel
 7 until July 1, 2008.

8 Section 29. Effective October 1, 2007, section 938.29,
 9 Florida Statutes, is amended to read:

10 938.29 Legal assistance; lien for payment of
 11 attorney's fees or costs.--

12 (1)(a) A defendant determined to be guilty of a
 13 criminal act by a court or jury or through a plea of guilty or
 14 nolo contendere and who has received the assistance of the
 15 public defender's office, a special assistant public defender,
 16 the office of criminal conflict and civil regional counsel, or
 17 a private conflict attorney, or who has received due process
 18 services after being found indigent for costs under s. 27.52,
 19 shall be liable for payment of attorney's fees and costs. The
 20 court shall determine the amount of the obligation. Such costs
 21 shall include, but not be limited to, the cost of depositions;
 22 cost of transcripts of depositions, including the cost of
 23 defendant's copy, which transcripts are certified by the
 24 defendant's attorney as having served a useful purpose in the
 25 disposition of the case; investigative costs; witness fees;
 26 the cost of psychiatric examinations; or other reasonable
 27 costs specially incurred by the state and the clerk of court
 28 for the defense of the defendant in criminal prosecutions.
 29 Costs shall not include expenses inherent in providing a
 30 constitutionally guaranteed jury trial or expenditures in
 31 connection with the maintenance and operation of government

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1 agencies that must be made by the public irrespective of
2 specific violations of law. Any costs assessed pursuant to
3 this paragraph shall be reduced by any amount assessed against
4 a defendant pursuant to s. 938.05.

5 (b) Upon entering a judgment of conviction, the
6 defendant shall be liable to pay the costs in full after the
7 judgment of conviction becomes final.

8 (c) The defendant shall pay the application fee under
9 s. 27.52(1)(b) and attorney's fees and costs in full or in
10 installments, at the time or times specified. The court may
11 order payment of the assessed application fee and attorney's
12 fees and costs as a condition of probation, of suspension of
13 sentence, or of withholding the imposition of sentence. The
14 first \$40 from attorney's fees and costs collected under this
15 section shall be transferred monthly by the clerk to the
16 Department of Revenue for deposit into the Indigent Criminal
17 Defense Trust Fund. All remaining attorney's fees and costs
18 collected under this section shall be deposited into the
19 General Revenue Fund.

20 (2)(a) There is created in the name of the state a
21 lien, enforceable as hereinafter provided, upon all the
22 property, both real and personal, of any person who:

23 1. Has received any assistance from any public
24 defender of the state, from any special assistant public
25 defender, from any office of criminal conflict and civil
26 regional counsel, or from any private conflict attorney, or
27 who has received due process services after being found
28 indigent for costs; or

29 2. Is a parent of an accused minor or an accused adult
30 tax-dependent person who is being, or has been, represented by
31 any public defender of the state, by any special assistant

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1 public defender, by any office of criminal conflict and civil
 2 regional counsel, or by a private conflict attorney, or who is
 3 receiving or has received due process services after being
 4 found indigent for costs.

5
 6 Such lien constitutes a claim against the defendant-recipient
 7 or parent and his or her estate, enforceable according to law.

8 (b) A judgment showing the name and residence of the
 9 defendant-recipient or parent shall be recorded in the public
 10 record, without cost, by the clerk of the circuit court in the
 11 county where the defendant-recipient or parent resides and in
 12 each county in which such defendant-recipient or parent then
 13 owns or later acquires any property. Such judgments shall be
 14 enforced on behalf of the state by the clerk of the circuit
 15 court of the county in which assistance was rendered.

16 (3) The clerk of the circuit court within the county
 17 wherein the defendant-recipient was tried or received the
 18 services of a public defender, special assistant public
 19 defender, office of criminal conflict and civil regional
 20 counsel, or appointed private legal counsel, or received due
 21 process services after being found indigent for costs, shall
 22 enforce, satisfy, compromise, settle, subordinate, release, or
 23 otherwise dispose of any debt or lien imposed under this
 24 section. A defendant-recipient or parent, liable to pay
 25 attorney's fees or costs and who is not in willful default in
 26 the payment thereof, may, at any time, petition the court
 27 which entered the order for deferral of the payment of
 28 attorney's fees or costs or of any unpaid portion thereof.

29 (4) No lien thus created shall be foreclosed upon the
 30 homestead of such defendant-recipient or parent, nor shall any
 31 defendant-recipient or parent liable for payment of attorney's

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1 fees or costs be denied any of the protections afforded any
2 other civil judgment debtor.

3 (5) The court having jurisdiction of the
4 defendant-recipient shall, at such stage of the proceedings as
5 the court may deem appropriate, determine the value of the
6 services of the public defender, special assistant public
7 defender, office of criminal conflict and civil regional
8 counsel, or appointed private legal counsel and costs, at
9 which time the defendant-recipient or parent, after adequate
10 notice thereof, shall have opportunity to be heard and offer
11 objection to the determination, and to be represented by
12 counsel, with due opportunity to exercise and be accorded the
13 procedures and rights provided in the laws and court rules
14 pertaining to civil cases at law.

15 Section 30. Effective October 1, 2007, section 27.42,
16 Florida Statutes, is repealed.

17 Section 31. (1) The Legislature finds that the
18 creation of offices of criminal conflict and civil regional
19 counsel and the other provisions of this act are necessary and
20 best steps toward enhancing the publicly funded provision of
21 legal representation and other due process services under
22 constitutional and statutory principles in a fiscally
23 responsible and effective manner.

24 (2) It is the intent of the Legislature to facilitate
25 the orderly transition to the creation and operation of the
26 offices of criminal conflict and civil regional counsel, as
27 provided in this act, in order to enhance and fiscally support
28 the system of court-appointed representation for eligible
29 individuals in criminal and civil proceedings. To that end,
30 the Legislature intends that the five criminal conflict and
31 civil regional counsel be appointed as soon as practicable

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1 after this act becomes law, to assume a term beginning on July
2 1, 2007. Once appointed, the regional counsel shall use the
3 period between July 1, 2007, and October 1, 2007, to complete
4 the administrative and organizational activities related to
5 establishment of their offices, including, but not limited to,
6 hiring authorized assistant regional counsel and other staff.
7 It is the further intent of the Legislature that the regional
8 offices begin assuming representation of eligible individuals,
9 as provided in this act, on October 1, 2007. If a court finds
10 that a regional office is not sufficiently operational by that
11 date to assume representation in a particular case, it is the
12 intent of the Legislature that the court appoint private
13 counsel for that case. However, it is also the intent of the
14 Legislature that each regional office be fully operational no
15 later than January 1, 2008. The Justice Administrative
16 Commission shall assist the regional counsel as necessary in
17 establishing their offices. In addition, it is the intent of
18 the Legislature that the various agencies and organizations
19 that comprise the state judicial system also assist with the
20 transition from current law to the creation and operation of
21 the regional offices.

22 (3) In furtherance of its findings and intent, the
23 Legislature intends to monitor and review the implementation
24 of this act over a period of 3 years, identify any impediments
25 to successful implementation, and evaluate if the delivery of
26 legal representation and due process services as prescribed in
27 this act should be revised.

28 Section 32. Each private attorney with an active court
29 appointment as of the effective date of this act in a case for
30 which the attorney will seek compensation from the state shall
31 report the case number and type of case to the Justice

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1 Administrative Commission by July 15, 2007, unless he or she
 2 has already provided this information to the commission. If
 3 there is a shortfall in appropriations for court-appointed
 4 counsel, the commission shall give priority in payment to
 5 those attorneys who have fully complied with the reporting
 6 requirement of this section.

7 Section 33. If any provision of this act or its
 8 application to any person or circumstance is held invalid, the
 9 invalidity does not affect other provisions or applications of
 10 the act which can be given effect without the invalid
 11 provision or application, and to this end the provisions of
 12 this act are severable.

13 Section 34. Except as otherwise expressly provided in
 14 this act, this act shall take effect upon becoming a law.

15
 16
 17 ===== T I T L E A M E N D M E N T =====

18 And the title is amended as follows:

19 Delete everything before the enacting clause

20
 21 and insert:

22 A bill to be entitled
 23 An act relating to due process; amending s.
 24 27.40, F.S.; providing for offices of criminal
 25 conflict and civil regional counsel to be
 26 appointed to represent persons in certain cases
 27 in which the public defender is unable to
 28 provide representation; providing for private
 29 counsel to be appointed only when the public
 30 defender and the regional counsel are unable to
 31 provide representation; providing for the clerk

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1 of court to maintain the registry of attorneys
2 available for appointment; providing for
3 compensation of appointed counsel who are not
4 on the registry; requiring attorneys to
5 maintain records in order to claim
6 extraordinary compensation; requiring attorneys
7 to provide information in a form prescribed by
8 the Justice Administrative Commission; creating
9 s. 27.405, F.S.; requiring the Justice
10 Administrative Commission to track expenditures
11 and performance measures of court-appointed
12 counsel; requiring reports concerning
13 expenditures, performance measures, and certain
14 characteristics of court-appointed counsel;
15 creating s. 27.425, F.S.; requiring the chief
16 circuit judge to recommend compensation rates
17 for providers of due process services;
18 providing for rates to be prescribed in the
19 General Appropriations Act; creating s. 27.511,
20 F.S.; creating an office of criminal conflict
21 and civil regional counsel within the
22 boundaries of each of the five district courts
23 of appeal; providing legislative intent;
24 directing the Justice Administrative Commission
25 to provide administrative support to the
26 offices; prescribing qualifications for and
27 providing for appointment of the regional
28 counsel; providing prohibitions related to the
29 practice of law; requiring that the criminal
30 conflict and civil regional counsel be
31 appointed when the public defender has a

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1 conflict of interest in specified cases;
2 prohibiting appointment of the office in
3 certain circumstances; providing for appellate
4 representation; providing for the regional
5 counsel to provide representation in certain
6 civil proceedings; providing exceptions for
7 certain guardianship cases; amending s. 27.512,
8 F.S., relating to orders of no imprisonment;
9 conforming provisions to the creation of the
10 regional offices; amending s. 27.52, F.S.,
11 relating to the determination of indigent
12 status; conforming provisions to the creation
13 of the regional offices; amending s. 27.525,
14 F.S.; revising the purposes of the Indigent
15 Criminal Defense Trust Fund; amending s. 27.53,
16 F.S.; authorizing the regional counsel to
17 employ assistant regional counsel; authorizing
18 certain investigators to carry concealed
19 weapons and serve process under certain
20 conditions; requiring the regional counsel to
21 recommend modifications to classification and
22 pay plans; providing for appropriations to be
23 determined by a funding formula; amending s.
24 27.5301, F.S.; providing for salaries for the
25 regional counsel and assistant counsel;
26 amending s. 27.5303, F.S., relating to
27 conflicts of interest in the representation of
28 indigent defendants; conforming provisions to
29 changes made by the act; eliminating the
30 authority for the Justice Administrative
31 Commission to contest motions to withdraw;

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1 requiring public defenders to submit orders
2 granting motions to withdraw to the commission;
3 requiring the commission to report on such
4 orders; providing for the regional counsel to
5 file a motion to withdraw from a criminal or
6 civil case due to a conflict of interest;
7 providing procedures and criteria; amending s.
8 27.5304, F.S., relating to compensation of
9 private court-appointed counsel, to conform;
10 providing that compensation is based upon a
11 flat fee prescribed in the General
12 Appropriations Act; revising and eliminating
13 certain procedures relating to billings;
14 requiring bills to be submitted within a
15 specified time; providing for penalties for
16 bills submitted after a specified time; raising
17 the maximum fee for representation in capital
18 cases; providing a definition of the term
19 "capital case"; prescribing fee limits for
20 representation in certain dependency
21 proceedings; providing that state compensation
22 for court-appointed attorneys in specified
23 civil cases may not exceed certain limits;
24 prescribing conditions, procedures, and amounts
25 for paying compensation to counsel in excess of
26 established limits; requiring counsel to file a
27 motion and submit documentation; providing for
28 a hearing; requiring a written order and
29 findings; requiring the Office of State Courts
30 Administrator to report data on compensation
31 exceeding prescribed limits; amending s. 27.54,

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1 F.S., relating to payments for public
2 defenders; conforming provisions to the
3 creation of the offices of criminal conflict
4 and civil regional counsel; amending s. 27.59,
5 F.S.; authorizing the regional counsel to have
6 access to prisoners; amending s. 28.24, F.S.;
7 requiring the clerk of court to provide certain
8 services to the criminal conflict and civil
9 regional counsel without charge; expanding the
10 authorized use of certain service-charge
11 revenues distributed to counties to include
12 technology for the regional counsel; amending
13 s. 28.345, F.S.; exempting the regional counsel
14 from certain court-related fees and charges;
15 amending s. 29.001, F.S.; providing for the
16 public defenders' offices to include the
17 criminal conflict and civil regional counsel
18 for purposes of implementing provisions of the
19 State Constitution; providing for state
20 funding; amending ss. 29.006 and 29.007, F.S.,
21 relating to indigent defense costs and
22 court-appointed counsel; conforming provisions
23 to the creation of the regional counsel;
24 amending s. 29.008, F.S.; requiring counties to
25 provide certain funding related to the offices
26 of the guardian ad litem and the criminal
27 conflict and civil regional counsel; revising
28 definitions related to county funding
29 responsibilities; revising methods for
30 determining certain local funding requirements,
31 to conform; amending s. 29.015, F.S., relating

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1 to deficits in due-process funds; conforming
2 provisions to the creation of the regional
3 counsel; revising procedures for use of certain
4 contingency funds; amending s. 29.018, F.S.,
5 relating to cost sharing of due-process
6 services; conforming provisions to the creation
7 of the regional counsel; amending s. 39.815,
8 F.S.; conforming a cross-reference; amending s.
9 43.16, F.S.; authorizing the Justice
10 Administrative Commission to provide
11 administrative assistance to criminal conflict
12 and civil regional counsel; revising the
13 application of provisions to conform to changes
14 made by the act; amending s. 57.082, F.S.;
15 revising provisions governing the determination
16 of civil indigent status in order to include
17 the appointment of public attorneys in addition
18 to private attorneys; requiring the court to
19 appoint the office of criminal conflict and
20 civil regional counsel in certain civil cases;
21 amending s. 110.205, F.S.; exempting officers
22 and employees of the regional offices from the
23 state career service system; amending s.
24 125.69, F.S.; authorizing counties to contract
25 with the regional counsel to represent
26 defendants charged with violations of
27 ordinances; amending s. 216.011, F.S.;
28 providing that the regional offices are state
29 agencies for state budgeting purposes; amending
30 s. 744.331, F.S.; providing for the appointment
31 of the office of criminal conflict and civil

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1 regional counsel or a private attorney for
2 alleged incapacitated persons; providing a
3 temporary exception from certain education
4 requirements for regional counsel; amending s.
5 938.29, F.S.; providing that certain defendants
6 are liable for regional counsel fees and
7 certain due-process costs; providing for
8 disbursement of collected costs and fees;
9 creating a lien against the property of persons
10 who receive regional counsel representation and
11 other due-process services; creating a lien
12 against certain parents for fees and costs;
13 providing for enforcement by the clerk and
14 valuation of fees and costs by the court;
15 repealing s. 27.42, F.S., relating to circuit
16 Article V indigent services committees;
17 providing legislative findings and intent
18 regarding implementation of the act; requiring
19 attorneys to report on active court-appointed
20 cases; providing payment priority for attorneys
21 complying with the reporting requirement;
22 providing for severability; providing effective
23 dates.

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