

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative(s) Dean offered the following:

2
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Section 27.40, Florida Statutes, is amended to
6 read:

7 27.40 Appointed Court~~appointed~~ counsel system; component
8 programs ~~circuit registries~~; minimum requirements; ~~appointment~~
9 ~~by court~~.--

10 (1) Counsel shall be appointed by the public defender of
11 the circuit to represent any individual in a criminal or civil
12 proceeding entitled to appointed ~~court appointed~~ counsel under
13 the Federal or State Constitution or as authorized by general
14 law. No court may order that a particular attorney be named as
15 an appointed attorney in a case. No court may enter any court
16 order affecting, nor otherwise direct or control, the provision

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17 of appointed attorney services; however, a court shall not be
18 prohibited from exercising traditional means of discipline of
19 attorneys appearing before the court. Any reference in this part
20 to the appointment of the public defender shall also refer to
21 the subsequent selection and appointment by the public defender
22 of another attorney to represent an individual in the event of a
23 conflict of interest or for representation of indigent litigants
24 in civil proceedings where necessary to meet constitutional or
25 statutory requirements ~~The court shall appoint a public defender~~
26 ~~to represent indigent persons as authorized in s. 27.51. Private~~
27 ~~counsel shall be appointed to represent indigents in those cases~~
28 ~~in which provision is made for court-appointed counsel but the~~
29 ~~public defender is unable to provide representation due to a~~
30 ~~conflict of interest or is not authorized to provide~~
31 ~~representation.~~

32 (2) The public defender of each judicial circuit shall be
33 the administrator of all appointed attorney services authorized
34 under s. 27.51 within the circuit. The public defender shall
35 administratively create component programs as a separate unit of
36 each public defender's office, and the public defender shall
37 sufficiently insulate the units from each other so as to ensure
38 that confidential client information is not exchanged. Component
39 programs under the administration of each public defender shall
40 include the following:

41 (a) A criminal and delinquency program, which shall
42 represent any person described in s. 27.51(1)(a), (b), or (c).

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43 (b) A dependency and termination of parental rights
44 program, which shall represent any person described in s.
45 27.51(1)(e).

46 (c) A civil program, which shall represent any person
47 described in s. 27.51(1)(d) and (f)-(m).

48 (d) A conflict program, which shall represent any person
49 described in s. 27.51(1)(a)-(m) when a conflict of interest
50 exists in accordance with s. 27.5303. Private counsel appointed
51 by the court to provide representation shall be selected from a
52 registry of individual attorneys established by the circuit
53 Article V indigent services committee or procured through a
54 competitive bidding process.

55 (3) Each public defender shall have the authority to
56 determine the most cost-effective method or methods for the
57 delivery of appointed attorney services for that public
58 defender's circuit. Authorized methods shall include, but not be
59 limited to, the use of state employees, cross-circuit conflict
60 representation, assigned attorney registries, and contractual
61 agreements with individual attorneys, law firms, or groups of
62 attorneys or law firms. Any contractual agreement may be
63 terminated by a successor public defender without penalty. No
64 contract or agreement may obligate the state to pay sums in
65 excess of the moneys appropriated to the public defender for
66 indigent services, and any contract shall be subject to annual
67 appropriations. In utilizing a registry:

68 ~~(a) Each circuit Article V indigent services committee~~
69 ~~shall compile and maintain a list of attorneys in private~~
70 ~~practice, by county and by category of cases. From October 1,~~
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71 ~~2005, through September 30, 2007, the list of attorneys compiled~~
72 ~~by the Eleventh Judicial Circuit shall provide the race, gender,~~
73 ~~and national origin of assigned attorneys. To be included on a~~
74 ~~registry, attorneys shall certify that they meet any minimum~~
75 ~~requirements established in general law for court appointment,~~
76 ~~are available to represent indigent defendants in cases~~
77 ~~requiring court appointment of private counsel, and are willing~~
78 ~~to abide by the terms of the contract for services. To be~~
79 ~~included on a registry, an attorney also must enter into a~~
80 ~~contract for services with the Justice Administrative~~
81 ~~Commission. Failure to comply with the terms of the contract for~~
82 ~~services may result in termination of the contract and removal~~
83 ~~from the registry. Each attorney on the registry shall be~~
84 ~~responsible for notifying the circuit Article V indigent~~
85 ~~services committee and the Justice Administrative Commission of~~
86 ~~any change in his or her status. Failure to comply with this~~
87 ~~requirement shall be cause for termination of the contract for~~
88 ~~services and removal from the registry until the requirement is~~
89 ~~fulfilled.~~

90 ~~(b) The court shall appoint attorneys in rotating order in~~
91 ~~the order in which names appear on the applicable registry,~~
92 ~~unless the court makes a finding of good cause on the record for~~
93 ~~appointing an attorney out of order. An attorney not appointed~~
94 ~~in the order in which his or her name appears on the list shall~~
95 ~~remain next in order.~~

96 ~~(c) If it finds the number of attorneys on the registry in~~
97 ~~a county or circuit for a particular category of cases is~~
98 ~~inadequate, the circuit Article V indigent services committee~~

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99 ~~shall notify the chief judge of the particular circuit in~~
100 ~~writing. The chief judge shall submit the names of at least~~
101 ~~three private attorneys with relevant experience. The clerk of~~
102 ~~court shall send an application to each of these attorneys to~~
103 ~~register for appointment.~~

104 ~~(d) Quarterly, each circuit Article V indigent services~~
105 ~~committee shall provide a current copy of each registry to the~~
106 ~~Chief Justice of the Supreme Court, the chief judge, the state~~
107 ~~attorney and public defender in each judicial circuit, the clerk~~
108 ~~of court in each county, the Justice Administrative Commission,~~
109 ~~and the Indigent Services Advisory Board. From October 1, 2005,~~
110 ~~through September 30, 2007, the report submitted by the Eleventh~~
111 ~~Judicial Circuit shall include the race, gender, and national~~
112 ~~origin of all attorneys listed in and appointed under the~~
113 ~~registry.~~

114 (4) To be eligible for court appointment, an attorney must
115 be a member in good standing of The Florida Bar, must meet in
116 addition to any other qualifications specified by general law,
117 and must meet any criteria established by the public defender.

118 ~~(5) The Justice Administrative Commission shall approve~~
119 ~~uniform contract forms for use in procuring the services of~~
120 ~~private court appointed counsel and uniform procedures and forms~~
121 ~~for use by a court appointed attorney in support of billing for~~
122 ~~attorney's fees, costs, and related expenses to demonstrate the~~
123 ~~attorney's completion of specified duties.~~

124 ~~(6) After court appointment, the attorney must immediately~~
125 ~~file a notice of appearance with the court indicating acceptance~~
126 ~~of the appointment to represent the defendant.~~

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127 ~~(5)-(7)-(a)~~ A private ~~An~~ attorney appointed by a public
128 defender to represent a defendant or other client is entitled to
129 payment for services pursuant to s. 27.5304, only upon full
130 performance by the attorney of specified duties, adherence to
131 any billing procedures specified in the contract by the public
132 defender, submission of all documentation required by the
133 contract, approval of payment by the public defender, court,
134 ~~except for payment based on a flat fee per case as provided in~~
135 ~~s. 27.5304~~; and attorney submission of a payment request to the
136 Justice Administrative Commission within 60 days following
137 completion of the work unless otherwise specified in the
138 contract. ~~Upon being permitted to withdraw from a case, a court-~~
139 ~~appointed attorney shall submit a copy of the order to the~~
140 ~~Justice Administrative Commission at the time it is issued by~~
141 ~~the court~~. If a private ~~an~~ attorney is permitted to withdraw or
142 is otherwise removed from representation prior to full
143 performance of the duties specified in this section for reasons
144 other than breach of duty, the public defender ~~trial court~~ shall
145 approve payment of attorney's fees and costs for work performed
146 as provided in the contract in an amount not to exceed the
147 amounts specified in s. 27.5304. Withdrawal from a case prior to
148 full performance of the duties specified shall create a
149 rebuttable presumption that the attorney is not entitled to the
150 entire flat fee for those cases paid on a flat-fee-per-case
151 basis.

152 ~~(6)-(b)~~ A private ~~The~~ attorney shall maintain appropriate
153 documentation, including a current and detailed hourly
154 accounting of time spent representing the defendant or other

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155 client. These records and documents are subject to review by the
156 public defender and the Justice Administrative Commission,
157 subject to the attorney-client privilege and work product
158 privilege. Subject to the attorney-client privilege, these
159 records and documents shall be made available to the Governor,
160 the Legislature, and the general public upon request.

161 ~~(7)(8)~~ Subject to the attorney-client privilege and the
162 work-product privilege, a private ~~an~~ attorney who withdraws or
163 is removed from representation shall deliver all files, notes,
164 documents, and research to a ~~the~~ successor attorney within 15
165 days after receiving notice from the successor attorney
166 designated by the public defender. The successor attorney shall
167 bear the cost of transmitting all files, notes, documents, and
168 research.

169 ~~(8)(9)~~ ~~A circuit Article V indigent services committee or~~
170 Any interested person may advise the public defender ~~court~~ of
171 any circumstance affecting the quality of representation,
172 including, but not limited to, false or fraudulent billing,
173 misconduct, failure to meet continuing legal education
174 requirements, solicitation to receive compensation from the
175 defendant or other client a private ~~the~~ attorney is appointed to
176 represent, or failure to file appropriate motions in a timely
177 manner.

178 ~~(9)(10)~~ This section does not apply to attorneys appointed
179 to represent persons in postconviction capital collateral cases
180 pursuant to part IV of this chapter.

181 Section 2. Section 27.42, Florida Statutes, is repealed.

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182 Section 3. Subsections (1) and (2) of section 27.51,
183 Florida Statutes, are amended, and subsection (7) is added to
184 that section, to read:

185 27.51 Duties of public defender.--

186 (1) The public defender shall represent, or secure
187 representation for, without additional compensation, any person
188 determined to be indigent under s. 27.52 and:

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

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

191 1. A misdemeanor authorized for prosecution by the state
192 attorney;

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

194 3. Criminal contempt; or

195 4. A violation of a special law or county or municipal
196 ordinance ancillary to a state charge, or if not ancillary to a
197 state charge, only if the public defender contracts with the
198 county or municipality to provide representation pursuant to ss.
199 27.54 and 125.69.

200
201 The public defender shall not provide representation pursuant to
202 this paragraph if the court, prior to trial, files in the cause
203 an order of no imprisonment as provided in s. 27.512;

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

206 (d) Sought by petition filed in such court to be
207 involuntarily placed as a mentally ill person under part I of
208 chapter 394, involuntarily committed as a sexually violent
209 predator under part V of chapter 394, or involuntarily admitted
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210 to residential services as a person with developmental
211 disabilities under chapter 393. A public defender shall not
212 represent any plaintiff in a civil action brought under the
213 Florida Rules of Civil Procedure, the Federal Rules of Civil
214 Procedure, or the federal statutes, or represent a petitioner in
215 a rule challenge under chapter 120, unless specifically
216 authorized by statute;

217 (e) The parent of a child involved in shelter hearings and
218 termination of parental rights proceedings as specifically
219 authorized under parts V and XI of chapter 39;

220 (f) Alleged to be infected with a sexually transmitted
221 disease and for whom isolation, hospitalization, or confinement
222 is sought pursuant to chapter 384;

223 (g) A minor who petitions the court for waiver of parental
224 notification under s. 390.01114;

225 (h) Alleged to be infected with active tuberculosis and
226 for whom isolation, hospitalization, or confinement is sought
227 pursuant to chapter 392;

228 (i) Alleged to be substance-abuse impaired and for whom
229 involuntary assessment, stabilization, or treatment is sought
230 pursuant to chapter 397;

231 (j) Alleged to be a vulnerable adult in need of protective
232 services pursuant to s. 415.1051;

233 (k) Alleged to be incapacitated and for whom an
234 involuntary guardianship is sought pursuant to chapter 744;

235 (l) A person for whom involuntary commitment is sought
236 subsequent to an acquittal by reason of insanity pursuant to s.
237 916.15;

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238 (m) A parent of a child alleged to be in need of services
239 or as a child alleged to be in contempt under chapter 984;

240 (n)-(e) Convicted and sentenced to death, for purposes of
241 handling an appeal to the Supreme Court; or

242 (o)-(f) Is appealing a matter in a case arising under
243 paragraphs (a)-(n) ~~(a)-(d)~~.

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

248 Section 4. Subsection (1) of section 27.512, Florida
249 Statutes, is amended to read:

250 27.512 Order of no imprisonment.--

251 (1) In each case set forth in s. 27.51(1)(b), in which the
252 court determines that it will not sentence the defendant to
253 imprisonment if convicted, the court shall issue an order of no
254 imprisonment and ~~the court may not appoint~~ the public defender
255 may not be appointed to represent the defendant. If the court
256 issues an order of no imprisonment following the appointment of
257 the public defender, the court shall immediately terminate the
258 public defender's services. However, if at any time the court
259 withdraws the order of no imprisonment with respect to an
260 indigent defendant, the court shall appoint the public defender
261 to represent the defendant.

262 Section 5. Paragraphs (b) and (d) of subsection (1),
263 paragraph (c) of subsection (2), subsection (3), paragraph (b)
264 of subsection (4), subsections (5) and (6), and paragraph (a) of

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265 subsection (7) of section 27.52, Florida Statutes, are amended
266 to read:

267 27.52 Determination of indigent status.--

268 (1) APPLICATION TO THE CLERK.--A person seeking
269 appointment of a public defender under s. 27.51 based upon an
270 inability to pay must apply to the clerk of the court for a
271 determination of indigent status using an application form
272 developed by the Florida Clerks of Court Operations Corporation
273 with final approval by the Supreme Court.

274 (b) An applicant shall pay a \$40 application fee to the
275 clerk for each application for appointed ~~court-appointed~~ counsel
276 filed. The applicant shall pay the fee within 7 days after
277 submitting the application. If the applicant does not pay the
278 fee prior to the disposition of the case, the clerk shall notify
279 the court, and the court shall:

280 1. Assess the application fee as part of the sentence or
281 as a condition of probation; or

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

283 (d) All application fees collected by the clerk under this
284 section shall be transferred monthly by the clerk to the
285 Department of Revenue for deposit in the Indigent Services
286 ~~Criminal Defense~~ Trust Fund administered by the Justice
287 Administrative Commission, to be used to as appropriated by the
288 Legislature. The clerk may retain 2 percent of application fees
289 collected monthly for administrative costs prior to remitting
290 the remainder to the Department of Revenue.

291 (2) DETERMINATION BY THE CLERK.--The clerk of the court
292 shall determine whether an applicant seeking appointment of a
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293 public defender is indigent based upon the information provided
294 in the application and the criteria prescribed in this
295 subsection.

296 (c)~~1~~. If the clerk determines that the applicant is
297 indigent, the clerk shall submit the determination to the office
298 of the public defender and immediately file the determination in
299 the case file.

300 ~~2. If the public defender is unable to provide~~
301 ~~representation due to a conflict pursuant to s. 27.5303, the~~
302 ~~public defender shall move the court for withdrawal from~~
303 ~~representation and appointment of private counsel.~~

304 (3) APPOINTMENT OF COUNSEL ON INTERIM BASIS.--If the clerk
305 of the court has not made a determination of indigent status at
306 the time a person requests appointment of a public defender, the
307 court shall make a preliminary determination of indigent status,
308 pending further review by the clerk, and may, by court order,
309 appoint the a public defender ~~or private counsel~~ on an interim
310 basis.

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

312 (b) Based upon its review, the court shall make one of the
313 following determinations and, if the applicant is indigent,
314 shall appoint the a public defender ~~or, if appropriate, private~~
315 ~~counsel~~:

316 1. The applicant is not indigent.

317 2. The applicant is indigent.

318 (5) ~~INDIGENT FOR COSTS~~.--No funds appropriated to the
319 public defender or the Justice Administrative Commission shall
320 be expended for costs incurred by privately retained counsel or

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321 a pro se litigant or defendant except as specifically authorized
322 by this chapter and the public defender. A person who is
323 eligible to be represented by a public defender under s. 27.51
324 but who is represented by private counsel not appointed by the
325 court for a reasonable fee as approved by the court, on a pro
326 bono basis, or who is proceeding pro se, may move the court for
327 a determination that he or she is indigent for costs and
328 eligible for the provision of due process services, as
329 prescribed by ss. 29.006 and 29.007, funded by the state.

330 ~~(a) The person must submit to the court:~~

331 ~~1. The completed application prescribed in subsection (1).~~

332 ~~2. In the case of a person represented by counsel, an~~
333 ~~affidavit attesting to the estimated amount of attorney's fees~~
334 ~~and the source of payment for these fees.~~

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

336 ~~1. Whether the applicant applied for a determination of~~
337 ~~indigent status under subsection (1) and the outcome of such~~
338 ~~application.~~

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

341 ~~3. The additional factors prescribed in subsection (4).~~

342 ~~4. Whether the applicant is proceeding pro se.~~

343 ~~5. When the applicant retained private counsel.~~

344 ~~6. The amount of any attorney's fees and who is paying the~~
345 ~~fees.~~

346 ~~(c) Based upon its review, the court shall make one of the~~
347 ~~following determinations:~~

348 ~~1. The applicant is not indigent for costs.~~

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349 ~~2. The applicant is indigent for costs.~~

350 ~~(d) The provision of due process services based upon a~~
351 ~~determination that a person is indigent for costs under this~~
352 ~~subsection must be effectuated pursuant to a court order, a copy~~
353 ~~of which the clerk shall provide to counsel representing the~~
354 ~~person, or to the person directly if he or she is proceeding pro~~
355 ~~se, for use in requesting payment of due process expenses~~
356 ~~through the Justice Administrative Commission. Counsel~~
357 ~~representing a person declared indigent for costs shall execute~~
358 ~~the Justice Administrative Commission's contract for counsel~~
359 ~~representing persons determined to be indigent for costs.~~

360 (6) DUTIES OF PARENT OR LEGAL GUARDIAN.--A nonindigent
361 parent or legal guardian of an applicant who is a minor or an
362 adult tax-dependent person shall furnish the minor or adult tax-
363 dependent person with the necessary legal services and costs
364 incident to a delinquency proceeding or, upon transfer of such
365 person for criminal prosecution as an adult pursuant to chapter
366 985, a criminal prosecution in which the person has a right to
367 legal counsel under the Constitution of the United States or the
368 Constitution of the State of Florida. The failure of a parent or
369 legal guardian to furnish legal services and costs under this
370 section does not bar the appointment of legal counsel pursuant
371 to this section, s. 27.40, or s. 27.5303. When the public
372 defender, ~~a private court appointed conflict counsel, or a~~
373 ~~private attorney~~ is appointed to represent a minor or an adult
374 tax-dependent person in any proceeding in circuit court or in a
375 criminal proceeding in any other court, the parents or the legal
376 guardian shall be liable for payment of the fees, charges, and
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377 costs of the representation even if the person is a minor being
378 tried as an adult. Liability for the fees, charges, and costs of
379 the representation shall be imposed in the form of a lien
380 against the property of the nonindigent parents or legal
381 guardian of the minor or adult tax-dependent person. The lien is
382 enforceable as provided in s. 27.561 or s. 938.29.

383 (7) FINANCIAL DISCREPANCIES; FRAUD; FALSE INFORMATION.--

384 (a) If the court learns of discrepancies between the
385 application or motion and the actual financial status of the
386 person found to be indigent or indigent for costs, the court
387 shall determine whether the public defender ~~or private attorney~~
388 shall continue representation or whether the authorization for
389 any other due process services previously authorized shall be
390 revoked. The person may be heard regarding the information
391 learned by the court. If the court, based on the information,
392 determines that the person is not indigent or indigent for
393 costs, the court shall order the public defender ~~or private~~
394 ~~attorney~~ to discontinue representation and revoke the provision
395 of any other authorized due process services.

396 Section 6. Section 27.525, Florida Statutes, is amended to
397 read:

398 27.525 Indigent Services ~~Criminal Defense~~ Trust Fund.--The
399 Indigent Services ~~Criminal Defense~~ Trust Fund is hereby created,
400 to be administered by the Justice Administrative Commission.
401 Funds shall be credited to the trust fund as provided in s.
402 27.52, to be used exclusively for indigent services in each
403 circuit in accordance with this part ~~the purposes set forth~~
404 ~~therein~~. The Justice Administrative Commission shall account for
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405 these funds on a circuit basis, and appropriations from the fund
406 shall be proportional to each circuit's collections.

407 Section 7. Subsection (1) of section 27.53, Florida
408 Statutes, is amended to read:

409 27.53 Appointment of assistants and other staff; method of
410 payment.--

411 (1) (a) The public defender of each judicial circuit is
412 authorized to employ and establish, in such numbers as
413 authorized by the General Appropriations Act, assistant public
414 defenders and other staff and personnel pursuant to s. 29.006,
415 who shall be paid from funds appropriated for that purpose.

416 (b) Notwithstanding the provisions of s. 790.01, s.
417 790.02, or s. 790.25(2)(a), an investigator employed by a public
418 defender, while actually carrying out official duties, is
419 authorized to carry concealed weapons if the investigator
420 complies with s. 790.25(3)(o). However, such investigators are
421 not eligible for membership in the Special Risk Class of the
422 Florida Retirement System. Each investigator employed by a
423 public defender shall have full authority to serve any witness
424 subpoena or court order issued, by any court or judge within any
425 judicial circuit served by the public defender, in a criminal
426 case in which the public defender has been appointed.

427 (c) The public defenders of all judicial circuits shall
428 jointly develop a coordinated classification and pay plan which
429 shall be submitted on or before January 1 of each year to the
430 Justice Administrative Commission, the office of the President
431 of the Senate, and the office of the Speaker of the House of
432 Representatives. Such plan shall be developed in accordance with
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433 policies and procedures of the Executive Office of the Governor
434 established in s. 216.181.

435 (d) Each assistant public defender appointed by a public
436 defender under this section shall serve at the pleasure of the
437 public defender. ~~Each investigator employed by a public defender~~
438 ~~shall have full authority to serve any witness subpoena or court~~
439 ~~order issued, by any court or judge within the judicial circuit~~
440 ~~served by such public defender, in a criminal case in which such~~
441 ~~public defender has been appointed to represent the accused.~~

442 Section 8. Section 27.5303, Florida Statutes, is amended
443 to read:

444 27.5303 Public defenders; conflict of interest.--

445 (1)(a) If, at any time during the representation of two or
446 more clients ~~defendants~~, a public defender determines that the
447 interests of those clients ~~accused~~ are so adverse or hostile
448 that they cannot all be counseled by members of the public
449 ~~defender~~ ~~or his or her staff~~ practicing within a single unit of
450 his or her office without conflict of interest, or that none can
451 be counseled by the public defender or his or her staff because
452 of a conflict of interest, then the public defender shall file a
453 notice of conflict and intent to reassign to the conflict unit
454 of his or her office ~~file a motion to withdraw and move the~~
455 ~~court to appoint other counsel. If requested by the Justice~~
456 ~~Administrative Commission, the public defender shall submit a~~
457 ~~copy of the motion to the Justice Administrative Commission at~~
458 ~~the time it is filed with the court. The Justice Administrative~~
459 ~~Commission shall have standing to appear before the court to~~
460 ~~contest any motion to withdraw due to a conflict of interest.~~

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461 ~~The Justice Administrative Commission may contract with other~~
462 ~~public or private entities or individuals to appear before the~~
463 ~~court for the purpose of contesting any motion to withdraw due~~
464 ~~to a conflict of interest. The court may shall review the notice~~
465 ~~and may inquire or conduct a hearing into the adequacy of the~~
466 ~~public defender's representations regarding a conflict of~~
467 ~~interest without requiring the disclosure of any confidential~~
468 ~~communications. The court shall enter an order denying~~
469 ~~reassignment by the public defender deny the motion to withdraw~~
470 ~~if the court finds the grounds for withdrawal are insufficient~~
471 ~~or the asserted conflict is not prejudicial to a the indigent~~
472 ~~client of the public defender. Five days following the hearing~~
473 ~~if a hearing is held, or, if no hearing is held, 5 days~~
474 ~~following the filing of the notice, if no order of denial has~~
475 ~~been entered by the court, the public defender shall reassign~~
476 ~~one or more of the clients to the conflict unit of his or her~~
477 ~~office. If the court grants the motion to withdraw, the court~~
478 ~~shall appoint one or more attorneys to represent the accused.~~

479 (b) Upon its own motion, the court shall notify the
480 appropriate public defender ~~appoint such other counsel~~ when the
481 facts developed upon the face of the record and court files in
482 the case disclose a conflict of interest. The court shall advise
483 the ~~appropriate~~ public defender and clerk of court, in writing,
484 specifically stating with a copy to the Justice Administrative
485 Commission, if so requested by the Justice Administrative
486 Commission, when making the motion and appointing one or more
487 attorneys to represent the accused. The court shall specify the
488 basis for the conflict. Upon receipt of such notice, the public

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489 defender shall determine if a conflict of interest exists and,
490 if necessary, reassign one or more of the clients to the
491 conflict unit of his or her office.

492 ~~(c) In no case shall the court approve a withdrawal by the~~
493 ~~public defender based solely upon inadequacy of funding or~~
494 ~~excess workload of the public defender.~~

495 (c)~~(d)~~ In determining whether or not there is a conflict
496 of interest, the public defender shall apply the standards
497 contained in the Uniform Standards for Use in Conflict of
498 Interest Cases found in appendix C to the Final Report of the
499 Article V Indigent Services Advisory Board dated January 6,
500 2004.

501 ~~(2) The court shall appoint conflict counsel pursuant to~~
502 ~~s. 27.40. The appointed attorney may not be affiliated with the~~
503 ~~public defender or any assistant public defender in his or her~~
504 ~~official capacity or any other private attorney appointed to~~
505 ~~represent a codefendant. The public defender may not participate~~
506 ~~in case-related decisions, performance evaluations, or expense~~
507 ~~determinations in conflict cases.~~

508 ~~(3) Private court appointed counsel shall be compensated~~
509 ~~as provided in s. 27.5304.~~

510 ~~(4) (a) If a defendant is convicted and the death sentence~~
511 ~~is imposed, the appointed attorney shall continue representation~~
512 ~~through appeal to the Supreme Court. The attorney shall be~~
513 ~~compensated as provided in s. 27.5304. If the attorney first~~
514 ~~appointed is unable to handle the appeal, the court shall~~
515 ~~appoint another attorney and that attorney shall be compensated~~
516 ~~as provided in s. 27.5304.~~

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517 ~~(2)(b)~~ The public defender ~~or an attorney appointed~~
518 ~~pursuant to this section~~ may be appointed by the court rendering
519 the judgment imposing the death penalty to represent an indigent
520 defendant who has applied for executive clemency as relief from
521 the execution of the judgment imposing the death penalty.

522 ~~(c)~~ ~~When the appointed attorney in a capital case has~~
523 ~~completed the duties imposed by this section, the attorney shall~~
524 ~~file a written report in the trial court stating the duties~~
525 ~~performed by the attorney and apply for discharge.~~

526 Section 9. Effective upon this act becoming a law,
527 subsection (11) is added to section 27.5304, Florida Statutes,
528 and, effective August 1, 2007, subsections (1) through (10) of
529 that section are amended, to read:

530 27.5304 Limits on appointed ~~Private court appointed~~
531 counsel; compensation.--

532 (1) ~~Private court appointed~~ counsel appointed by a public
533 defender under this part shall be compensated by the Justice
534 Administrative Commission from the budget allocated to the
535 public defender appointing the counsel in an amount not to
536 exceed the contract between the public defender and the attorney
537 or the fee limits established in this section, whichever is
538 lower. The attorney may also ~~shall~~ be reimbursed for reasonable
539 and necessary expenses in accordance with s. 29.007, subject to
540 limits in the contract between the public defender and the
541 attorney. In no event may payment be made to a private attorney
542 if such payment would exceed the public defender's approved
543 operating budget. If the attorney is representing a defendant
544 charged with more than one offense in the same case, the

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545 ~~attorney shall be compensated at the rate provided for the most~~
546 ~~serious offense for which he or she represented the defendant.~~
547 ~~This section does not allow stacking of the fee limits~~
548 ~~established by this section. Private court appointed counsel~~
549 ~~providing representation under an alternative model shall enter~~
550 ~~into a uniform contract with the Justice Administrative~~
551 ~~Commission and shall use the Justice Administrative Commission's~~
552 ~~uniform procedures and forms in support of billing for~~
553 ~~attorney's fees, costs, and related expenses. Failure to comply~~
554 ~~with the terms of the contract for services may result in~~
555 ~~termination of the contract.~~

556 (2) The public defender Justice Administrative Commission
557 shall review an intended billing by private court appointed
558 counsel for attorney's fees or costs and shall not approve any
559 fee or cost not authorized by the contract or that is excessive.
560 If any appointed attorney has been found by a court to have
561 provided ineffective assistance of counsel in any appointed
562 case, and that judgment is final and not subject to further
563 appeal, the appointed attorney shall not be entitled to payment
564 of costs and fees for the case, shall repay all costs and fees
565 already paid for the representation, shall reimburse the public
566 defender for the cost of replacement counsel at all subsequent
567 hearings or trials, and may be subject to a malpractice action
568 by the client pursuant to law. based on a flat fee per case for
569 completeness and compliance with contractual, statutory, and
570 circuit Article V indigent services committee requirements. The
571 commission may approve the intended bill for a flat fee per case
572 for payment without approval by the court if the intended

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573 ~~billing is correct. For all other intended billings, prior to~~
574 ~~filing a motion for an order approving payment of attorney's~~
575 ~~fees, costs, or related expenses, the private court appointed~~
576 ~~counsel shall deliver a copy of the intended billing, together~~
577 ~~with supporting affidavits and all other necessary~~
578 ~~documentation, to the Justice Administrative Commission. The~~
579 ~~Justice Administrative Commission shall review the billings,~~
580 ~~affidavit, and documentation for completeness and compliance~~
581 ~~with contractual and statutory requirements. If the Justice~~
582 ~~Administrative Commission objects to any portion of the proposed~~
583 ~~billing, the objection and reasons therefor shall be~~
584 ~~communicated to the private court appointed counsel. The private~~
585 ~~court appointed counsel may thereafter file his or her motion~~
586 ~~for order approving payment of attorney's fees, costs, or~~
587 ~~related expenses together with supporting affidavits and all~~
588 ~~other necessary documentation. The motion must specify whether~~
589 ~~the Justice Administrative Commission objects to any portion of~~
590 ~~the billing or the sufficiency of documentation and shall attach~~
591 ~~the Justice Administrative Commission's letter stating its~~
592 ~~objection. The attorney shall have the burden to prove the~~
593 ~~entitlement to attorney's fees, costs, or related expenses. A~~
594 ~~copy of the motion and attachments shall be served on the~~
595 ~~Justice Administrative Commission at least 5 business days prior~~
596 ~~to the date of a hearing. The Justice Administrative Commission~~
597 ~~shall have standing to appear before the court to contest any~~
598 ~~motion for order approving payment of attorney's fees, costs, or~~
599 ~~related expenses and may participate in a hearing on the motion~~
600 ~~by use of telephonic or other communication equipment unless~~

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601 ~~ordered otherwise. The Justice Administrative Commission may~~
602 ~~contract with other public or private entities or individuals to~~
603 ~~appear before the court for the purpose of contesting any motion~~
604 ~~for order approving payment of attorney's fees, costs, or~~
605 ~~related expenses. The fact that the Justice Administrative~~
606 ~~Commission has not objected to any portion of the billing or to~~
607 ~~the sufficiency of the documentation is not binding on the~~
608 ~~court. The court retains primary authority and responsibility~~
609 ~~for determining the reasonableness of all billings for~~
610 ~~attorney's fees, costs, and related expenses, subject to~~
611 ~~statutory limitations. Private court appointed counsel is~~
612 ~~entitled to compensation upon final disposition of a case,~~
613 ~~except as provided in subsections (7), (8), and (10). Before~~
614 ~~final disposition of a case, a private court appointed counsel~~
615 ~~may file a motion for fees, costs, and related expenses for~~
616 ~~services completed up to the date of the motion in any case or~~
617 ~~matter in which legal services have been provided by the~~
618 ~~attorney for more than 1 year. The amount approved by the court~~
619 ~~may not exceed 80 percent of the fees earned, or costs and~~
620 ~~related expenses incurred, to date, or an amount proportionate~~
621 ~~to the maximum fees permitted under this section based on legal~~
622 ~~services provided to date, whichever is less. The court may~~
623 ~~grant the motion if counsel shows that failure to grant the~~
624 ~~motion would work a particular hardship upon counsel.~~

625 (3) The compensation for representation in a criminal
626 proceeding shall not exceed the following:

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

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

631 3. For life felonies represented at the trial level:
632 \$3,000.

633 4. For capital cases represented at the trial level:
634 \$3,500.

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

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

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

646 (4)~~(5)~~(a) If counsel is entitled to receive compensation
647 for representation pursuant to court appointment in a
648 termination of parental rights proceeding under chapter 39, such
649 compensation shall not exceed \$1,000 at the trial level and
650 \$2,500 at the appellate level.

651 (5)~~(b)~~ Counsel entitled to receive compensation for
652 representation pursuant to court appointment in a proceeding
653 under chapter 384 or chapter 392 shall receive reasonable
654 compensation as fixed by the public defender ~~court~~ making the
655 appointment.

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656 (6) A private attorney appointed in lieu of the public
657 defender to represent an indigent defendant may not reassign or
658 subcontract the case to another attorney or allow another
659 attorney to appear at a critical stage of a case except as
660 authorized by the public defender ~~who is not on the registry~~
661 ~~developed under s. 27.40.~~

662 (7) The public defender may authorize ~~Private court-~~
663 ~~appointed counsel representing a parent in a dependency case~~
664 ~~that is open may submit a request for payment in to the Justice~~
665 ~~Administrative Commission at the following intervals~~ in complex
666 or lengthy cases.†

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

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

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

671

672 ~~In no case, however, may counsel submit requests under this~~
673 ~~subsection more than once per quarter, unless the court finds~~
674 ~~extraordinary circumstances justifying more frequent submission~~
675 ~~of payment requests.~~

676 (8) The General Appropriations Act may amend the general
677 limits per case provided for in this section. ~~Private court-~~
678 ~~appointed counsel representing an individual in an appeal to a~~
679 ~~district court of appeal or the Supreme Court may submit a~~
680 ~~request for payment to the Justice Administrative Commission at~~
681 ~~the following intervals:~~

682 ~~(a) Upon the filing of an appellate brief, including, but~~
683 ~~not limited to, a reply brief.~~

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684 ~~(b) When the opinion of the appellate court is finalized.~~

685 (9) A public defender may, in extraordinary circumstances,
686 approve a fee in excess of the general limits per case provided
687 for in this section. Extraordinary circumstances will not,
688 however, authorize the public defender to expend moneys in
689 excess of the total appropriation for indigent services provided
690 in the General Appropriations Act. The public defenders of the
691 state shall jointly establish criteria for determining what are
692 extraordinary circumstances under this subsection. No court
693 shall have jurisdiction to determine what are extraordinary
694 circumstances under this subsection, nor shall any court order
695 that a public defender find that such extraordinary
696 circumstances exist. The question of whether a case or cases
697 present extraordinary circumstances under this subsection is one
698 of discretion within the limited budgetary authority of a public
699 defender. Private court-appointed counsel may not bill for
700 preparation of invoices whether or not the case is paid on the
701 basis of an hourly rate or by flat fee.

702 (10) A public defender who achieves cost savings in the
703 provision of appointed counsel services may request that up to
704 50 percent of the amount of savings that would otherwise revert
705 be used instead for priorities identified by the public
706 defender. Such requests are subject to review and approval of
707 the Legislative Budget Commission. The Justice Administrative
708 Commission shall develop a schedule to provide partial payment
709 of criminal attorney fees for cases that are not resolved within
710 6 months. The schedule must provide that the aggregate payments
711 shall not exceed limits established by law. Any partial payment

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712 ~~made pursuant to this subsection shall not exceed the actual~~
713 ~~value of services provided to date. Any partial payment shall be~~
714 ~~proportionate to the value of services provided based on payment~~
715 ~~rates included in the contract, not to exceed any limit provided~~
716 ~~by law.~~

717 (11) No indigent services committee shall authorize the
718 payment of any compensation to a court-appointed counsel that is
719 in excess of the fee schedules in subsections (3)-(5) or in
720 excess of the local fee schedule adopted by such committee,
721 whichever is lower. The Justice Administrative Commission shall
722 not pay any invoice for compensation to a court-appointed
723 counsel that is in excess of the fee schedules in subsections
724 (3)-(5) or in excess of the local fee schedule adopted by the
725 indigent services committee, whichever is lower. If any court
726 orders payment of compensation to a private court-appointed
727 counsel that is in excess of the fee schedules in subsections
728 (3)-(5) or in excess of the local fee schedule adopted by the
729 indigent services committee, whichever is lower, the amount of
730 the compensation that is in excess of the lower fee cap shall be
731 paid from funds appropriated to the state courts system.

732 Section 10. Section 27.561, Florida Statutes, is amended
733 to read:

734 27.561 Effect of nonpayment.--

735 (1) Whenever a recipient ~~defendant-recipient~~ or parent of
736 a recipient is ordered to pay attorney's fees or costs, default
737 in the payment thereof shall be cause for finding the recipient
738 ~~defendant-recipient~~ or parent of a recipient in contempt of
739 court, and the court may issue a show cause citation or a

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740 warrant of arrest ~~for the defendant recipient's or parent's~~
741 ~~appearance.~~

742 (2) Unless the recipient ~~defendant recipient~~ or parent of
743 a recipient shows that default was not attributable to an
744 intentional refusal to obey the order of the court or to a
745 failure on his or her part to make a good faith effort to make
746 the payment, the court may find that the default constitutes
747 contempt and order him or her committed until the attorney's
748 fees or costs, or a specified part thereof, are paid or may take
749 any other action appropriate under the circumstances, including
750 revocation of probation.

751 (3) If it appears to the satisfaction of the court that
752 the default in the payment of the attorney's fees or costs is
753 not contempt, the court may enter an order allowing the
754 recipient ~~defendant recipient~~ or parent of a recipient
755 additional time for, ~~or reducing the amount of,~~ payment ~~or~~
756 ~~revoking the assessed attorney's fees or costs, or the unpaid~~
757 ~~portion thereof, in whole or in part.~~

758 Section 11. Section 27.562, Florida Statutes, is amended
759 to read:

760 27.562 Disposition of funds.--The first \$40 of all funds
761 collected pursuant to s. 938.29 shall be deposited into the
762 Indigent Services ~~Criminal Defense~~ Trust Fund pursuant to s.
763 27.525. The remaining funds collected pursuant to s. 938.29
764 shall be distributed as follows:

765 (1) Twenty-five percent shall be remitted to the
766 Department of Revenue for deposit into the Justice

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767 Administrative Commission's Indigent Services ~~Criminal Defense~~
768 Trust Fund.

769 (2) Seventy-five percent shall be remitted to the
770 Department of Revenue for deposit into the General Revenue Fund.

771
772 The Justice Administrative Commission shall account for funds
773 deposited into the Indigent Services ~~Criminal Defense~~ Trust Fund
774 by circuit. Appropriations from the fund shall be proportional
775 to each circuit's collections. All judgments entered pursuant to
776 this part shall be in the name of the state.

777 Section 12. Section 27.58, Florida Statutes, is amended to
778 read:

779 27.58 Administration of public defender services.--The
780 public defender of each judicial circuit of the state shall be
781 the chief administrator of all public defender services
782 authorized under s. 27.51 within the circuit. The public
783 defender of each judicial circuit shall also be the chief
784 administrator of all indigent representation services within the
785 circuit.

786 Section 13. Section 27.59, Florida Statutes, is amended to
787 read:

788 27.59 Access to prisoners.--The public defender, ~~defenders~~
789 ~~and~~ assistant public defenders, and attorneys appointed to
790 provide indigent services by a public defender pursuant to this
791 part shall be empowered to inquire of all persons who are
792 incarcerated in lieu of bond or detained and to tender them
793 advice and counsel at any time. ~~but~~ The provisions of this

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794 section shall not apply with respect to persons who have engaged
795 private counsel.

796 Section 14. Section 27.7001, Florida Statutes, is amended
797 to read:

798 27.7001 Legislative intent and findings.--

799 (1)(a) It is the intent of the Legislature to create part
800 IV of this chapter, consisting of ss. 27.7001-27.711, inclusive,
801 to provide for the collateral representation of any person
802 convicted and sentenced to death in this state, so that
803 collateral legal proceedings to challenge any Florida capital
804 conviction and sentence may be commenced in a timely manner and
805 so as to assure the people of this state that the judgments of
806 its courts may be regarded with the finality to which they are
807 entitled in the interests of justice.

808 (b) It is the further intent of the Legislature that
809 collateral representation shall not include representation
810 during retrials, resentencings, proceedings commenced under
811 chapter 940, or civil litigation.

812 (2) The Legislature finds that:

813 (a) Under Florida and federal law, a defendant has no
814 constitutional right to counsel in postconviction proceedings.
815 Notwithstanding this lack of a constitutional right, the
816 Legislature has created by statute a qualified right for capital
817 defendants to postconviction counsel at specified rates for
818 certain services.

819 (b) Attorneys who participate in the attorney registry to
820 offer their services are not required to accept an appointment

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821 and are free to decline an appointment if they find the
822 statutory fee schedule insufficient.

823 (c) The Florida Supreme Court in Olive v. Maas, 811 So.2d
824 644 (Fla. 2002) has allowed registry attorneys to seek, and
825 authorized trial courts to grant, compensation in excess of the
826 statutory fee schedule notwithstanding the terms of each
827 attorney's contract, notwithstanding statutory requirements, and
828 notwithstanding that the Legislature contemplated the nature of
829 postconviction representation in all capital cases in the
830 development of the statutory fee schedule.

831 Section 15. Subsections (5), (6), and (7) of section
832 27.7002, Florida Statutes, are amended to read:

833 27.7002 Limitation on collateral representation; lawyer
834 disqualification; use of state funds for excess fees not
835 authorized.--

836 (5) The use of state funds for compensation of counsel
837 appointed pursuant to s. 27.710 above the amounts set forth in
838 s. 27.711 is not authorized unless ordered by the court pursuant
839 to s. 27.7003.

840 ~~(6) The executive director of the Commission on Capital~~
841 ~~Cases is authorized to permanently remove from the registry of~~
842 ~~attorneys provided in ss. 27.710 and 27.711 any attorney who~~
843 ~~seeks compensation for services above the amounts provided in s.~~
844 ~~27.711.~~

845 ~~(6)-(7) Any attorney who notifies any court, judge, state~~
846 ~~attorney, the Attorney General, or the executive director of the~~
847 ~~Commission on Capital Cases, prior to signing the contract~~
848 required under s. 27.710, determines that he or she cannot

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849 provide adequate or proper representation under the terms and
850 conditions set forth in s. 27.711 must immediately notify the
851 appropriate trial court and decline the appointment for which
852 the contract was offered shall be permanently disqualified from
853 any attorney registry created under this chapter unless good
854 cause arises after a change in circumstances.

855 Section 16. Section 27.7003, Florida Statutes, is created
856 to read:

857 27.7003 Authorization for fees and costs for attorneys
858 exceeding those provided in s. 27.711.--

859 (1) This section governs the determination of whether the
860 use of state funds for compensation of counsel requesting fees
861 or reimbursement of expenses in excess of the amounts set forth
862 in s. 27.711 is authorized.

863 (2) The use of state funds for compensation of counsel in
864 amounts greater than the amounts provided in s. 27.711(4)(b) -
865 (h), (5), and (6) is authorized as provided in subsection (4)
866 only when the attorney requesting additional compensation proves
867 in an evidentiary hearing by clear and convincing evidence that
868 the services for which additional compensation is sought were
869 due to additional work that was unforeseeable by a reasonable
870 attorney exercising due diligence at the time the contract was
871 signed. Additional work is unforeseeable only when all of the
872 following conditions are met:

873 (a) The additional work was necessary due to an
874 unanticipated change in circumstances that occurred after the
875 signing of the contract.

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876 (b) The change in circumstances was extraordinary and
877 unusual when compared to other capital cases in the
878 postconviction stage of proceedings.

879 (c) The additional work was for the purpose of raising a
880 meritorious claim in a timely manner that could not have been
881 raised but for the unanticipated change in circumstances
882 described in paragraph (a) and not for the purpose of raising
883 any claim that was procedurally barred, that was not supported
884 by the law or facts of the case, or that was otherwise frivolous
885 or successive.

886 (d) The additional work claimed is not due to counsel's
887 failure to adequately review the case record in advance of
888 signing the contract or due to counsel's failure to remain
889 apprised of current developments in the law.

890 (3) (a) Any motion for additional compensation that fails
891 to state specific facts describing how the additional work was
892 necessary due to an unanticipated change in circumstances
893 occurring after the signing of the contract shall be summarily
894 dismissed without prejudice.

895 (b) In determining whether the required showing in
896 subsection (2) has been made, the court may, to the extent
897 possible, compare the case in which the registry counsel seeks
898 additional compensation to other similar capital cases in the
899 postconviction stage of proceedings. If the court grants the
900 motion for additional compensation, it shall issue a written
901 order setting forth its findings and reasons along with an
902 explanation of how the amount of additional compensation was

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903 calculated. An order granting additional compensation may be
904 appealed by the state.

905 (4) The use of state funds for compensation above the
906 amounts provided in s. 27.711(4)(b)-(h), (5), and (6) is
907 authorized upon the filing of the court order granting
908 additional compensation with the clerk of the court. The amount
909 of additional compensation authorized in this section shall be
910 calculated using the statutory maximum amounts as the starting
911 point with additional compensation determined using the rate per
912 hour provided in s. 27.711 for the applicable service. The
913 amount of additional compensation ordered shall be no more than
914 the court determines is necessary to avoid confiscation of the
915 registry counsel's time, energy and talent for his or her
916 unforeseeable additional work but in no event shall the amount
917 of additional compensation exceed 30 percent of the statutory
918 maximum amount authorized under s. 27.711 for the specific
919 service for which additional compensation was granted. In the
920 same way as the statutory maximum amounts provided in s. 27.711
921 restrict the number of hours for which compensation is
922 authorized for each service at the specified rate, it is not
923 necessary that additional compensation be ordered for every hour
924 of unforeseeable additional work claimed. In determining an
925 amount of additional compensation needed to avoid confiscation
926 of a registry counsel's time, energy, and talent, the court may
927 consider whether the additional work resulted in registry
928 counsel pursuing a meritorious claim that could not have
929 otherwise been raised and how the quantity and quality of the
930 additional work proportionally compares with the quantity and
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931 quality of work that is within the scope of expected performance
932 under the registry contract and the terms of s. 27.711.

933 (5) The Chief Financial Officer shall represent the state
934 in proceedings for additional compensation provided in this
935 section.

936 (6) This section shall not be construed to authorize
937 compensation for services or expenses not specified in s.
938 27.711(4), (5), or (6).

939 Section 17. Subsections (2), (3), (4), and (12) of section
940 27.711, Florida Statutes, are amended to read:

941 27.711 Terms and conditions of appointment of attorneys as
942 counsel in postconviction capital collateral proceedings.--

943 (2) After appointment by the trial court under s. 27.710,
944 the attorney must, within 30 days, sign the contract required
945 under s. 27.710 and immediately file a notice of appearance with
946 the trial court indicating acceptance of the appointment to
947 represent the capital defendant throughout all postconviction
948 capital collateral proceedings, including federal habeas corpus
949 proceedings, in accordance with this section or until released
950 by order of the trial court.

951 (3) An attorney appointed to represent a capital defendant
952 is entitled to payment of the fees set forth in this section or
953 s. 27.7003 only upon full performance by the attorney of the
954 duties specified in this section and approval of payment by the
955 trial court, and the submission of a payment request by the
956 attorney, subject to the availability of sufficient funding
957 specifically appropriated for this purpose. An attorney may not
958 be compensated under this section for work performed by the

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959 attorney before July 1, 2003, while employed by the northern
960 regional office of the capital collateral counsel. The Chief
961 Financial Officer shall notify the executive director and the
962 court if it appears that sufficient funding has not been
963 specifically appropriated for this purpose to pay any fees which
964 may be incurred. The attorney shall maintain appropriate
965 documentation, including a current and detailed hourly
966 accounting of time spent representing the capital defendant. The
967 fee and payment schedule in this section is the exclusive means
968 of compensating a court-appointed attorney who represents a
969 capital defendant. An attorney seeking additional compensation
970 for fees or reimbursement for expenses in excess of the amounts
971 provided in paragraphs (4)(b)-(h), subsection (5), or subsection
972 (6) must satisfy the requirements of s. 27.7003. When
973 appropriate, a court-appointed attorney must seek further
974 compensation from the Federal Government, as provided in 18
975 U.S.C. s. 3006A or other federal law, in habeas corpus
976 litigation in the federal courts.

977 (4) Upon approval by the trial court, an attorney
978 appointed to represent a capital defendant under s. 27.710 is
979 entitled to payment of the following fees by the Chief Financial
980 Officer:

981 (a) Regardless of the stage of postconviction capital
982 collateral proceedings, the attorney is entitled to \$100 per
983 hour, up to a maximum of \$2,500, after signing the contract
984 required under s. 27.710, accepting the appointment, and filing
985 a notice of appearance.

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986 (b) The attorney is entitled to \$100 per hour, up to a
987 maximum of \$20,000, after timely filing in the trial court the
988 capital defendant's complete original motion for postconviction
989 relief under the Florida Rules of Criminal Procedure. The motion
990 must raise all issues to be addressed by the trial court.

991 However, an attorney is entitled to fees under this paragraph if
992 the court schedules a hearing on a matter that makes the filing
993 of the original motion for postconviction relief unnecessary or
994 if the court otherwise disposes of the case.

995 (c) The attorney is entitled to \$100 per hour, up to a
996 maximum of \$20,000, after the trial court issues a final order
997 granting or denying the capital defendant's motion for
998 postconviction relief.

999 (d) The attorney is entitled to \$100 per hour, up to a
1000 maximum of \$20,000, after timely filing in the Supreme Court the
1001 capital defendant's brief or briefs that address the trial
1002 court's final order granting or denying the capital defendant's
1003 motion for postconviction relief and the state petition for writ
1004 of habeas corpus.

1005 (e) The attorney is entitled to \$100 per hour, up to a
1006 maximum of \$10,000, after the trial court issues an order,
1007 pursuant to a remand from the Supreme Court, which directs the
1008 trial court to hold further proceedings on the capital
1009 defendant's motion for postconviction relief.

1010 (f) The attorney is entitled to \$100 per hour, up to a
1011 maximum of \$4,000, after the appeal of the trial court's denial
1012 of the capital defendant's motion for postconviction relief and

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1013 the capital defendant's state petition for writ of habeas corpus
1014 become final in the Supreme Court.

1015 (g) At the conclusion of the capital defendant's
1016 postconviction capital collateral proceedings in state court,
1017 the attorney is entitled to \$100 per hour, up to a maximum of
1018 \$2,500, after filing a petition for writ of certiorari in the
1019 Supreme Court of the United States.

1020 (h) If, at any time, a death warrant is issued, the
1021 attorney is entitled to \$100 per hour, up to a maximum of
1022 \$5,000. This payment shall be full compensation for attorney's
1023 fees and costs for representing the capital defendant throughout
1024 the proceedings before the state courts of Florida.

1025
1026 The hours billed by a contracting attorney under this subsection
1027 may include time devoted to representation of the defendant by
1028 another attorney who is qualified under s. 27.710 and who has
1029 been designated by the contracting attorney to assist him or
1030 her.

1031 (12) The court shall monitor the performance of assigned
1032 counsel to ensure that the capital defendant is receiving
1033 quality representation. The court shall also receive and
1034 evaluate allegations that are made regarding the performance of
1035 assigned counsel. The Chief Financial Officer, the Department of
1036 Legal Affairs, the executive director, or any interested person
1037 may advise the court of any circumstance that could affect the
1038 quality of representation, including, but not limited to, false
1039 or fraudulent billing, misconduct, failure to meet continuing
1040 legal education requirements, solicitation to receive

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1041 compensation from the capital defendant, ~~or~~ failure to file
1042 appropriate motions in a timely manner, or assertion of claims
1043 that are not supported by the law or the facts of the case.

1044 Section 18. Section 29.007, Florida Statutes, is amended
1045 to read:

1046 29.007 Court-appointed counsel.--For purposes of
1047 implementing s. 14, Art. V of the State Constitution, the
1048 elements of court-appointed counsel to be provided from state
1049 revenues appropriated by general law are as follows:

1050 (1) Private attorneys appointed by the public defender
1051 ~~court~~ to handle cases where the defendant is indigent and cannot
1052 be represented by the public defender under s. ss. 27.42 and
1053 27.53.

1054 (2) Private attorneys appointed by the public defender
1055 ~~court~~ to represent indigents or other classes of litigants in
1056 civil proceedings requiring appointed ~~court-appointed~~ counsel in
1057 accordance with state and federal constitutional guarantees and
1058 federal and state statutes.

1059 (3) Reasonable court reporting and transcription services
1060 necessary to meet constitutional or statutory requirements,
1061 including the cost of transcribing and copying depositions of
1062 witnesses and the cost of foreign language and sign-language
1063 interpreters and translators.

1064 (4) Witnesses, including expert witnesses, summoned to
1065 appear for an investigation, preliminary hearing, or trial in a
1066 case when the witnesses are summoned on behalf of an indigent,
1067 and any other expert witnesses approved by the court.

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1068 (5) Mental health professionals appointed pursuant to s.
1069 394.473 and required in a court hearing involving an indigent,
1070 mental health professionals appointed pursuant to s. 916.115(2)
1071 and required in a court hearing involving an indigent, and any
1072 other mental health professionals required by law for the full
1073 adjudication of any civil case involving an indigent person.

1074 (6) Reasonable pretrial consultation fees and costs.

1075 (7) Travel expenses reimbursable under s. 112.061
1076 reasonably necessary in the performance of constitutional and
1077 statutory responsibilities.

1078
1079 Subsections (3), (4), (5), (6), and (7) apply when ~~court-~~
1080 ~~appointed counsel is appointed; when the court determines that~~
1081 ~~the litigant is indigent for costs; or when the litigant is~~
1082 ~~acting pro se and the court determines that the litigant is~~
1083 ~~indigent for costs at the trial or appellate level. This section~~
1084 ~~applies in any situation in which the court appoints counsel to~~
1085 ~~protect a litigant's due process rights. The Justice~~
1086 ~~Administrative Commission shall approve uniform contract forms~~
1087 ~~for use in processing payments for due process services under~~
1088 ~~this section. In each case in which a private attorney~~
1089 ~~represents a person determined by the court to be indigent for~~
1090 ~~costs, the attorney shall execute the commission's contract for~~
1091 ~~private attorneys representing persons determined to be indigent~~
1092 ~~for costs.~~

1093 Section 19. Section 29.015, Florida Statutes, is amended
1094 to read:

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1095 29.015 Contingency fund; limitation of authority to
1096 transfer funds in contracted due process services appropriation
1097 categories.--

1098 (1) (a) An appropriation may be provided in the General
1099 Appropriations Act in the state courts system Justice
1100 ~~Administrative Commission~~ to be used solely ~~serve~~ as a
1101 contingency fund for the purpose of alleviating deficits in
1102 contracted due process services appropriation categories,
1103 including private appointed ~~court appointed~~ counsel
1104 appropriation categories, when the trial court determines, that
1105 ~~may occur from time to time due to~~ extraordinary events or
1106 circumstances of a case have led ~~that lead~~ to unexpected
1107 expenditures and that the public defender does not have the
1108 ability to accommodate the unexpected expenditure from within
1109 his or her operating budget.

1110 (b) A peer review committee of at least three judges or
1111 their designees, each from a different circuit, appointed by the
1112 chief judge of the circuit in which the case was tried, must
1113 review and approve each expenditure from the contingency fund
1114 established under paragraph (a). The judge who presided over the
1115 trial and the chief judge of the affected circuit may not be on
1116 the peer review committee. The public defender of the circuit in
1117 which the case was tried must provide to the peer review
1118 committee all documentation provided to the trial court that
1119 made the determination pursuant to paragraph (a) and any other
1120 information requested by the peer review committee.

1121 (2) In the event that a state attorney or public defender
1122 incurs a deficit in a contracted due process services

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1123 appropriation category, the following steps shall be taken in
1124 order:

1125 (a) The state attorney or public defender shall first
1126 attempt to identify surplus funds from other appropriation
1127 categories within his or her office and submit a budget
1128 amendment pursuant to chapter 216 to transfer funds from within
1129 the office.

1130 (b) In the event that the state attorney or public
1131 defender is unable to identify surplus funds from within his or
1132 her office, he or she shall certify this to the Justice
1133 Administrative Commission along with a complete explanation of
1134 the circumstances which led to the deficit and steps the office
1135 has taken to reduce or alleviate the deficit. The Justice
1136 Administrative Commission shall inquire as to whether any other
1137 office has surplus funds in its contracted due process services
1138 appropriation categories which can be transferred to the office
1139 that is experiencing the deficit. If other offices indicate that
1140 surplus funds are available within the same appropriation
1141 category, the Justice Administrative Commission shall transfer
1142 the amount needed to fund the deficit and notify the Governor
1143 and the chair and vice chair of the Legislative Budget
1144 Commission 14 days prior to a transfer pursuant to the notice,
1145 review, and objection provisions of s. 216.177. If funds
1146 appropriated for this purpose are available in a different
1147 budget entity, the Justice Administrative Commission shall
1148 request a budget amendment pursuant to chapter 216.

1149 (c) If no office indicates that surplus funds are
1150 available to alleviate the deficit, the Justice Administrative
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1151 Commission may request a budget amendment to transfer funds from
1152 the contingency fund. Such transfers shall be in accordance with
1153 all applicable provisions of chapter 216 and shall be subject to
1154 review and approval by the Legislative Budget Commission. The
1155 Justice Administrative Commission shall submit the documentation
1156 provided by the office explaining the circumstances that led to
1157 the deficit and the steps taken by the office and the Justice
1158 Administrative Commission to identify surplus funds to the
1159 Legislative Budget Commission.

1160 ~~(3) In the event that there is a deficit in a statewide~~
1161 ~~contracted due process services appropriation category provided~~
1162 ~~for private court appointed counsel necessary due to withdrawal~~
1163 ~~of the public defender due to an ethical conflict, the following~~
1164 ~~steps shall be taken in order:~~

1165 ~~(a) The Justice Administrative Commission shall first~~
1166 ~~attempt to identify surplus funds from other contracted due~~
1167 ~~process services appropriation categories within the Justice~~
1168 ~~Administrative Commission and submit a budget amendment pursuant~~
1169 ~~to chapter 216 to transfer funds from within the commission.~~

1170 ~~(b) In the event that the Justice Administrative~~
1171 ~~Commission is unable to identify surplus funds from within the~~
1172 ~~commission, the commission shall inquire of each of the public~~
1173 ~~defenders as to whether any office has surplus funds in its~~
1174 ~~contracted due process services appropriations categories which~~
1175 ~~can be transferred. If any public defender office or offices~~
1176 ~~indicate that surplus funds are available, the Justice~~
1177 ~~Administrative Commission shall request a budget amendment to~~

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1178 ~~transfer funds from the office or offices to alleviate the~~
1179 ~~deficit upon agreement of the contributing office or offices.~~

1180 ~~(c) If no public defender office has surplus funds~~
1181 ~~available to alleviate the deficit, the Justice Administrative~~
1182 ~~Commission may request a budget amendment to transfer funds from~~
1183 ~~the contingency fund. Such transfers shall be in accordance with~~
1184 ~~all applicable provisions of chapter 216 and shall be subject to~~
1185 ~~review and approval by the Legislative Budget Commission. The~~
1186 ~~Justice Administrative Commission shall submit the documentation~~
1187 ~~provided by the office explaining the circumstances that led to~~
1188 ~~the deficit and the steps taken by the Justice Administrative~~
1189 ~~Commission to identify surplus funds to the Legislative Budget~~
1190 ~~Commission.~~

1191 ~~(4) In the event that there is a deficit in a statewide~~
1192 ~~appropriation category provided for private court appointed~~
1193 ~~counsel other than for conflict counsel as described in~~
1194 ~~subsection (3), the following steps shall be taken in order:~~

1195 ~~(a) The Justice Administrative Commission shall first~~
1196 ~~attempt to identify surplus funds from other contracted due~~
1197 ~~process services appropriation categories within the Justice~~
1198 ~~Administrative Commission and submit a budget amendment pursuant~~
1199 ~~to chapter 216 to transfer funds from within the commission.~~

1200 ~~(b) In the event that the Justice Administrative~~
1201 ~~Commission is unable to identify surplus funds from within the~~
1202 ~~commission, the commission may submit a budget amendment to~~
1203 ~~transfer funds from the contingency fund. Such transfers shall~~
1204 ~~be in accordance with all applicable provisions of chapter 216~~
1205 ~~and shall be subject to review and approval by the Legislative~~

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1206 ~~Budget Commission. The Justice Administrative Commission shall~~
1207 ~~submit documentation explaining the circumstances that led to~~
1208 ~~the deficit and the steps taken to identify surplus funds to the~~
1209 ~~Legislative Budget Commission.~~

1210 (3)-(5) Notwithstanding any provisions in chapter 216 to
1211 the contrary, no office shall transfer funds from a contracted
1212 due process services appropriation category or from a
1213 contingency fund category authorized in this section except as
1214 specifically authorized in this section. In addition, funds
1215 shall not be transferred from a state attorney office to
1216 alleviate a deficit in a public defender office and funds shall
1217 not be transferred from a public defender office to alleviate a
1218 deficit in a state attorney office.

1219 Section 20. Section 29.018, Florida Statutes, is amended
1220 to read:

1221 29.018 Cost sharing of due-process services; legislative
1222 intent.--It is the intent of the Legislature to provide state-
1223 funded due-process services to the state courts system, state
1224 attorneys, public defenders, and appointed ~~court appointed~~
1225 counsel in the most cost-effective and efficient manner. The
1226 state courts system, state attorneys, and public defenders, ~~and~~
1227 ~~the Justice Administrative Commission on behalf of court~~
1228 ~~appointed counsel~~ may enter into contractual agreements to
1229 share, on a pro rata basis, the costs associated with court
1230 reporting services, court interpreter and translation services,
1231 court experts, and all other due-process services funded by the
1232 state pursuant to this chapter. These costs shall be budgeted

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1233 within the funds appropriated to each of the affected users of
1234 services.

1235 Section 21. Section 29.0185, Florida Statutes, is amended
1236 to read:

1237 29.0185 Provision of state-funded due process services to
1238 individuals; limitations on certain payments.--Due process
1239 services may not be provided with state revenues to an
1240 individual unless the individual on whose behalf the due process
1241 services are being provided is eligible for appointed court-
1242 appointed counsel under s. 27.40, based upon a determination of
1243 indigency under s. 27.52. The Justice Administrative Commission
1244 shall only make payment for appointed counsel and other due
1245 process services authorized by a state attorney or public
1246 defender. The state courts system shall be responsible for the
1247 portion of any payment ordered that is not authorized by a
1248 public defender or state attorney, is in excess of payment rates
1249 established by the contract, is in excess of limits provided for
1250 by law, or is not specifically authorized by law, regardless of
1251 whether such counsel is appointed or the individual on whose
1252 behalf the due process services are being provided is eligible
1253 for court-appointed counsel under s. 27.40 and has been
1254 determined indigent for costs pursuant to s. 27.52.

1255 Section 22. Subsection (1) of section 39.815, Florida
1256 Statutes, is amended to read:

1257 39.815 Appeal.--

1258 (1) Any child, any parent or guardian ad litem of any
1259 child, any other party to the proceeding who is affected by an
1260 order of the court, or the department may appeal to the

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1261 appropriate district court of appeal within the time and in the
1262 manner prescribed by the Florida Rules of Appellate Procedure.
1263 The district court of appeal shall give an appeal from an order
1264 terminating parental rights priority in docketing and shall
1265 render a decision on the appeal as expeditiously as possible.
1266 Appointed counsel shall be compensated as provided in s.
1267 27.5304 (4) ~~(5)~~.

1268 Section 23. Subsection (2) of section 125.69, Florida
1269 Statutes, is amended to read:

1270 125.69 Penalties; enforcement by code inspectors.--

1271 (2) Each county is authorized and required to pay any
1272 attorney appointed by the court to represent a defendant charged
1273 with a criminal violation of a special law or county ordinance
1274 not ancillary to a state charge if the defendant is indigent and
1275 otherwise entitled to court-appointed counsel under the
1276 Constitution of the United States or the Constitution of the
1277 State of Florida. In these cases, the public defender ~~court~~
1278 shall appoint counsel to represent the defendant in accordance
1279 with s. 27.40~~7~~, and ~~shall order~~ the county shall ~~to~~ pay the
1280 reasonable attorney's fees, costs, and related expenses of the
1281 defense. The county may contract with the public defender of the
1282 judicial circuit in which the county is located to serve as
1283 appointed ~~court-appointed~~ counsel pursuant to s. 27.54.

1284 Section 24. Paragraph (w) of subsection (4) of section
1285 215.20, Florida Statutes, is amended to read:

1286 215.20 Certain income and certain trust funds to
1287 contribute to the General Revenue Fund.--

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1288 (4) The income of a revenue nature deposited in the
1289 following described trust funds, by whatever name designated, is
1290 that from which the appropriations authorized by subsection (3)
1291 shall be made:

1292 (w) Within the Justice Administrative Commission, the
1293 Indigent Services ~~Criminal Defense~~ Trust Fund.

1294
1295 The enumeration of the foregoing moneys or trust funds shall not
1296 prohibit the applicability thereto of s. 215.24 should the
1297 Governor determine that for the reasons mentioned in s. 215.24
1298 the money or trust funds should be exempt herefrom, as it is the
1299 purpose of this law to exempt income from its force and effect
1300 when, by the operation of this law, federal matching funds or
1301 contributions or private grants to any trust fund would be lost
1302 to the state.

1303 Section 25. Subsection (2) of section 744.331, Florida
1304 Statutes, is amended to read:

1305 744.331 Procedures to determine incapacity.--

1306 (2) ATTORNEY FOR ~~THE~~ ALLEGED INCAPACITATED PERSON.--

1307 ~~(a) When a court appoints an attorney for an alleged~~
1308 ~~incapacitated person, the court must appoint an attorney who is~~
1309 ~~included in the attorney registry compiled pursuant to ss. 27.40~~
1310 ~~and 27.42 by the circuit's Article V indigent services~~
1311 ~~committee. Appointments must be made on a rotating basis, taking~~
1312 ~~into consideration conflicts arising under this chapter.~~

1313 (a) ~~(b)~~ The court shall appoint an attorney for each person
1314 alleged to be incapacitated in all cases involving a petition
1315 for adjudication of incapacity. The alleged incapacitated person
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1316 may substitute her or his own attorney for the attorney
1317 appointed by the court. Only if the alleged incapacitated person
1318 is found to be indigent pursuant to s. 27.52 may the public
1319 defender be appointed to represent the person or arrange for
1320 representation of the person; otherwise, any attorney appointed
1321 on behalf of the person must be paid from the assets of the
1322 alleged incapacitated person.

1323 (b)-(e) Any attorney representing an alleged incapacitated
1324 person may not serve as guardian of the alleged incapacitated
1325 person or as counsel for the guardian of the alleged
1326 incapacitated person or the petitioner.

1327 (c)-(d) ~~Effective January 1, 2007,~~ An attorney seeking to
1328 be appointed by a court for incapacity and guardianship
1329 proceedings must have completed a minimum of 8 hours of
1330 education in guardianship. A court may waive the initial
1331 training requirement for an attorney who has served as a court-
1332 appointed attorney in incapacity proceedings or as an attorney
1333 of record for guardians for not less than 3 years.

1334 Section 26. Section 914.11, Florida Statutes, is repealed.

1335 Section 27. Subsections (1) and (2) of section 938.29,
1336 Florida Statutes, are amended to read:

1337 938.29 Legal assistance; lien for payment of attorney's
1338 fees or costs.--

1339 (1) (a) A defendant determined to be guilty of a criminal
1340 act by a court or jury or through a plea of guilty or nolo
1341 contendere and who has received the assistance of the public
1342 defender's office, whether such assistance was provided by an
1343 attorney of the public defender or through a private attorney

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1344 appointed by the public defender, a special assistant public
1345 defender, or a conflict attorney shall be liable for payment of
1346 attorney's fees and costs. The court shall determine the amount
1347 of the obligation. Such costs shall include, but not be limited
1348 to, the cost of depositions; cost of transcripts of depositions,
1349 including the cost of defendant's copy, which transcripts are
1350 certified by the defendant's attorney as having served a useful
1351 purpose in the disposition of the case; investigative costs;
1352 witness fees; the cost of psychiatric examinations; or other
1353 reasonable costs specially incurred by the state and the clerk
1354 of court for the defense of the defendant in criminal
1355 prosecutions. Costs shall not include expenses inherent in
1356 providing a constitutionally guaranteed jury trial or
1357 expenditures in connection with the maintenance and operation of
1358 government agencies that must be made by the public irrespective
1359 of specific violations of law. Any costs assessed pursuant to
1360 this paragraph shall be reduced by any amount assessed against a
1361 defendant pursuant to s. 938.05.

1362 (b) Upon entering a judgment of conviction, the defendant
1363 shall be liable to pay the costs in full after the judgment of
1364 conviction becomes final.

1365 (c) The defendant shall pay the application fee under s.
1366 27.52(1)(b) and attorney's fees and costs in full or in
1367 installments, at the time or times specified. The court may
1368 order payment of the assessed application fee and attorney's
1369 fees and costs as a condition of probation, of suspension of
1370 sentence, or of withholding the imposition of sentence. The
1371 first \$40 from attorney's fees and costs collected under this

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1372 section shall be transferred monthly by the clerk to the
1373 Department of Revenue for deposit into the Indigent Services
1374 Trust Fund. All remaining attorney's fees and costs collected
1375 under this section shall be deposited into the General Revenue
1376 Fund.

1377 (2) (a) There is created in the name of the state a lien,
1378 enforceable as hereinafter provided, upon all the property, both
1379 real and personal, of any person who:

1380 1. Has received any assistance from any public defender of
1381 the state, from any special assistant public defender, or from
1382 any appointed ~~conflict~~ attorney; or

1383 2. Is a parent of an accused minor or an accused adult
1384 tax-dependent person who is being, or has been, represented by
1385 any public defender of the state, by any special assistant
1386 public defender, or by an appointed ~~a conflict~~ attorney.

1387
1388 Such lien constitutes a claim against the defendant-recipient or
1389 parent and his or her estate, enforceable according to law.

1390 (b) A judgment showing the name and residence of the
1391 defendant-recipient or parent shall be recorded in the public
1392 record, without cost, by the clerk of the circuit court in the
1393 county where the defendant-recipient or parent resides and in
1394 each county in which such defendant-recipient or parent then
1395 owns or later acquires any property. Such judgments shall be
1396 enforced on behalf of the state by the clerk of the circuit
1397 court of the county in which assistance was rendered.

1398 Section 28. (1) As to any contract for legal services
1399 pursuant to the provisions of part III of chapter 27, Florida
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1400 Statutes, which contract was in existence on or before August 1,
1401 2007, the following shall apply:

1402 (a) Attorneys appointed under such contracts shall
1403 complete the representation of clients assigned to them as of
1404 August 1, 2007, through completion of the case; however, no such
1405 appointment shall extend beyond June 30, 2008. As of July 1,
1406 2008, representation of any person pursuant to part III of
1407 chapter 27, Florida Statutes, shall only be through a contract
1408 with the appropriate public defender.

1409 (b) The Justice Administrative Commission shall pay fees
1410 earned by attorneys under contracts for appointments that
1411 commenced prior to August 1, 2007, subject to a specific
1412 appropriation in the fiscal year 2007-2008 General
1413 Appropriations Act for payment of such representation.

1414 (c) All provisions of part III of chapter 27, Florida
1415 Statutes, as they exist prior to August 1, 2007, shall control
1416 such contracts, notwithstanding the amendment or repeal of any
1417 applicable provision by this act.

1418 (d) The public defender shall not be liable for fees and
1419 costs for any attorney appointed prior to August 1, 2007, except
1420 as provided in subsection (2).

1421 (2) If funds appropriated to the Justice Administrative
1422 Commission for payment of cases pursuant to subsection (1) are
1423 exhausted, any remaining required payments shall be made from
1424 funds appropriated to the public defender of the circuit in
1425 which the case was appointed, except that the portion of any
1426 payment in excess of payment rates established by the contract
1427 or in excess of limits provided for by law or for goods or
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1428 services not specifically authorized by law shall be paid from
1429 funds appropriated to the state courts system. The state courts
1430 system and the public defender may reduce nonessential travel,
1431 other nonessential expenses, and nonessential personnel costs in
1432 order to eliminate a deficit that would otherwise result from
1433 payments required by this subsection.

1434 (3) This section shall take effect upon this act becoming
1435 a law.

1436 Section 29. On or before June 1, 2007, each public
1437 defender shall prepare a plan for his or her circuit for
1438 delivering the expanded indigent legal representation services
1439 required by this act for review and approval by the Legislative
1440 Budget Commission. The plan shall describe how services will be
1441 delivered; proposed contract terms and rates; the number of
1442 proposed state full-time equivalent positions by class,
1443 including the proposed salary for each position; and the
1444 proposed phase-in schedule. The plan shall also include a
1445 request to establish any proposed state full-time equivalent
1446 positions that may be established upon approval of the
1447 Legislative Budget Commission pursuant to the provisions of s.
1448 216.262(1)(a), Florida Statutes. This section shall take effect
1449 upon this act becoming a law.

1450 Section 30. Except as otherwise expressly provided in this
1451 act, this act shall take effect August 1, 2007.

1452
1453 ===== T I T L E A M E N D M E N T =====

1454 Remove the entire title and insert:

1455 A bill to be entitled

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1456 An act relating to legal representation for indigent
1457 persons; amending s. 27.40, F.S.; removing responsibility
1458 for appointment of attorneys for indigent persons from
1459 courts; providing for appointment of attorneys for
1460 indigent persons by public defenders; limiting
1461 expenditures; providing contract requirements; repealing
1462 s. 27.42, F.S., relating to circuit Article V indigent
1463 services committees; amending s. 27.51, F.S.; providing
1464 additional duties for public defenders related to proving
1465 attorney services in certain cases; amending s. 27.512,
1466 F.S.; specifying cases subject to orders of no
1467 imprisonment for which the public defender may not
1468 represent the defendant; amending s. 27.52, F.S.;
1469 conforming references; limiting expenditures; revising
1470 provisions relating to payment for costs of
1471 representation; amending s. 27.525, F.S.; changing the
1472 name of a trust fund; limiting uses of funds credited to
1473 the trust fund; amending s. 27.53, F.S.; providing that
1474 public defender investigators are authorized to act in any
1475 judicial circuit; amending s. 27.5303, F.S.; revising
1476 provisions relating to appointment of counsel by a public
1477 defender in conflict cases; deleting a requirement to file
1478 a specified report; amending s. 27.5304, F.S.; limiting
1479 expenditures on appointed counsel; creating financial
1480 penalties chargeable against an appointed attorney found
1481 to have provided ineffective assistance of counsel;
1482 deleting forms of billing and payment by private attorneys
1483 representing indigent persons; deleting report of the

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1484 Article V Indigent Services Advisory Board; providing for
1485 amendment of the general limits per case in the General
1486 Appropriations Act; allowing for extraordinary payment;
1487 providing that a public defender achieving cost savings
1488 may be entitled to propose alternative use for such
1489 savings up to a specified amount; providing limits on the
1490 ability of an indigent services committee to authorize
1491 compensation in excess of specified fee schedules;
1492 requiring payment of excess compensation to be paid from
1493 the state courts system; amending ss. 27.561 and 27.562,
1494 F.S.; making conforming changes; amending s. 27.58, F.S.;
1495 providing that the public defender is the chief
1496 administrator of all indigent representation services in
1497 the public defender's circuit; amending s. 27.59, F.S.;
1498 providing that attorneys appointed by a public defender
1499 have the same access to prisoners as the public defender;
1500 amending s. 27.7001, F.S.; providing legislative findings
1501 relating to postconviction counsel for capital defendants;
1502 amending s. 27.7002, F.S.; deleting authority for the
1503 executive director of the Commission on Capital Cases to
1504 remove attorneys from the registry of attorneys under
1505 chapter 27, F.S.; requiring registry attorneys to decline
1506 acceptance of an appointment in certain circumstances and
1507 to notify the trial court; creating s. 27.7003, F.S.;
1508 providing for authorization to use state funds for
1509 additional compensation to registry counsel for additional
1510 work that was unforeseeable at the time the contract was
1511 signed under certain circumstances; providing requirements

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1512 and conditions with respect to such authorization;
1513 providing a right for the state to appeal an order
1514 granting additional compensation; providing the method of
1515 calculating the amount of additional compensation and
1516 specifying the maximum amount of additional compensation
1517 authorized; providing that the Chief Financial Officer
1518 shall represent the state in proceedings in which
1519 additional compensation is sought; providing that no
1520 compensation is authorized for services not specified in
1521 s. 27.711, F.S.; amending s. 27.711, F.S.; revising
1522 provisions relating to terms and conditions of the
1523 appointment of registry counsel; requiring signature of
1524 contract and notice of appearance to be filed within a
1525 specified time period; requiring compliance with specified
1526 provisions when registry counsel seeks additional
1527 compensation; specifying the assertion of claims not
1528 supported by the law or facts of the case among the list
1529 of example circumstances that may affect the quality of
1530 representation that may be reported to the court; amending
1531 s. 29.007, F.S.; providing for private attorneys appointed
1532 by the public defender; deleting references to the Justice
1533 Administrative Commission; amending s. 29.015, F.S.;
1534 moving responsibility for a deficit in the contingency
1535 fund for alleviating certain deficits from the Justice
1536 Administrative Commission to the state courts system;
1537 requiring establishment of a peer review committee for
1538 review and approval of expenditures from such fund;
1539 amending s. 29.018, F.S.; making conforming changes;

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HOUSE AMENDMENT

Bill No. CS/SB 1088

Amendment No.

1540 amending s. 29.0185, F.S.; limiting expenditures for due
1541 process costs; amending ss. 39.815, 125.69, and 215.20,
1542 F.S.; conforming provisions; amending s. 744.331, F.S.;
1543 providing for appointment by the public defender of an
1544 attorney for an alleged incapacitated person; repealing s.
1545 914.11, F.S., to repeal a requirement for payment of costs
1546 for an indigent criminal defendant; amending s. 938.29,
1547 F.S.; providing for a lien against an individual who has
1548 been provided attorney services as an indigent; directing
1549 payment of moneys collected from the lien; creating a
1550 transitional plan for payment of expenses accruing before
1551 the effective date of this act; requiring each public
1552 defender to present a transition plan to the Legislative
1553 Budget Commission for approval; providing effective dates.

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