

Bill No. SB 1088

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Proposed Committee Substitute by the Committee on Criminal and Civil Justice Appropriations

1 A bill to be entitled

2 An act relating to due process; amending s.

3 27.40, F.S.; providing for offices of criminal

4 conflict and civil regional counsel to be

5 appointed to represent persons in certain cases

6 in which the public defender is unable to

7 provide representation; providing for private

8 counsel to be appointed only when the public

9 defender and the regional counsel are unable to

10 provide representation; providing for the clerk

11 of court to maintain the registry of attorneys

12 available for appointment; providing for

13 compensation of appointed counsel who are not

14 on the registry; requiring attorneys to

15 maintain records in order to claim

16 extraordinary compensation; creating s. 27.405,

17 F.S.; requiring the Justice Administrative

18 Commission to track expenditures of

19 court-appointed counsel; requiring reports

20 concerning expenditures and certain

21 characteristics of court-appointed counsel;

22 creating s. 27.425, F.S.; requiring the chief

23 circuit judge to recommend compensation rates

24 for providers of due process services;

25 providing for rates to be prescribed in the

26 General Appropriations Act; creating s. 27.511,

27 F.S.; creating an office of criminal conflict

28 and civil regional counsel within the

29 boundaries of each of the five district courts

30 of appeal; providing legislative intent;

31 directing the Justice Administrative Commission

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1 to provide administrative support to the
2 offices; prescribing qualifications for and
3 providing for appointment of the regional
4 counsel; providing prohibitions related to the
5 practice of law; requiring that the criminal
6 conflict and civil regional counsel be
7 appointed when the public defender has a
8 conflict of interest in specified cases;
9 prohibiting appointment of the office in
10 certain circumstances; providing for appellate
11 representation; providing for the regional
12 counsel to provide representation in certain
13 civil proceedings; amending s. 27.512, F.S.,
14 relating to orders of no imprisonment;
15 conforming provisions to the creation of the
16 regional offices; amending s. 27.52, F.S.,
17 relating to the determination of indigent
18 status; conforming provisions to the creation
19 of the regional offices; amending s. 27.525,
20 F.S.; revising the purposes of the Indigent
21 Criminal Defense Trust Fund; amending s. 27.53,
22 F.S.; authorizing the regional counsel to
23 employ assistant regional counsel; authorizing
24 certain investigators to carry concealed
25 weapons and serve process under certain
26 conditions; requiring the regional counsel to
27 develop coordinated classification and pay
28 plans; providing for appropriations to be
29 determined by a funding formula; amending s.
30 27.5301, F.S.; providing for salaries for the
31 regional counsel and assistant counsel;

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1 amending s. 27.5303, F.S., relating to
2 conflicts of interest in the representation of
3 indigent defendants; conforming provisions to
4 changes made by the act; eliminating the
5 authority for the Justice Administrative
6 Commission to contest motions to withdraw;
7 providing for the regional counsel to file a
8 motion to withdraw from a criminal or civil
9 case due to a conflict of interest; providing
10 procedures and criteria; amending s. 27.5304,
11 F.S., relating to compensation of private
12 court-appointed counsel, to conform; providing
13 that compensation is based upon a flat fee
14 prescribed in the General Appropriations Act;
15 revising and eliminating certain procedures
16 relating to billings; raising the maximum fee
17 for representation in capital cases;
18 prescribing fee limits for representation in
19 certain dependency proceedings; prescribing
20 conditions, procedures, and amounts for paying
21 compensation to counsel in excess of
22 established limits; requiring counsel to file a
23 motion and submit documentation; providing for
24 a hearing; requiring a written order and
25 findings; requiring the Office of State Courts
26 Administrator to report data on compensation
27 exceeding prescribed limits; amending s. 27.54,
28 F.S., relating to payments for public
29 defenders; conforming provisions to the
30 creation of the offices of criminal conflict
31 and civil regional counsel; amending s. 27.59,

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1 F.S.; authorizing the regional counsel to have
2 access to prisoners; amending s. 28.24, F.S.;
3 requiring the clerk of court to provide certain
4 services to the criminal conflict and civil
5 regional counsel without charge; expanding the
6 authorized use of certain service-charge
7 revenues distributed to counties to include
8 technology for the regional counsel; amending
9 s. 28.345, F.S.; exempting the regional counsel
10 from certain court-related fees and charges;
11 amending s. 29.001, F.S.; providing for the
12 public defenders' offices to include the
13 criminal conflict and civil regional counsel
14 for purposes of implementing provisions of the
15 State Constitution; providing for state
16 funding; amending ss. 29.006 and 29.007, F.S.,
17 relating to indigent defense costs and
18 court-appointed counsel; conforming provisions
19 to the creation of the regional counsel;
20 amending s. 29.008, F.S.; requiring counties to
21 provide certain funding related to the offices
22 of the guardian ad litem and the criminal
23 conflict and civil regional counsel; revising
24 definitions related to county funding
25 responsibilities; revising methods for
26 determining certain local funding requirements,
27 to conform; amending s. 29.015, F.S., relating
28 to deficits in due-process funds; conforming
29 provisions to the creation of the regional
30 counsel; revising procedures for use of certain
31 contingency funds; amending s. 29.018, F.S.,

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1 relating to cost sharing of due-process
2 services; conforming provisions to the creation
3 of the regional counsel; amending s. 39.815,
4 F.S.; conforming a cross-reference; amending s.
5 43.16, F.S.; authorizing the Justice
6 Administrative Commission to provide
7 administrative assistance to criminal conflict
8 and civil regional counsel; revising the
9 application of provisions to conform to changes
10 made by the act; amending s. 57.082, F.S.;
11 revising provisions governing the determination
12 of civil indigent status in order to include
13 the appointment of public attorneys in addition
14 to private attorneys; requiring the court to
15 appoint the office of criminal conflict and
16 civil regional counsel in certain civil cases;
17 amending s. 110.205, F.S.; exempting officers
18 and employees of the regional offices from the
19 state career service system; amending s.
20 125.69, F.S.; authorizing counties to contract
21 with the regional counsel to represent
22 defendants charged with violations of
23 ordinances; amending s. 216.011, F.S.;
24 providing that the regional offices are state
25 agencies for state budgeting purposes; amending
26 s. 744.331, F.S.; providing for the appointment
27 of the office of criminal conflict and civil
28 regional counsel for alleged incapacitated
29 persons; providing a temporary exception from
30 certain education requirements for regional
31 counsel; amending s. 938.29, F.S.; providing

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1 that certain defendants are liable for regional
2 counsel fees and certain due-process costs;
3 creating a lien against the property of persons
4 who receive regional counsel representation and
5 other due-process services; creating a lien
6 against certain parents for fees and costs;
7 providing for enforcement by the clerk and
8 valuation of fees and costs by the court;
9 repealing s. 27.42, F.S., relating to circuit
10 Article V indigent services committees;
11 providing legislative findings and intent
12 regarding implementation of the act; providing
13 effective dates.

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

16
17 Section 1. Effective October 1, 2007, subsections,
18 (1), (2), (3), (7), and (9) of section 27.40, Florida
19 Statutes, are amended to read:

20 27.40 Court-appointed counsel; circuit registries;
21 minimum requirements; appointment by court.--

22 (1) Counsel shall be appointed to represent any
23 individual in a criminal or civil proceeding entitled to
24 court-appointed counsel under the Federal or State
25 Constitution or as authorized by general law. The court shall
26 appoint a public defender to represent indigent persons as
27 authorized in s. 27.51. The office of criminal conflict and
28 civil regional counsel shall be appointed to represent persons
29 in those cases in which provision is made for court-appointed
30 counsel but the public defender is unable to provide
31 representation due to a conflict of interest or is not

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1 authorized to provide representation.

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

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

13 (3) In utilizing a registry:

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

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

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

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

24 (d) Quarterly, each chief judge ~~circuit Article V~~
25 ~~indigent services committee~~ shall provide a current copy of
26 each registry to the Chief Justice of the Supreme Court, ~~the~~
27 ~~chief judge,~~ the state attorney and public defender in each
28 judicial circuit, the office of criminal conflict and civil
29 regional counsel, the clerk of court in each county, and the
30 Justice Administrative Commission, ~~and the Indigent Services~~
31 ~~Advisory Board.~~ From October 1, 2005, through September 30,

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1 2007, the report submitted by the Eleventh Judicial Circuit
2 shall include the race, gender, and national origin of all
3 attorneys listed in and appointed under the registry.

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

28 (b) The attorney shall maintain appropriate
29 documentation, including contemporaneous ~~a current~~ and
30 detailed hourly accounting of time spent representing the
31 ~~defendant or other client.~~ If the attorney fails to maintain

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

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

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

17 27.405 Court-appointed counsel; Justice Administrative
18 Commission tracking and reporting.--

19 (1) The Justice Administrative Commission shall
20 separately track expenditures for private court-appointed
21 counsel for the each of the categories of criminal or civil
22 cases in which private counsel may be appointed.

23 (2) The commission shall prepare and issue on a
24 quarterly basis a statewide report comparing actual
25 year-to-date expenditures to budget amounts for each of the
26 judicial circuits. The commission shall distribute copies of
27 the quarterly reports to the Governor, the Chief Justice of
28 the Supreme Court, the President of the Senate, and the
29 Speaker of the House of Representatives.

30 (3) From October 1, 2005, through September 30, 2007,
31 the commission shall also track and issue a report on the

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1 race, gender, and national origin of private court-appointed
2 counsel for the Eleventh Judicial Circuit.

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

5 27.425 Due process service rates; responsibilities of
6 chief judge.--

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

13 (2) Annually, the chief judge shall submit proposed
14 due process compensation rates to the Office of the State
15 Courts Administrator for inclusion in the legislative budget
16 request for the state courts system.

17 (3) The maximum rates shall be specified annually in
18 the General Appropriations Act. For the 2007-2008 fiscal year,
19 the maximum rates shall be the rates in effect on June 30,
20 2007.

21 (4) The total amount expended for providers of due
22 process services in eligible cases may not exceed the amount
23 budgeted in the General Appropriations Act for the particular
24 due process service.

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

27 27.511 Offices of criminal conflict and civil regional
28 counsel; legislative intent; qualifications; appointment;
29 duties.--

30 (1) It is the intent of the Legislature to provide
31 adequate representation to persons entitled to court-appointed

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

12 (2) Each office of criminal conflict and civil
13 regional counsel shall be assigned to the Justice
14 Administrative Commission for administrative purposes. The
15 commission shall provide administrative support and service to
16 the offices to the extent requested by each regional counsel
17 within the available resources of the commission. The regional
18 counsel and the offices are not subject to control,
19 supervision, or direction by the commission in the performance
20 of their duties, but the employees of the offices shall be
21 governed by the classification plan and the salary and
22 benefits plan approved by the commission.

23 (3) Each regional counsel must be, and must have been
24 for the preceding 5 years, a member in good standing of The
25 Florida Bar or a similar organization in another state. Each
26 regional counsel shall be appointed by the Governor and is
27 subject to confirmation by the Senate. The Supreme Court
28 Judicial Nominating Commission shall recommend to the Governor
29 three qualified candidates for appointment to each of the five
30 regional counsel positions. The Governor shall appoint the
31 regional counsel for the five regions from among the

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1 recommendations, or, if it is in the best interest of the fair
2 administration of justice, the Governor may reject the
3 nominations and request that the Supreme Court Judicial
4 Nominating Commission submit three new nominees. The regional
5 counsel shall be appointed to a term of 4 years, the first
6 term beginning on July 1, 2007. Vacancies shall be filled in
7 the same manner as appointments.

8 (4) Each regional counsel shall serve on a full-time
9 basis and may not engage in the private practice of law while
10 holding office. Assistant regional counsel shall give priority
11 and preference to their duties as assistant regional counsel
12 and may not otherwise engage in the practice of criminal law
13 or in proceedings under chapter 39, chapter 415, or chapter
14 744.

15 (5) Effective October 1, 2007, when the Office of the
16 Public Defender, at any time during the representation of two
17 or more defendants, determines that the interests of those
18 accused are so adverse or hostile that they cannot all be
19 counseled by the public defender or his or her staff without a
20 conflict of interest, or that none can be counseled by the
21 public defender or his or her staff because of a conflict of
22 interest, and the court grants the public defender's motion to
23 withdraw, the office of criminal conflict and civil regional
24 counsel shall be appointed and shall provide legal services,
25 without additional compensation, to any person determined to
26 be indigent under s. 27.52, who is:

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

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

29 1. A misdemeanor authorized for prosecution by the
30 state attorney;

31 2. A violation of chapter 316 punishable by

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1 imprisonment;

2 3. Criminal contempt; or

3 4. A violation of a special law or county or municipal
4 ordinance ancillary to a state charge, or if not ancillary to
5 a state charge, only if the office of criminal conflict and
6 civil regional counsel contracts with the county or
7 municipality to provide representation pursuant to ss. 27.54
8 and 125.69.

9
10 The office of criminal conflict and civil regional counsel may
11 not provide representation pursuant to this paragraph if the
12 court, prior to trial, files in the cause an order of no
13 imprisonment as provided in s. 27.512;

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

16 (d) Sought by petition filed in such court to be
17 involuntarily placed as a mentally ill person under part I of
18 chapter 394, involuntarily committed as a sexually violent
19 predator under part V of chapter 394, or involuntarily
20 admitted to residential services as a person with
21 developmental disabilities under chapter 393;

22 (e) Convicted and sentenced to death, for purposes of
23 handling an appeal to the Supreme Court; or

24 (f) Is appealing a matter in a case arising under
25 paragraphs (a)-(d).

26 (6)(a) Effective October 1, 2007, the office of
27 criminal conflict and civil regional counsel has primary
28 responsibility for representing persons entitled to
29 court-appointed counsel under the Federal or State
30 Constitution or as authorized by general law in civil
31 proceedings, including, but not limited to, proceedings under

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1 chapters 39, 390, 392, 397, 415, 743, 744, and 984.

2 (b) If constitutional principles or general law
3 provide for court-appointed counsel in civil proceedings, the
4 court shall first appoint the regional office unless general
5 law specifically provides for appointment of the public
6 defender, in which case the court shall appoint the regional
7 office if the public defender has a conflict of interest.

8 (c) The regional office may not represent any
9 plaintiff in a civil action brought under the Florida Rules of
10 Civil Procedure, the Federal Rules of Civil Procedure, or
11 federal statutes, and may not represent a petitioner in a rule
12 challenge under chapter 120, unless specifically authorized by
13 law.

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

20 (8) The office of criminal conflict and civil regional
21 counsel shall handle all circuit court appeals within the
22 state courts system and any authorized appeals to the federal
23 courts which are required in cases in which the office of
24 criminal conflict and civil regional counsel is appointed
25 under this section.

26 (9) When direct appellate proceedings prosecuted by
27 the office of criminal conflict and civil regional counsel on
28 behalf of an accused and challenging a judgment of conviction
29 and sentence of death terminate in an affirmance of such
30 conviction and sentence, whether by the Supreme Court or by
31 the United States Supreme Court or by expiration of any

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1 deadline for filing such appeal in a state or federal court,
2 the office of criminal conflict and civil regional counsel
3 shall notify the accused of his or her rights pursuant to Rule
4 3.850, Florida Rules of Criminal Procedure, including any time
5 limits pertinent thereto, and shall advise such person that
6 representation in any collateral proceedings is the
7 responsibility of the capital collateral regional counsel. The
8 office of criminal conflict and civil regional counsel shall
9 forward all original files on the matter to the capital
10 collateral regional counsel, retaining such copies for his or
11 her files as may be desired or required by law. However, the
12 trial court shall retain the power to appoint the office of
13 criminal conflict and civil regional counsel or other attorney
14 not employed by the capital collateral regional counsel to
15 represent such person in proceedings for relief by executive
16 clemency pursuant to ss. 27.40 and 27.5303.

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

19 27.512 Order of no imprisonment.--

20 (1) In each case in which the court determines that it
21 will not sentence the defendant to imprisonment if convicted,
22 the court shall issue an order of no imprisonment and the
23 court may not appoint the public defender or other counsel to
24 represent the defendant. If the court issues an order of no
25 imprisonment following the appointment of the public defender
26 or other counsel, the court shall immediately terminate the
27 appointed counsel's ~~public defender's~~ services. However, if at
28 any time the court withdraws the order of no imprisonment with
29 respect to an indigent defendant, the court shall appoint the
30 public defender to represent the defendant.

31 Section 6. Effective October 1, 2007, subsections (2),

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1 (3), (4), (5), (6), and (7) of section 27.52, Florida
2 Statutes, are amended to read:

3 27.52 Determination of indigent status.--

4 (2) DETERMINATION BY THE CLERK.--The clerk of the
5 court shall determine whether an applicant seeking appointment
6 of a public defender is indigent based upon the information
7 provided in the application and the criteria prescribed in
8 this subsection.

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

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

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

- 27 1. The applicant is not indigent.
- 28 2. The applicant is indigent.

29 (c)1. If the clerk determines that the applicant is
30 indigent, the clerk shall submit the determination to the
31 office of the public defender and immediately file the

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1 determination in the case file.

2 2. If the public defender is unable to provide
3 representation due to a conflict pursuant to s. 27.5303, the
4 public defender shall move the court for withdrawal from
5 representation and appointment of the office of criminal
6 conflict and civil regional ~~private~~ counsel.

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

16 (e) The applicant may seek review of the clerk's
17 determination that the applicant is not indigent in the court
18 having jurisdiction over the matter at the next scheduled
19 hearing. If the applicant seeks review of the clerk's
20 determination of indigent status, the court shall make a final
21 determination as provided in subsection (4).

22 (3) APPOINTMENT OF COUNSEL ON INTERIM BASIS.--If the
23 clerk of the court has not made a determination of indigent
24 status at the time a person requests appointment of a public
25 defender, the court shall make a preliminary determination of
26 indigent status, pending further review by the clerk, and may,
27 by court order, appoint a public defender, the office of
28 criminal conflict and civil regional counsel, or private
29 counsel on an interim basis.

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

31 (a) If the clerk of the court determines that the

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1 applicant is not indigent, and the applicant seeks review of
 2 the clerk's determination, the court shall make a final
 3 determination of indigent status by reviewing the information
 4 provided in the application against the criteria prescribed in
 5 subsection (2) and by considering the following additional
 6 factors:

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

9 2. Whether a bond has been posted, the type of bond,
 10 and who paid the bond.

11 3. Whether paying for private counsel in an amount
 12 that exceeds the limitations in s. 27.5304, or other due
 13 process services creates a substantial hardship for the
 14 applicant or the applicant's family.

15 4. Any other relevant financial circumstances of the
 16 applicant or the applicant's family.

17 (b) Based upon its review, the court shall make one of
 18 the following determinations and, if the applicant is
 19 indigent, shall appoint a public defender, the office of
 20 criminal conflict and civil regional counsel, or, if
 21 appropriate, private counsel:

22 1. The applicant is not indigent.

23 2. The applicant is indigent.

24 (5) INDIGENT FOR COSTS.--A person who is eligible to
 25 be represented by a public defender under s. 27.51 but who is
 26 represented by private counsel not appointed by the court for
 27 a reasonable fee as approved by the court, on a pro bono
 28 basis, or who is proceeding pro se, may move the court for a
 29 determination that he or she is indigent for costs and
 30 eligible for the provision of due process services, as
 31 prescribed by ss. 29.006 and 29.007, funded by the state.

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

2 1. The completed application prescribed in subsection
3 (1).

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

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

8 1. Whether the applicant applied for a determination
9 of indigent status under subsection (1) and the outcome of
10 such application.

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

13 3. The additional factors prescribed in subsection
14 (4).

15 4. Whether the applicant is proceeding pro se.

16 5. When the applicant retained private counsel.

17 6. The amount of any attorney's fees and who is paying
18 the fees.

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

21 1. The applicant is not indigent for costs.

22 2. The applicant is indigent for costs.

23 (d) The provision of due process services based upon a
24 determination that a person is indigent for costs under this
25 subsection must be effectuated pursuant to a court order, a
26 copy of which the clerk shall provide to counsel representing
27 the person, or to the person directly if he or she is
28 proceeding pro se, for use in requesting payment of due
29 process expenses through the Justice Administrative
30 Commission. Private counsel representing a person declared
31 indigent for costs shall execute the Justice Administrative

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1 Commission's contract for counsel representing persons
2 determined to be indigent for costs.

3 (6) DUTIES OF PARENT OR LEGAL GUARDIAN.--A nonindigent
4 parent or legal guardian of an applicant who is a minor or an
5 adult tax-dependent person shall furnish the minor or adult
6 tax-dependent person with the necessary legal services and
7 costs incident to a delinquency proceeding or, upon transfer
8 of such person for criminal prosecution as an adult pursuant
9 to chapter 985, a criminal prosecution in which the person has
10 a right to legal counsel under the Constitution of the United
11 States or the Constitution of the State of Florida. The
12 failure of a parent or legal guardian to furnish legal
13 services and costs under this section does not bar the
14 appointment of legal counsel pursuant to this section, s.
15 27.40, or s. 27.5303. When the public defender, the office of
16 criminal conflict and civil regional counsel, a private
17 court-appointed conflict counsel, or a private attorney is
18 appointed to represent a minor or an adult tax-dependent
19 person in any proceeding in circuit court or in a criminal
20 proceeding in any other court, the parents or the legal
21 guardian shall be liable for payment of the fees, charges, and
22 costs of the representation even if the person is a minor
23 being tried as an adult. Liability for the fees, charges, and
24 costs of the representation shall be imposed in the form of a
25 lien against the property of the nonindigent parents or legal
26 guardian of the minor or adult tax-dependent person. The lien
27 is enforceable as provided in s. 27.561 or s. 938.29.

28 (7) FINANCIAL DISCREPANCIES; FRAUD; FALSE
29 INFORMATION.--

30 (a) If the court learns of discrepancies between the
31 application or motion and the actual financial status of the

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1 person found to be indigent or indigent for costs, the court
2 shall determine whether the public defender, office of
3 criminal conflict and civil regional counsel, or private
4 attorney shall continue representation or whether the
5 authorization for any other due process services previously
6 authorized shall be revoked. The person may be heard regarding
7 the information learned by the court. If the court, based on
8 the information, determines that the person is not indigent or
9 indigent for costs, the court shall order the public defender,
10 office of criminal conflict and civil regional counsel, or
11 private attorney to discontinue representation and revoke the
12 provision of any other authorized due process services.

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

25 (c) A person who knowingly provides false information
26 to the clerk or the court in seeking a determination of
27 indigent status under this section commits a misdemeanor of
28 the first degree, punishable as provided in s. 775.082 or s.
29 775.083.

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

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1 27.525 Indigent Criminal Defense Trust Fund.--The
 2 Indigent Criminal Defense Trust Fund is ~~hereby~~ created, to be
 3 administered by the Justice Administrative Commission. Funds
 4 shall be credited to the trust fund as provided in s. 27.52,
 5 to be used for the purposes of indigent criminal defense as
 6 appropriated by the Legislature to the public defender or the
 7 office of criminal conflict and civil regional counsel ~~set~~
 8 ~~forth therein~~. The Justice Administrative Commission shall
 9 account for these funds on a circuit basis, and appropriations
 10 from the fund shall be proportional to each circuit's
 11 collections.

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

14 27.53 Appointment of assistants and other staff;
 15 method of payment.--

16 (4) The five criminal conflict and civil regional
 17 counsel may employ and establish, in the numbers authorized by
 18 the General Appropriations Act, assistant regional counsel and
 19 other staff and personnel in each judicial district pursuant
 20 to s. 29.006, who shall be paid from funds appropriated for
 21 that purpose. Notwithstanding s. 790.01, s. 790.02, or s.
 22 790.25(2)(a), an investigator employed by an office of
 23 criminal conflict and civil regional counsel, while actually
 24 carrying out official duties, is authorized to carry concealed
 25 weapons if the investigator complies with s. 790.25(3)(o).
 26 However, such investigators are not eligible for membership in
 27 the Special Risk Class of the Florida Retirement System. The
 28 five regional counsel shall jointly develop a coordinated
 29 classification and pay plan that shall be submitted on or
 30 before January 1 of each year to the Justice Administrative
 31 Commission, the office of the President of the Senate, and the

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1 office of the Speaker of the House of Representatives. Such
2 plan shall be developed in accordance with policies and
3 procedures of the Executive Office of the Governor established
4 in s. 216.181. Each assistant regional counsel appointed by
5 the regional counsel under this section shall serve at the
6 pleasure of the regional counsel. Each investigator employed
7 by the regional counsel shall have full authority to serve any
8 witness subpoena or court order issued by any court or judge
9 in a criminal case in which the regional counsel has been
10 appointed to represent the accused.

11 (5) The appropriations for the offices of criminal
12 conflict and civil regional counsel shall be determined by a
13 funding formula and other factors that are considered
14 appropriate in a manner to be determined by this section and
15 the General Appropriations Act.

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

18 27.5301 Salaries of public defenders, ~~and~~ assistant
19 public defenders, criminal conflict and civil regional
20 counsel, and assistant regional counsel.--

21 (1) The salaries of public defenders shall be as
22 provided in the General Appropriations Act and shall be paid
23 in equal monthly installments.

24 (2) The salary for each assistant public defender
25 shall be set by the public defender of the same judicial
26 circuit in an amount not to exceed 100 percent of that public
27 defender's salary and shall be paid from funds appropriated
28 for that purpose. Assistant public defenders who serve in less
29 than a full-time capacity shall be compensated for services
30 performed in an amount to be in proportion to the salary
31 allowed for full-time services.

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1 (3) The salary of the criminal conflict and civil
2 regional counsel shall be as provided in the General
3 Appropriations Act and shall be paid in equal monthly
4 installments.

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

12 Section 10. Effective October 1, 2007, section
13 27.5303, Florida Statutes, is amended to read:

14 27.5303 Public defenders; criminal conflict and civil
15 regional counsel; conflict of interest.--

16 (1)(a) If, at any time during the representation of
17 two or more defendants, a public defender determines that the
18 interests of those accused are so adverse or hostile that they
19 cannot all be counseled by the public defender or his or her
20 staff without conflict of interest, or that none can be
21 counseled by the public defender or his or her staff because
22 of a conflict of interest, then the public defender shall file
23 a motion to withdraw and move the court to appoint other
24 counsel. If requested by the Justice Administrative
25 Commission, the public defender shall submit a copy of the
26 motion to the Justice Administrative Commission at the time it
27 is filed with the court. ~~The Justice Administrative Commission~~
28 ~~shall have standing to appear before the court to contest any~~
29 ~~motion to withdraw due to a conflict of interest. The Justice~~
30 ~~Administrative Commission may contract with other public or~~
31 ~~private entities or individuals to appear before the court for~~

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1 ~~the purpose of contesting any motion to withdraw due to a~~
2 ~~conflict of interest.~~ The court shall review and may inquire
3 or conduct a hearing into the adequacy of the public
4 defender's representations regarding a conflict of interest
5 without requiring the disclosure of any confidential
6 communications. The court shall deny the motion to withdraw if
7 the court finds the grounds for withdrawal are insufficient or
8 the asserted conflict is not prejudicial to the indigent
9 client. If the court grants the motion to withdraw, the court
10 shall appoint one or more attorneys to represent the accused,
11 as provided in s. 27.40.

12 (b) If, at any time during the representation of two
13 or more persons in a criminal or civil proceeding, a criminal
14 conflict and civil regional counsel determines that the
15 interests of those clients are so adverse or hostile that they
16 cannot all be counseled by the regional counsel or his or her
17 staff without conflict of interest, or that none can be
18 counseled by the regional counsel or his or her staff because
19 of a conflict of interest, the regional counsel shall file a
20 motion to withdraw and move the court to appoint other
21 counsel. If requested by the Justice Administrative
22 Commission, the regional counsel shall submit a copy of the
23 motion to the Justice Administrative Commission at the time it
24 is filed with the court. The court shall review and may
25 inquire or conduct a hearing into the adequacy of the regional
26 counsel's representations regarding a conflict of interest
27 without requiring the disclosure of any confidential
28 communications. The court shall deny the motion to withdraw if
29 the court finds the grounds for withdrawal are insufficient or
30 the asserted conflict is not prejudicial to the client. If the
31 court grants the motion to withdraw, the court shall appoint

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1 one or more private attorneys to represent the person as
2 provided in s. 27.40. The clerk of court shall inform the
3 regional office and the commission when the court appoints
4 private counsel.

5 ~~(c)(b)~~ Upon its own motion, the court shall appoint
6 such other counsel when the facts developed upon the face of
7 the record and court files in the case disclose a conflict of
8 interest. The clerk ~~court~~ shall advise the appropriate public
9 defender or criminal conflict and civil regional counsel ~~and~~
10 ~~clerk of court~~, in writing, with an electronic ~~a~~ copy to the
11 Justice Administrative Commission, ~~if so requested by the~~
12 ~~Justice Administrative Commission~~, when the court makes ~~making~~
13 the motion and appoints ~~appointing~~ one or more attorneys ~~to~~
14 ~~represent the accused~~. The court shall specify the basis for
15 the conflict.

16 ~~(d)(e)~~ In no case shall the court approve a withdrawal
17 by the public defender or criminal conflict and civil regional
18 counsel based solely upon inadequacy of funding or excess
19 workload of the public defender or regional counsel.

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

28 1. Determine if there is a viable alternative to
29 withdrawal from representation which would remedy the conflict
30 of interest and, if its exists, implement that alternative;
31 and

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1 2. Approve in writing the filing of the motion to
2 withdraw.

3 (2) The court shall appoint conflict counsel pursuant
4 to s. 27.40, first appointing the office of criminal conflict
5 and civil regional counsel and, if the office is found to have
6 a conflict, appointing private counsel. The appointed private
7 attorney may not be affiliated with the public defender, or
8 any assistant public defender, the regional counsel, or any
9 assistant regional counsel in his or her official capacity or
10 any other private attorney appointed to represent a
11 codefendant. The public defender or regional counsel may not
12 participate in case-related decisions, performance
13 evaluations, or expense determinations in conflict cases.

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

16 (4)(a) If a defendant is convicted and the death
17 sentence is imposed, the appointed attorney shall continue
18 representation through appeal to the Supreme Court. The
19 attorney shall be compensated as provided in s. 27.5304. If
20 the attorney first appointed is unable to handle the appeal,
21 the court shall appoint another attorney and that attorney
22 shall be compensated as provided in s. 27.5304.

23 (b) The public defender or an attorney appointed
24 pursuant to this section may be appointed by the court
25 rendering the judgment imposing the death penalty to represent
26 an indigent defendant who has applied for executive clemency
27 as relief from the execution of the judgment imposing the
28 death penalty.

29 (c) When the appointed attorney in a capital case has
30 completed the duties imposed by this section, the attorney
31 shall file a written report in the trial court stating the

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1 duties performed by the attorney and apply for discharge.

2 Section 11. Section 27.5304, Florida Statutes, is
3 amended to read:

4 27.5304 Private court-appointed counsel;
5 compensation.--

6 (1) Private court-appointed counsel shall be
7 compensated by the Justice Administrative Commission as
8 provided in an amount not to exceed the fee limits established
9 in this section and the General Appropriations Act. The flat
10 fees prescribed in this section are limitations on
11 compensation. The specific flat fee amounts for compensation
12 shall be established annually in the General Appropriations
13 Act. The attorney also shall be reimbursed for reasonable and
14 necessary expenses in accordance with s. 29.007. If the
15 attorney is representing a defendant charged with more than
16 one offense in the same case, the attorney shall be
17 compensated at the rate provided for the most serious offense
18 for which he or she represented the defendant. This section
19 does not allow stacking of the fee limits established by this
20 section. ~~Private court-appointed counsel providing~~
21 ~~representation under an alternative model shall enter into a~~
22 ~~uniform contract with the Justice Administrative Commission~~
23 ~~and shall use the Justice Administrative Commission's uniform~~
24 ~~procedures and forms in support of billing for attorney's~~
25 ~~fees, costs, and related expenses. Failure to comply with the~~
26 ~~terms of the contract for services may result in termination~~
27 ~~of the contract.~~

28 (2) The Justice Administrative Commission shall review
29 an intended billing by private court-appointed counsel for
30 attorney's fees based on a flat fee per case for completeness
31 and compliance with contractual and, statutory, ~~and circuit~~

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1 ~~Article V indigent services committee~~ requirements. The
2 commission may approve the intended bill for a flat fee per
3 case for payment without approval by the court if the intended
4 billing is correct. An intended billing that seeks
5 compensation for any amount exceeding the flat fee established
6 for a particular type of representation, as prescribed in the
7 General Appropriations Act, shall comply with subsections (11)
8 and (12). For all other intended billings, prior to filing a
9 motion for an order approving payment of attorney's fees,
10 costs, or related expenses, the private court-appointed
11 counsel shall deliver a copy of the intended billing, together
12 with supporting affidavits and all other necessary
13 documentation, to the Justice Administrative Commission. The
14 Justice Administrative Commission shall review the billings,
15 affidavit, and documentation for completeness and compliance
16 with contractual and statutory requirements. If the Justice
17 Administrative Commission objects to any portion of the
18 proposed billing, the objection and reasons therefor shall be
19 communicated to the private court-appointed counsel. The
20 private court-appointed counsel may thereafter file his or her
21 motion for order approving payment of attorney's fees, costs,
22 or related expenses together with supporting affidavits and
23 all other necessary documentation. The motion must specify
24 whether the Justice Administrative Commission objects to any
25 portion of the billing or the sufficiency of documentation and
26 shall attach the Justice Administrative Commission's letter
27 stating its objection. The attorney shall have the burden to
28 prove the entitlement to attorney's fees, costs, or related
29 expenses. A copy of the motion and attachments shall be served
30 on the Justice Administrative Commission at least 5 business
31 days prior to the date of a hearing. The Justice

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

13 (3) The court retains primary authority and
14 responsibility for determining the reasonableness of all
15 billings for attorney's fees, costs, and related expenses,
16 subject to statutory limitations. Private court-appointed
17 counsel is entitled to compensation upon final disposition of
18 a case, ~~except as provided in subsections (7), (8), and (10).~~

19 (4) The attorney shall submit a bill for attorney's
20 fees, costs, and related expenses within 180 days after the
21 disposition of the case at the lower court level,
22 notwithstanding any appeals. The Justice Administrative
23 Commission shall provide by contract with the attorney for
24 imposition of a penalty of 15 percent of the allowable
25 attorney's fees, costs, and related expenses for a bill that
26 is submitted more than 180 days after the disposition of the
27 case at the lower court level, notwithstanding any appeals.
28 ~~Before final disposition of a case, a private court-appointed~~
29 ~~counsel may file a motion for fees, costs, and related~~
30 ~~expenses for services completed up to the date of the motion~~
31 ~~in any case or matter in which legal services have been~~

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1 ~~provided by the attorney for more than 1 year. The amount~~
 2 ~~approved by the court may not exceed 80 percent of the fees~~
 3 ~~earned, or costs and related expenses incurred, to date, or an~~
 4 ~~amount proportionate to the maximum fees permitted under this~~
 5 ~~section based on legal services provided to date, whichever is~~
 6 ~~less. The court may grant the motion if counsel shows that~~
 7 ~~failure to grant the motion would work a particular hardship~~
 8 ~~upon counsel.~~

9 ~~(5)(3)~~ The compensation for representation in a
 10 criminal proceeding shall not exceed the following:

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

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

15 3. For life felonies represented at the trial level:
 16 \$3,000.

17 4. For capital cases represented at the trial level:
 18 ~~\$15,000~~ ~~\$3,500~~.

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

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

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

30 (6)(5) For compensation for representation pursuant to
 31 a court appointment in a proceeding under chapter 39:

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1 (a) At the trial level, compensation for
2 representation for dependency proceedings shall not exceed
3 \$1,000 for the first year following the date of appointment
4 and shall not exceed \$200 each year thereafter. Compensation
5 shall be paid based upon representation of a parent
6 irrespective of the number of case numbers that may be
7 assigned or the number of children involved, including any
8 children born during the pendency of the proceeding. Any
9 appeal, except for an appeal from an adjudication of
10 dependency, shall be completed by the trial attorney and is
11 considered compensated by the flat fee for dependency
12 proceedings.

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

15 2. Counsel may bill the annual flat fee not exceeding
16 \$200 following the first judicial review in the second year
17 following the date of appointment and each year thereafter as
18 long as the case remains under protective supervision.

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

23 4. If, during the course of dependency proceedings, a
24 proceeding to terminate parental rights is initiated,
25 compensation shall be as set forth in paragraph (b). If
26 counsel handling the dependency proceeding is not authorized
27 to handle proceedings to terminate parental rights, the
28 counsel must withdraw and new counsel must be appointed.

29 (b) At the trial level, compensation for
30 representation in termination of parental rights proceedings
31 shall not exceed \$1,000 for the first year following the date

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1 of appointment and shall not exceed \$200 each year thereafter.
 2 Compensation shall be paid based upon representation of a
 3 parent irrespective of the number of case numbers that may be
 4 assigned or the number of children involved, including any
 5 children born during the pendency of the proceeding. Any
 6 appeal, except for an appeal from an order granting or denying
 7 termination of parental rights, shall be completed by trial
 8 counsel and is considered compensated by the flat fee for
 9 termination of parental rights proceedings. If the individual
 10 has dependency proceedings ongoing as to other children, those
 11 proceedings are considered part of the termination of parental
 12 rights proceedings as long as that termination of parental
 13 rights proceeding is ongoing.

14 1. Counsel may bill the flat fee not exceeding \$1,000
 15 30 days after rendition of the final order. Each request for
 16 payment submitted to the Justice Administrative Commission
 17 must include the trial counsel's certification that:

18 a. Counsel discussed grounds for appeal with the
 19 parent or that counsel attempted and was unable to contact the
 20 parent; and

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

24 2. Counsel may bill the annual flat fee not exceeding
 25 \$200 following the first judicial review in the second year
 26 after the date of appointment and each year thereafter as long
 27 as the termination of parental rights proceedings are still
 28 ongoing.

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

31 1. Counsel may bill a flat fee not exceeding \$750 upon

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1 filing the initial brief or the granting of a motion to
2 withdraw.

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

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

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

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

12 ~~If counsel is entitled to receive compensation for~~
13 ~~representation pursuant to court appointment in a termination~~
14 ~~of parental rights proceeding under chapter 39, such~~
15 ~~compensation shall not exceed \$1,000 at the trial level and~~
16 ~~\$2,500 at the appellate level.~~

17 ~~(7)(b)~~ Counsel entitled to receive compensation for
18 representation pursuant to court appointment in a proceeding
19 under chapter 384 or chapter 392 shall receive reasonable
20 compensation as fixed by the court making the appointment.

21 ~~(8)(6)~~ A private attorney appointed in lieu of the
22 public defender or the criminal conflict and civil regional
23 counsel to represent an indigent defendant may not reassign or
24 subcontract the case to another attorney or allow another
25 attorney to appear at a critical stage of a case who is not on
26 the registry developed under s. 27.40.

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

31 ~~(a) Upon entry of an order of disposition as to the~~

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1 ~~parent being represented.~~

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

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

4

5 ~~In no case, however, may counsel submit requests under this~~
6 ~~subsection more than once per quarter, unless the court finds~~
7 ~~extraordinary circumstances justifying more frequent~~
8 ~~submission of payment requests.~~

9 ~~(9)(8)~~ Private court-appointed counsel representing an
10 individual in an appeal to a district court of appeal or the
11 Supreme Court may submit a request for payment to the Justice
12 Administrative Commission at the following intervals:

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

15 (b) When the opinion of the appellate court is
16 finalized.

17 ~~(10)(9)~~ Private court-appointed counsel may not bill
18 for preparation of invoices ~~whether or not the case is paid on~~
19 ~~the basis of an hourly rate or by flat fee.~~

20 ~~(10)~~ ~~The Justice Administrative Commission shall~~
21 ~~develop a schedule to provide partial payment of criminal~~
22 ~~attorney fees for cases that are not resolved within 6 months.~~
23 ~~The schedule must provide that the aggregate payments shall~~
24 ~~not exceed limits established by law. Any partial payment made~~
25 ~~pursuant to this subsection shall not exceed the actual value~~
26 ~~of services provided to date. Any partial payment shall be~~
27 ~~proportionate to the value of services provided based on~~
28 ~~payment rates included in the contract, not to exceed any~~
29 ~~limit provided by law.~~

30 (11) It is the intent of the Legislature that the flat
31 fees prescribed under this section and the General

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1 Appropriations Act comprise the full and complete compensation
2 for private court-appointed counsel. It is further the intent
3 of the Legislature that the fees in this section are
4 prescribed for the purpose of providing counsel with notice of
5 the limit on the amount of compensation for representation in
6 particular proceedings.

7 (a) If court-appointed counsel moves to withdraw prior
8 to the full performance of his or her duties through the
9 completion of the case, the court shall presume that the
10 attorney is not entitled to the payment of the full flat fee
11 established under this section and the General Appropriations
12 Act.

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

20
21 This subsection constitutes notice to any subsequently
22 appointed attorney that he or she will not be compensated the
23 full flat fee.

24 (12) The Legislature recognizes that on rare occasions
25 an attorney may receive a case that requires extraordinary and
26 unusual effort.

27 (a) If counsel seeks compensation that exceeds the
28 limits prescribed under this section and the General
29 Appropriations Act, he or she must file a motion with the
30 court for an order approving payment of attorney's fees in
31 excess of these limits.

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

5 2. The Justice Administrative Commission shall review
6 the billings, affidavit, and documentation for completeness
7 and compliance with contractual and statutory requirements. If
8 the Justice Administrative Commission objects to any portion
9 of the proposed billing, the objection and reasons therefor
10 shall be communicated in writing to the private
11 court-appointed counsel. The counsel may thereafter file his
12 or her motion, which must specify whether the commission
13 objects to any portion of the billing or the sufficiency of
14 documentation, and shall attach the commission's letter
15 stating its objection.

16 (b) Following receipt of the motion to exceed the fee
17 limits, the court shall hold an evidentiary hearing.

18 1. At the hearing, the attorney seeking compensation
19 must prove by competent and substantial evidence that the case
20 required extraordinary and unusual efforts. The judge shall
21 consider criteria such as the number of witnesses, the
22 complexity of the factual and legal issues, and the length of
23 trial. The fact that a trial was conducted in a case does not,
24 by itself, constitute competent substantial evidence of an
25 extraordinary and unusual effort. In a criminal case, relief
26 under this section may not be granted if the number of work
27 hours does not exceed 75 or the number of the state's
28 witnesses deposed does not exceed 20.

29 2. The judge shall enter a written order detailing his
30 or her findings and identifying the extraordinary nature of
31 the time and efforts of the attorney in the case which warrant

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1 exceeding the flat fee established by this section and the
2 General Appropriations Act.

3 (c) A copy of the motion and attachments shall be
4 served on the Justice Administrative Commission at least 5
5 business days prior to the date of a hearing. The Justice
6 Administrative Commission shall have standing to appear before
7 the court, including at the hearing under paragraph (b), to
8 contest any motion for an order approving payment of
9 attorney's fees, costs, or related expenses and may
10 participate in a hearing on the motion by use of telephonic or
11 other communication equipment unless ordered otherwise. The
12 Justice Administrative Commission may contract with other
13 public or private entities or individuals to appear before the
14 court for the purpose of contesting any motion for an order
15 approving payment of attorney's fees, costs, or related
16 expenses. The fact that the Justice Administrative Commission
17 has not objected to any portion of the billing or to the
18 sufficiency of the documentation is not binding on the court.

19 (d) If the court finds that counsel has proved by
20 competent and substantial evidence that the case required
21 extraordinary and unusual efforts, the court shall fix the
22 compensation to be paid to the attorney at a percentage above
23 the flat fee rate, depending on the extent of the unusual and
24 extraordinary effort required. The percentage shall be only
25 the rate necessary to ensure that the fees paid are not
26 confiscatory under common law. The percentage may not exceed
27 200 percent of the established flat fee, absent a specific
28 finding that 200 percent of the flat fee in the case would be
29 confiscatory. If the court determines that 200 percent of the
30 flat fee would be confiscatory, it shall fix the amount of
31 compensation using an hourly rate not to exceed \$75 per hour

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1 for a noncapital case and \$100 per hour for a capital case.
 2 However, the compensation calculated by using the hourly rate
 3 shall be only that amount necessary to ensure that the total
 4 fees paid are not confiscatory.

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

8 (f) The Justice Administrative Commission shall
 9 provide to the Office of the State Courts Administrator data
 10 concerning the number of cases approved for compensation in
 11 excess of the limitation and the amount of these awards by
 12 circuit and by judge. The Office of the State Courts
 13 Administrator shall report the data quarterly to the President
 14 of the Senate, the Speaker of the House of Representatives,
 15 the Chief Justice of the Supreme Court, and the chief judge of
 16 each circuit.

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

19 27.54 Limitation on payment of expenditures ~~for public~~
 20 ~~defender's office~~ other than by the state.--

21 (1) All payments for the salary of the public defender
 22 and the criminal conflict and civil regional counsel and for
 23 the necessary expenses of office, including salaries of
 24 assistants and staff, shall be considered as being for a valid
 25 public purpose. Travel expenses shall be paid in accordance
 26 with the provisions of s. 112.061.

27 (2) A county or municipality may contract with, or
 28 appropriate or contribute funds to, the operation of the
 29 offices of the various public defenders and regional counsel
 30 as provided in this subsection. A public defender or regional
 31 counsel defending violations of special laws or county or

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1 municipal ordinances punishable by incarceration and not
2 ancillary to a state charge shall contract with counties and
3 municipalities to recover the full cost of services rendered
4 on an hourly basis or reimburse the state for the full cost of
5 assigning one or more full-time equivalent attorney positions
6 to work on behalf of the county or municipality.
7 Notwithstanding any other provision of law, in the case of a
8 county with a population of less than 75,000, the public
9 defender or regional counsel shall contract for full
10 reimbursement, or for reimbursement as the parties otherwise
11 agree. In local ordinance violation cases, the county or
12 municipality shall pay for due process services that are
13 approved by the court, including deposition costs, deposition
14 transcript costs, investigative costs, witness fees, expert
15 witness costs, and interpreter costs. The person charged with
16 the violation shall be assessed a fee for the services of a
17 public defender or regional counsel and other costs and fees
18 paid by the county or municipality, which assessed fee may be
19 reduced to a lien, in all instances in which the person enters
20 a plea of guilty or no contest or is found to be in violation
21 or guilty of any count or lesser included offense of the
22 charge or companion case charges, regardless of adjudication.
23 The court shall determine the amount of the obligation. The
24 county or municipality may recover assessed fees through
25 collections court or as otherwise permitted by law, and any
26 fees recovered pursuant to this section shall be forwarded to
27 the applicable county or municipality as reimbursement.

28 (a) A contract for reimbursement on an hourly basis
29 shall require a county or municipality to reimburse the public
30 defender or regional counsel for services rendered at a rate
31 of \$50 per hour. If an hourly rate is specified in the General

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1 Appropriations Act, that rate shall control.

2 (b) A contract for assigning one or more full-time
 3 equivalent attorney positions to perform work on behalf of the
 4 county or municipality shall assign one or more full-time
 5 equivalent positions based on estimates by the public defender
 6 or regional counsel of the number of hours required to handle
 7 the projected workload. The full cost of each full-time
 8 equivalent attorney position on an annual basis shall be \$50,
 9 or the amount specified in the General Appropriations Act,
 10 multiplied by the legislative budget request standard for
 11 available work hours for one full-time equivalent attorney
 12 position, or, in the absence of that standard, 1,854 hours.
 13 The contract may provide for funding full-time equivalent
 14 positions in one-quarter increments.

15 (c) Any payments received pursuant to this subsection
 16 shall be deposited into the Grants and Donations Trust Fund
 17 within the Justice Administrative Commission for appropriation
 18 by the Legislature.

19 (3) No public defender, ~~or~~ assistant public defender,
 20 regional counsel, or assistant regional counsel shall receive
 21 from any county or municipality any supplemental salary,
 22 except as provided in this section.

23 (4) Unless expressly authorized by law or in the
 24 General Appropriations Act, public defenders and regional
 25 counsel are prohibited from spending state-appropriated funds
 26 on county funding obligations under s. 14, Art. V of the State
 27 Constitution beginning January 1, 2005. This includes
 28 expenditures on communications services and facilities as
 29 defined in s. 29.008. This does not prohibit a public defender
 30 from spending funds for these purposes in exceptional
 31 circumstances when necessary to maintain operational

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1 continuity in the form of a short-term advance pending
 2 reimbursement from the county. If a public defender or
 3 regional counsel provides short-term advance funding for a
 4 county responsibility as authorized by this subsection, the
 5 public defender or regional counsel shall request full
 6 reimbursement from the board of county commissioners prior to
 7 making the expenditure or at the next meeting of the board of
 8 county commissioners after the expenditure is made. The total
 9 of all short-term advances authorized by this subsection shall
 10 not exceed 2 percent of the public defender's or regional
 11 counsel's approved operating budget in any given year. No
 12 short-term advances authorized by this subsection shall be
 13 permitted until all reimbursements arising from advance
 14 funding in the prior state fiscal year have been received by
 15 the public defender or regional counsel. All reimbursement
 16 payments received by the public defender or regional counsel
 17 shall be deposited into the General Revenue Fund.
 18 Notwithstanding the provisions of this subsection, the public
 19 defender or regional counsel may expend funds for the purchase
 20 of computer systems, including associated hardware and
 21 software, and for personnel related to this function.

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

24 27.59 Access to prisoners.--The public defenders, ~~and~~
 25 assistant public defenders, criminal conflict and civil
 26 regional counsel, and assistant regional counsel shall be
 27 empowered to inquire of all persons who are incarcerated in
 28 lieu of bond and to tender them advice and counsel at any
 29 time, but the provisions of this section shall not apply with
 30 respect to persons who have engaged private counsel.

31 Section 14. Effective October 1, 2007, section 28.24,

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1 Florida Statutes, is amended to read:

2 28.24 Service charges by clerk of the circuit
3 court.--The clerk of the circuit court shall charge for
4 services rendered by the clerk's office in recording documents
5 and instruments and in performing the duties enumerated in
6 amounts not to exceed those specified in this section.

7 Notwithstanding any other provision of this section, the clerk
8 of the circuit court shall provide without charge to the state
9 attorney, public defender, guardian ad litem, public guardian,
10 attorney ad litem, criminal conflict and civil regional
11 counsel, and private court-appointed counsel paid by the
12 state, and to the authorized staff acting on behalf of each,
13 access to and a copy of any public record, if the requesting
14 party is entitled by law to view the exempt or confidential
15 record, as maintained by and in the custody of the clerk of
16 the circuit court as provided in general law and the Florida
17 Rules of Judicial Administration. The clerk of the circuit
18 court may provide the requested public record in an electronic
19 format in lieu of a paper format when capable of being
20 accessed by the requesting entity.

21
22 Charges

23
24 (1) For examining, comparing, correcting, verifying,
25 and certifying transcripts of record in appellate proceedings,
26 prepared by attorney for appellant or someone else other than
27 clerk per page.....4.50

28 (2) For preparing, numbering, and indexing an original
29 record of appellate proceedings, per instrument.....3.00

30 (3) For certifying copies of any instrument in the
31 public records.....1.50

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- 1 (4) For verifying any instrument presented for
- 2 certification prepared by someone other than clerk, per page
- 33.00
- 4 (5)(a) For making copies by photographic process of
- 5 any instrument in the public records consisting of pages of
- 6 not more than 14 inches by 8 1/2 inches, per page.....1.00
- 7 (b) For making copies by photographic process of any
- 8 instrument in the public records of more than 14 inches by 8
- 9 1/2 inches, per page.....5.00
- 10 (6) For making microfilm copies of any public records:
- 11 (a) 16 mm 100' microfilm roll.....37.50
- 12 (b) 35 mm 100' microfilm roll.....52.50
- 13 (c) Microfiche, per fiche.....3.00
- 14 (7) For copying any instrument in the public records
- 15 by other than photographic process, per page.....6.00
- 16 (8) For writing any paper other than herein
- 17 specifically mentioned, same as for copying, including signing
- 18 and sealing.....6.00
- 19 (9) For indexing each entry not recorded.....1.00
- 20 (10) For receiving money into the registry of court:
- 21 (a)1. First \$500, percent.....3
- 22 2. Each subsequent \$100, percent.....1.5
- 23 (b) Eminent domain actions, per deposit.....\$150.00
- 24 (11) For examining, certifying, and recording plats
- 25 and for recording condominium exhibits larger than 14 inches
- 26 by 8 1/2 inches:
- 27 (a) First page.....30.00
- 28 (b) Each additional page.....15.00
- 29 (12) For recording, indexing, and filing any
- 30 instrument not more than 14 inches by 8 1/2 inches, including
- 31 required notice to property appraiser where applicable:

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- 1 (a) First page or fraction thereof.....5.00
- 2 (b) Each additional page or fraction thereof.....4.00
- 3 (c) For indexing instruments recorded in the official
- 4 records which contain more than four names, per additional
- 5 name.....1.00
- 6 (d) An additional service charge shall be paid to the
- 7 clerk of the circuit court to be deposited in the Public
- 8 Records Modernization Trust Fund for each instrument listed in
- 9 s. 28.222, except judgments received from the courts and
- 10 notices of lis pendens, recorded in the official records:
- 11 1. First page.....1.00
- 12 2. Each additional page.....0.50

13

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

15 exclusively for equipment and maintenance of equipment,

16 personnel training, and technical assistance in modernizing

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

18 duty of maintaining official records exists in an office other

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

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

21 deposited into the trust fund for equipment, maintenance of

22 equipment, training, and technical assistance in modernizing

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

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

25 travel expenses, membership dues, bank charges,

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

27 construction costs, general operating expenses, or other costs

28 not directly related to obtaining and maintaining equipment

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

30 office supplies and equipment not related to the storage of

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

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1 December 1 of each year immediately preceding each year during
 2 which the trust fund is scheduled for legislative review under
 3 s. 19(f)(2), Art. III of the State Constitution, each clerk of
 4 the circuit court shall file a report on the Public Records
 5 Modernization Trust Fund with the President of the Senate and
 6 the Speaker of the House of Representatives. The report must
 7 itemize each expenditure made from the trust fund since the
 8 last report was filed; each obligation payable from the trust
 9 fund on that date; and the percentage of funds expended for
 10 each of the following: equipment, maintenance of equipment,
 11 personnel training, and technical assistance. The report must
 12 indicate the nature of the system each clerk uses to store,
 13 maintain, and retrieve public records and the degree to which
 14 the system has been upgraded since the creation of the trust
 15 fund.

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

21 1. If the counties maintain legal responsibility for
 22 the costs of the court-related technology needs as defined in
 23 s. 29.008(1)(f)2. and (h), 10 cents shall be distributed to
 24 the Florida Association of Court Clerks and Comptroller, Inc.,
 25 for the cost of development, implementation, operation, and
 26 maintenance of the clerks' Comprehensive Case Information
 27 System, in which system all clerks shall participate on or
 28 before January 1, 2006; \$1.90 shall be retained by the clerk
 29 to be deposited in the Public Records Modernization Trust Fund
 30 and used exclusively for funding court-related technology
 31 needs of the clerk as defined in s. 29.008(1)(f)2. and (h);

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1 and \$2 shall be distributed to the board of county
2 commissioners to be used exclusively to fund court-related
3 technology, and court technology needs as defined in s.
4 29.008(1)(f)2. and (h) for the state trial courts, state
5 attorney, ~~and~~ public defender, and criminal conflict and civil
6 regional counsel in that county. If the counties maintain
7 legal responsibility for the costs of the court-related
8 technology needs as defined in s. 29.008(1)(f)2. and (h),
9 notwithstanding any other provision of law, the county is not
10 required to provide additional funding beyond that provided
11 herein for the court-related technology needs of the clerk as
12 defined in s. 29.008(1)(f)2. and (h). All court records and
13 official records are the property of the State of Florida,
14 including any records generated as part of the Comprehensive
15 Case Information System funded pursuant to this paragraph and
16 the clerk of court is designated as the custodian of such
17 records, except in a county where the duty of maintaining
18 official records exists in a county office other than the
19 clerk of court or comptroller, such county office is
20 designated the custodian of all official records, and the
21 clerk of court is designated the custodian of all court
22 records. The clerk of court or any entity acting on behalf of
23 the clerk of court, including an association, shall not charge
24 a fee to any agency as defined in s. 119.011, the Legislature,
25 or the State Court System for copies of records generated by
26 the Comprehensive Case Information System or held by the clerk
27 of court or any entity acting on behalf of the clerk of court,
28 including an association.

29 2. If the state becomes legally responsible for the
30 costs of court-related technology needs as defined in s.
31 29.008(1)(f)2. and (h), whether by operation of general law or

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

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

5 (14) For validating certificates, any authorized
6 bonds, each.....3.00

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

8 (16) For exemplified certificates, including signing
9 and sealing.....6.00

10 (17) For authenticated certificates, including signing
11 and sealing.....6.00

12 (18)(a) For issuing and filing a subpoena for a
13 witness, not otherwise provided for herein (includes writing,
14 preparing, signing, and sealing).....6.00

15 (b) For signing and sealing only.....1.50

16 (19) For approving bond.....7.50

17 (20) For searching of records, for each year's search
181.50

19 (21) For processing an application for a tax deed sale
20 (includes application, sale, issuance, and preparation of tax
21 deed, and disbursement of proceeds of sale), other than excess
22 proceeds.....60.00

23 (22) For disbursement of excess proceeds of tax deed
24 sale, first \$100 or fraction thereof.....10.00

25 (23) Upon receipt of an application for a marriage
26 license, for preparing and administering of oath; issuing,
27 sealing, and recording of the marriage license; and providing
28 a certified copy.....30.00

29 (24) For solemnizing matrimony.....30.00

30 (25) For sealing any court file or expungement of any
31 record.....37.50

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1 (26)(a) For receiving and disbursing all restitution
2 payments, per payment.....3.00

3 (b) For receiving and disbursing all partial payments,
4 other than restitution payments, for which an administrative
5 processing service charge is not imposed pursuant to s.
6 28.246, per month.....5.00

7 (c) For setting up a payment plan, a one-time
8 administrative processing charge in lieu of a per month charge
9 under paragraph (b).....25.00

10 (27) Postal charges incurred by the clerk of the
11 circuit court in any mailing by certified or registered mail
12 shall be paid by the party at whose instance the mailing is
13 made.

14 (28) For furnishing an electronic copy of information
15 contained in a computer database: a fee as provided for in
16 chapter 119.

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

19 28.345 Exemption from court-related fees and
20 charges.--Notwithstanding any other provision of this chapter
21 or law to the contrary, judges and those court staff acting on
22 behalf of judges, state attorneys, guardians ad litem, public
23 guardians, attorneys ad litem, court-appointed private
24 counsel, criminal conflict and civil regional counsel, and
25 public defenders, acting in their official capacity, and state
26 agencies, are exempt from all court-related fees and charges
27 assessed by the clerks of the circuit courts.

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

30 29.001 State courts system elements and definitions.--

31 (1) For the purpose of implementing s. 14, Art. V of

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1 the State Constitution, the state courts system is defined to
 2 include the enumerated elements of the Supreme Court, district
 3 courts of appeal, circuit courts, county courts, and certain
 4 supports thereto. The offices of public defenders and state
 5 attorneys are defined to include the enumerated elements of
 6 the 20 state attorneys' offices and the enumerated elements of
 7 the 20 public defenders' offices and five offices of criminal
 8 conflict and civil regional counsel. Court-appointed counsel
 9 are defined to include the enumerated elements for counsel
 10 appointed to ensure due process in criminal and civil
 11 proceedings in accordance with state and federal
 12 constitutional guarantees. Funding for the state courts
 13 system, the state attorneys' offices, the public defenders'
 14 offices, the offices of criminal conflict and civil regional
 15 counsel, and other court-appointed counsel shall be provided
 16 from state revenues appropriated by general law.

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

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

26 29.006 ~~Public defenders and~~ Indigent defense
 27 costs.--For purposes of implementing s. 14, Art. V of the
 28 State Constitution, the elements of the public defenders'
 29 offices and criminal conflict and civil regional counsel
 30 offices to be provided from state revenues appropriated by
 31 general law are as follows:

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1 (1) The public defender of each judicial circuit and
 2 assistant public defenders and other staff as determined by
 3 general law. The regional counsel of each judicial district,
 4 the assistant regional counsel, and other staff as determined
 5 by general law.

6 (2) Reasonable court reporting and transcription
 7 services necessary to meet constitutional or statutory
 8 requirements, including the cost of transcribing and copying
 9 depositions of witnesses and the cost of foreign language and
 10 sign-language interpreters and translators.

11 (3) Witnesses, including expert witnesses, summoned to
 12 appear for an investigation, preliminary hearing, or trial in
 13 a case when the witnesses are summoned on behalf of an
 14 indigent defendant, and any other expert witnesses required in
 15 a court hearing by law or whomever the public defender or
 16 regional counsel deems necessary for the performance of his or
 17 her duties.

18 (4) Mental health professionals appointed pursuant to
 19 s. 394.473 and required in a court hearing involving an
 20 indigent, and mental health professionals appointed pursuant
 21 to s. 916.115(2) and required in a court hearing involving an
 22 indigent.

23 (5) Reasonable transportation services in the
 24 performance of constitutional and statutory responsibilities.
 25 Motor vehicles owned by counties and provided exclusively to
 26 public defenders as of July 1, 2003, and any additional
 27 vehicles owned by the counties and provided exclusively to
 28 public defenders during fiscal year 2003-2004 shall be
 29 transferred by title to the state effective July 1, 2004.

30 (6) Travel expenses reimbursable under s. 112.061
 31 reasonably necessary in the performance of constitutional and

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1 statutory responsibilities.

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

4 (8) Reasonable pretrial consultation fees and costs.

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

7 29.007 Court-appointed counsel.--For purposes of
8 implementing s. 14, Art. V of the State Constitution, the
9 elements of court-appointed counsel to be provided from state
10 revenues appropriated by general law are as follows:

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

15 (2) When the office of criminal conflict and civil
16 regional counsel has a conflict of interest, private attorneys
17 appointed by the court to represent indigents or other classes
18 of litigants in civil proceedings requiring court-appointed
19 counsel in accordance with state and federal constitutional
20 guarantees and federal and state statutes.

21 (3) Reasonable court reporting and transcription
22 services necessary to meet constitutional or statutory
23 requirements, including the cost of transcribing and copying
24 depositions of witnesses and the cost of foreign language and
25 sign-language interpreters and translators.

26 (4) Witnesses, including expert witnesses, summoned to
27 appear for an investigation, preliminary hearing, or trial in
28 a case when the witnesses are summoned on behalf of an
29 indigent, and any other expert witnesses approved by the
30 court.

31 (5) Mental health professionals appointed pursuant to

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1 s. 394.473 and required in a court hearing involving an
 2 indigent, mental health professionals appointed pursuant to s.
 3 916.115(2) and required in a court hearing involving an
 4 indigent, and any other mental health professionals required
 5 by law for the full adjudication of any civil case involving
 6 an indigent person.

7 (6) Reasonable pretrial consultation fees and costs.

8 (7) Travel expenses reimbursable under s. 112.061
 9 reasonably necessary in the performance of constitutional and
 10 statutory responsibilities.

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

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

29 29.008 County funding of court-related functions.--

30 (1) Counties are required by s. 14, Art. V of the
 31 State Constitution to fund the cost of communications

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1 services, existing radio systems, existing multiagency
 2 criminal justice information systems, and the cost of
 3 construction or lease, maintenance, utilities, and security of
 4 facilities for the circuit and county courts, public
 5 defenders' offices, state attorneys' offices, guardian ad
 6 litem offices, and the offices of the clerks of the circuit
 7 and county courts performing court-related functions. For
 8 purposes of this section, the term "circuit and county courts"
 9 includes ~~shall include~~ the offices and staffing of the
 10 guardian ad litem programs, and the term "public defenders'
 11 offices" includes the offices of criminal conflict and civil
 12 regional counsel. The county designated under s. 35.05(1) as
 13 the headquarters for each appellate district shall fund these
 14 costs for the appellate division of the public defender's
 15 office in that county. For purposes of implementing these
 16 requirements, the term:

17 (a) "Facility" means reasonable and necessary
 18 buildings and office space and appurtenant equipment and
 19 furnishings, structures, real estate, easements, and related
 20 interests in real estate, including, but not limited to, those
 21 for the purpose of housing legal materials for use by the
 22 general public and personnel, equipment, or functions of the
 23 circuit or county courts, public defenders' offices, state
 24 attorneys' offices, and court-related functions of the office
 25 of the clerks of the circuit and county courts and all
 26 storage. The term "facility" includes all wiring necessary for
 27 court reporting services. The term also includes access to
 28 parking for such facilities in connection with such
 29 court-related functions that may be available free or from a
 30 private provider or a local government for a fee. The office
 31 space provided by a county may not be less than the standards

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1 for space allotment adopted by the Department of Management
 2 Services, except this requirement applies only to facilities
 3 that are leased, or on which construction commences, after
 4 June 30, 2003. County funding must include physical
 5 modifications and improvements to all facilities as are
 6 required for compliance with the Americans with Disabilities
 7 Act. Upon mutual agreement of a county and the affected entity
 8 in this paragraph, the office space provided by the county may
 9 vary from the standards for space allotment adopted by the
 10 Department of Management Services.

11 1. As of July 1, 2005, equipment and furnishings shall
 12 be limited to that appropriate and customary for courtrooms,
 13 hearing rooms, jury facilities, and other public areas in
 14 courthouses and any other facility occupied by the courts,
 15 state attorneys, ~~and~~ public defenders, guardians ad litem, and
 16 criminal conflict and civil regional counsel. Court reporting
 17 equipment in these areas or facilities is not a responsibility
 18 of the county.

19 2. Equipment and furnishings under this paragraph in
 20 existence and owned by counties on July 1, 2005, except for
 21 that in the possession of the clerks, for areas other than
 22 courtrooms, hearing rooms, jury facilities, and other public
 23 areas in courthouses and any other facility occupied by the
 24 courts, state attorneys, and public defenders, shall be
 25 transferred to the state at no charge. This provision does not
 26 apply to any communication services as defined in paragraph
 27 (f).

28 (b) "Construction or lease" includes, but is not
 29 limited to, all reasonable and necessary costs of the
 30 acquisition or lease of facilities for all judicial officers,
 31 staff, jurors, volunteers of a tenant agency, and the public

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1 for the circuit and county courts, the public defenders'
 2 offices, state attorneys' offices, and for performing the
 3 court-related functions of the offices of the clerks of the
 4 circuit and county courts. This includes expenses related to
 5 financing such facilities and the existing and future cost and
 6 bonded indebtedness associated with placing the facilities in
 7 use.

8 (c) "Maintenance" includes, but is not limited to, all
 9 reasonable and necessary costs of custodial and groundskeeping
 10 services and renovation and reconstruction as needed to
 11 accommodate functions for the circuit and county courts, the
 12 public defenders' offices, and state attorneys' offices and
 13 for performing the court-related functions of the offices of
 14 the clerks of the circuit and county court and for maintaining
 15 the facilities in a condition appropriate and safe for the use
 16 intended.

17 (d) "Utilities" means all electricity services for
 18 light, heat, and power; natural or manufactured gas services
 19 for light, heat, and power; water and wastewater services and
 20 systems, stormwater or runoff services and systems, sewer
 21 services and systems, all costs or fees associated with these
 22 services and systems, and any costs or fees associated with
 23 the mitigation of environmental impacts directly related to
 24 the facility.

25 (e) "Security" includes but is not limited to, all
 26 reasonable and necessary costs of services of law enforcement
 27 officers or licensed security guards and all electronic,
 28 cellular, or digital monitoring and screening devices
 29 necessary to ensure the safety and security of all persons
 30 visiting or working in a facility; to provide for security of
 31 the facility, including protection of property owned by the

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1 county or the state; and for security of prisoners brought to
2 any facility. This includes bailiffs while providing courtroom
3 and other security for each judge and other quasi-judicial
4 officers.

5 (f) "Communications services" are defined as any
6 reasonable and necessary transmission, emission, and reception
7 of signs, signals, writings, images, and sounds of
8 intelligence of any nature by wire, radio, optical, audio
9 equipment, or other electromagnetic systems and includes all
10 facilities and equipment owned, leased, or used by judges,
11 clerks, public defenders, state attorneys, guardians ad litem,
12 criminal conflict and civil regional counsel, and all staff of
13 the state courts system, state attorneys' offices, public
14 defenders' offices, and clerks of the circuit and county
15 courts performing court-related functions. Such system or
16 services shall include, but not be limited to:

17 1. Telephone system infrastructure, including computer
18 lines, telephone switching equipment, and maintenance, and
19 facsimile equipment, wireless communications, cellular
20 telephones, pagers, and video teleconferencing equipment and
21 line charges. Each county shall continue to provide access to
22 a local carrier for local and long distance service and shall
23 pay toll charges for local and long distance service.

24 2. All computer networks, systems and equipment,
25 including computer hardware and software, modems, printers,
26 wiring, network connections, maintenance, support staff or
27 services including any county-funded support staff located in
28 the offices of the circuit court, county courts, state
29 attorneys, ~~and~~ public defenders, guardians ad litem, and
30 criminal conflict and civil regional counsel; training,
31 supplies, and line charges necessary for an integrated

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1 computer system to support the operations and management of
 2 the state courts system, the offices of the public defenders,
 3 the offices of the state attorneys, the guardian ad litem
 4 offices, the offices of criminal conflict and civil regional
 5 counsel, and the offices of the clerks of the circuit and
 6 county courts; and the capability to connect those entities
 7 and reporting data to the state as required for the
 8 transmission of revenue, performance accountability, case
 9 management, data collection, budgeting, and auditing purposes.
 10 The integrated computer system shall be operational by July 1,
 11 2006, and, at a minimum, permit the exchange of financial,
 12 performance accountability, case management, case disposition,
 13 and other data across multiple state and county information
 14 systems involving multiple users at both the state level and
 15 within each judicial circuit and be able to electronically
 16 exchange judicial case background data, sentencing
 17 scoresheets, and video evidence information stored in
 18 integrated case management systems over secure networks. Once
 19 the integrated system becomes operational, counties may reject
 20 requests to purchase communication services included in this
 21 subparagraph not in compliance with standards, protocols, or
 22 processes adopted by the board established pursuant to s.
 23 29.0086.

24 3. Courier messenger and subpoena services.

25 4. Auxiliary aids and services for qualified
 26 individuals with a disability which are necessary to ensure
 27 access to the courts. Such auxiliary aids and services
 28 include, but are not limited to, sign language interpretation
 29 services required under the federal Americans with
 30 Disabilities Act other than services required to satisfy
 31 due-process requirements and identified as a state funding

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1 responsibility pursuant to ss. 29.004, 29.005, 29.006, and
 2 29.007, real-time transcription services for individuals who
 3 are hearing impaired, and assistive listening devices and the
 4 equipment necessary to implement such accommodations.

5 (g) "Existing radio systems" includes, but is not
 6 limited to, law enforcement radio systems that are used by the
 7 circuit and county courts, the offices of the public
 8 defenders, the offices of the state attorneys, and for
 9 court-related functions of the offices of the clerks of the
 10 circuit and county courts. This includes radio systems that
 11 were operational or under contract at the time Revision No. 7,
 12 1998, to Art. V of the State Constitution was adopted and any
 13 enhancements made thereafter, the maintenance of those
 14 systems, and the personnel and supplies necessary for
 15 operation.

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

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1 offices, guardian ad litem offices, and the offices of the
2 clerks of the circuit and county courts performing
3 court-related functions.

4 (2) Counties shall pay reasonable and necessary
5 salaries, costs, and expenses of the state courts system,
6 including associated staff and expenses, to meet local
7 requirements.

8 (a) Local requirements are those specialized programs,
9 nonjudicial staff, and other expenses associated with
10 specialized court programs, specialized prosecution needs,
11 specialized defense needs, or resources required of a local
12 jurisdiction as a result of special factors or circumstances.

13 Local requirements exist:

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

17 2. When:

18 a. The county has enacted an ordinance, adopted a
19 local program, or funded activities with a financial or
20 operational impact on the circuit or a county within the
21 circuit; or

22 b. Circumstances in a given circuit or county result
23 in or necessitate implementation of specialized programs, the
24 provision of nonjudicial staff and expenses to specialized
25 court programs, special prosecution needs, specialized defense
26 needs, or the commitment of resources to the court's
27 jurisdiction.

28 (b) Factors and circumstances resulting in the
29 establishment of a local requirement include, but are not
30 limited to:

31 1. Geographic factors;

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- 1 2. Demographic factors;
- 2 3. Labor market forces;
- 3 4. The number and location of court facilities; or
- 4 5. The volume, severity, complexity, or mix of court
- 5 cases.

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

8 1. The chief judge of the circuit, in conjunction with
9 the state attorney, ~~and~~ the public defender, and the criminal
10 conflict and civil regional counsel only on matters that
11 impact their offices, shall identify all local requirements
12 within the circuit or within each county in the circuit and
13 shall identify the reasonable and necessary salaries, costs,
14 and expenses to meet these local requirements.

15 2. On or before June 1 of each year, the chief judge
16 shall submit to the board of county commissioners a tentative
17 budget request for local requirements for the ensuing fiscal
18 year. The tentative budget must certify a listing of all local
19 requirements and the reasonable and necessary salaries, costs,
20 and expenses for each local requirement. The board of county
21 commissioners may, by resolution, require the certification to
22 be submitted earlier.

23 3. The board of county commissioners shall thereafter
24 treat the certification in accordance with the county's
25 budgetary procedures. A board of county commissioners may:

26 a. Determine whether to provide funding, and to what
27 extent it will provide funding, for salaries, costs, and
28 expenses under this section;

29 b. Require a county finance officer to conduct a
30 preaudit review of any county funds provided under this
31 section prior to disbursement;

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

3 d. Provide additional financial support for the courts
4 system, state attorneys, ~~or~~ public defenders, or criminal
5 conflict and civil regional counsel.

6 (d) Counties may satisfy these requirements by
7 entering into interlocal agreements for the collective funding
8 of these reasonable and necessary salaries, costs, and
9 expenses.

10 Section 20. Effective July 1, 2007, subsections (1),
11 (2), (3), and (5) of section 29.015, Florida Statutes, are
12 amended to read:

13 29.015 Contingency fund; limitation of authority to
14 transfer funds in contracted due process services
15 appropriation categories.--

16 (1) An appropriation may be provided in the General
17 Appropriations Act in the Justice Administrative Commission to
18 serve as a contingency fund for the purpose of alleviating
19 deficits in contracted due process services appropriation
20 categories, including private court-appointed counsel
21 appropriation categories, that may occur from time to time due
22 to extraordinary cases ~~events~~ that lead to unexpected
23 expenditures.

24 (2) In the event that a state attorney, ~~or~~ public
25 defender, or criminal conflict and civil regional counsel
26 incurs a deficit in a contracted due process services
27 appropriation category or conflict counsel category, the
28 following steps shall be taken in order:

29 (a) The state attorney, ~~or~~ public defender, or
30 regional counsel shall first attempt to identify surplus funds
31 from other appropriation categories within his or her office

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1 and submit a budget amendment pursuant to chapter 216 to
2 transfer funds from within the office.

3 (b) In the event that the state attorney, ~~or~~ public
4 defender, or regional counsel is unable to identify surplus
5 funds from within his or her office, he or she shall certify
6 this to the Justice Administrative Commission along with a
7 complete explanation of the circumstances which led to the
8 deficit and steps the office has taken to reduce or alleviate
9 the deficit. The Justice Administrative Commission shall
10 inquire as to whether any other office has surplus funds in
11 its contracted due process services appropriation categories
12 which can be transferred to the office that is experiencing
13 the deficit. If other offices indicate that surplus funds are
14 available within the same budget entity ~~appropriation~~
15 ~~category~~, the Justice Administrative Commission shall transfer
16 the amount needed to fund the deficit and notify the Governor
17 and the chair and vice chair of the Legislative Budget
18 Commission 14 days prior to a transfer pursuant to the notice,
19 review, and objection provisions of s. 216.177. If funds
20 appropriated for this purpose are available in a different
21 budget entity, the Justice Administrative Commission shall
22 request a budget amendment pursuant to chapter 216.

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

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1 the office and the Justice Administrative Commission to
2 identify surplus funds to the Legislative Budget Commission.

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

9 (a) The Justice Administrative Commission shall first
10 attempt to identify surplus funds from other contracted due
11 process services appropriation categories within the Justice
12 Administrative Commission and submit a budget amendment
13 pursuant to chapter 216 to transfer funds from within the
14 commission.

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

26 (c) If no public defender or regional counsel office
27 has surplus funds available to alleviate the deficit, the
28 Justice Administrative Commission may request a budget
29 amendment to transfer funds from the contingency fund. Such
30 transfers shall be in accordance with all applicable
31 provisions of chapter 216 and shall be subject to review and

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1 approval by the Legislative Budget Commission. The Justice
2 Administrative Commission shall submit the documentation
3 provided by the office explaining the circumstances that led
4 to the deficit and the steps taken by the Justice
5 Administrative Commission to identify surplus funds to the
6 Legislative Budget Commission.

7 (5) Notwithstanding any provisions in chapter 216 to
8 the contrary, no office shall transfer funds from a contracted
9 due process services appropriation category or from a
10 contingency fund category authorized in this section except as
11 specifically authorized in this section. In addition, funds
12 shall not be transferred from a state attorney office to
13 alleviate a deficit in a public defender office or an office
14 of criminal conflict and civil regional counsel, and funds
15 shall not be transferred from a public defender office or
16 regional counsel office to alleviate a deficit in a state
17 attorney office.

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

20 29.018 Cost sharing of due-process services;
21 legislative intent.--It is the intent of the Legislature to
22 provide state-funded due-process services to the state courts
23 system, state attorneys, public defenders, criminal conflict
24 and civil regional counsel, and private court-appointed
25 counsel in the most cost-effective and efficient manner. The
26 state courts system, state attorneys, public defenders,
27 criminal conflict and civil regional counsel, and the Justice
28 Administrative Commission on behalf of private court-appointed
29 counsel may enter into contractual agreements to share, on a
30 pro rata basis, the costs associated with court reporting
31 services, court interpreter and translation services, court

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1 experts, and all other due-process services funded by the
2 state pursuant to this chapter. These costs shall be budgeted
3 within the funds appropriated to each of the affected users of
4 services.

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

7 39.815 Appeal.--

8 (1) Any child, any parent or guardian ad litem of any
9 child, any other party to the proceeding who is affected by an
10 order of the court, or the department may appeal to the
11 appropriate district court of appeal within the time and in
12 the manner prescribed by the Florida Rules of Appellate
13 Procedure. The district court of appeal shall give an appeal
14 from an order terminating parental rights priority in
15 docketing and shall render a decision on the appeal as
16 expeditiously as possible. Appointed counsel shall be
17 compensated as provided in s. 27.5304(6) ~~s. 27.5304(5)~~.

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

20 43.16 Justice Administrative Commission; membership,
21 powers and duties.--

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

24 (a) The maintenance of a central state office for
25 administrative services and assistance when possible to and on
26 behalf of the state attorneys and public defenders of Florida,
27 the capital collateral regional counsel of Florida, the
28 criminal conflict and civil regional counsel, and the Guardian
29 Ad Litem Program.

30 (b) Each state attorney, ~~and~~ public defender, ~~and~~
31 criminal conflict and civil regional counsel and the Guardian

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1 Ad Litem Program shall continue to prepare necessary budgets,
 2 vouchers that ~~which~~ represent valid claims for reimbursement
 3 by the state for authorized expenses, and other things
 4 incidental to the proper administrative operation of the
 5 office, such as revenue transmittals to the Chief Financial
 6 Officer and automated systems plans, but will forward same to
 7 the commission for recording and submission to the proper
 8 state officer. However, when requested by a state attorney, ~~or~~
 9 a public defender, a criminal conflict and civil regional
 10 counsel, or the Guardian Ad Litem Program, the commission will
 11 either assist in the preparation of budget requests, voucher
 12 schedules, and other forms and reports or accomplish the
 13 entire project involved.

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

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

22 57.082 Determination of civil indigent status.--

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

31 (a) The application must include, at a minimum, the

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1 following financial information:

2 1. Net income, consisting of total salary and wages,
3 minus deductions required by law, including court-ordered
4 support payments.

5 2. Other income, including, but not limited to, social
6 security benefits, union funds, veterans' benefits, workers'
7 compensation, other regular support from absent family
8 members, public or private employee pensions, unemployment
9 compensation, dividends, interest, rent, trusts, and gifts.

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

14 4. All liabilities and debts.

15

16 The application must include a signature by the applicant
17 which attests to the truthfulness of the information provided.
18 The application form developed by the corporation must include
19 notice that the applicant may seek court review of a clerk's
20 determination that the applicant is not indigent, as provided
21 in this section.

22 (b) The clerk shall assist a person who appears before
23 the clerk and requests assistance in completing the
24 application, and the clerk shall notify the court if a person
25 is unable to complete the application after the clerk has
26 provided assistance.

27 (c) The clerk shall accept an application that is
28 signed by the applicant and submitted on his or her behalf by
29 a private attorney who is representing the applicant in the
30 applicable matter.

31 (2) DETERMINATION BY THE CLERK.--The clerk of the

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1 court shall determine whether an applicant seeking such
2 designation is indigent based upon the information provided in
3 the application and the criteria prescribed in this
4 subsection.

5 (a)1. An applicant, including an applicant who is a
6 minor or an adult tax-dependent person, is indigent if the
7 applicant's income is equal to or below 200 percent of the
8 then-current federal poverty guidelines prescribed for the
9 size of the household of the applicant by the United States
10 Department of Health and Human Services.

11 2. There is a presumption that the applicant is not
12 indigent if the applicant owns, or has equity in, any
13 intangible or tangible personal property or real property or
14 the expectancy of an interest in any such property having a
15 net equity value of \$2,500 or more, excluding the value of the
16 person's homestead and one vehicle having a net value not
17 exceeding \$5,000.

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

- 20 1. The applicant is not indigent.
- 21 2. The applicant is indigent.

22 (c) If the clerk determines that the applicant is
23 indigent, the clerk shall immediately file the determination
24 in the case record.

25 (d) The duty of the clerk in determining whether an
26 applicant is indigent is limited to receiving the application
27 and comparing the information provided in the application to
28 the criteria prescribed in this subsection. The determination
29 of indigent status is a ministerial act of the clerk and may
30 not be based on further investigation or the exercise of
31 independent judgment by the clerk. The clerk may contract with

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1 third parties to perform functions assigned to the clerk under
2 this section.

3 (e) The applicant may seek review of the clerk's
4 determination that the applicant is not indigent in the court
5 having jurisdiction over the matter by filing a petition to
6 review the clerk's determination of nonindigent status, for
7 which a filing fee may not be charged. If the applicant seeks
8 review of the clerk's determination of indigent status, the
9 court shall make a final determination as provided in
10 subsection (4).

11 (3) APPOINTMENT OF COUNSEL ON AN INTERIM BASIS.--If
12 the clerk of the court has not made a determination of
13 indigent status at the time a person requests appointment of
14 an ~~a private~~ attorney in a civil case eligible for
15 court-appointed counsel, the court shall make a preliminary
16 determination of indigent status, pending further review by
17 the clerk, and may, by court order, appoint ~~private~~ counsel on
18 an interim basis.

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

20 (a) If the clerk of the court determines that the
21 applicant is not indigent and the applicant seeks review of
22 the clerk's determination, the court shall make a final
23 determination of indigent status by reviewing the information
24 provided in the application against the criteria prescribed in
25 subsection (2) and by considering the following additional
26 factors:

27 1. Whether paying for private counsel or other fees
28 and costs creates a substantial hardship for the applicant or
29 the applicant's family.

30 2. Whether the applicant is proceeding pro se or is
31 represented by a private attorney for a fee or on a pro bono

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1 basis.

2 3. When the applicant retained private counsel.

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

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

7 (b) Based upon its review, the court shall make one of
8 the following determinations and shall, if appropriate,
9 appoint ~~private~~ counsel:

10 1. The applicant is not indigent.

11 2. The applicant is indigent.

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

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

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1 nonpayment of any fees by an indigent person.

2 ~~(7)(6)~~ FINANCIAL DISCREPANCIES; FRAUD; FALSE
3 INFORMATION.--

4 (a) If the court learns of discrepancies between the
5 application and the actual financial status of the person
6 found to be indigent, the court shall determine whether the
7 status and any relief provided as a result of that status
8 shall be revoked. The person may be heard regarding the
9 information learned by the court. If the court, based on the
10 information, determines that the person is not indigent, the
11 court shall revoke the provision of any relief under this
12 section.

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

25 (c) A person who knowingly provides false information
26 to the clerk or the court in seeking a determination of
27 indigent status under this section commits a misdemeanor of
28 the first degree, punishable as provided in s. 775.082 or s.
29 775.083.

30 Section 25. Paragraph (y) of subsection (2) of section
31 110.205, Florida Statutes, is amended to read:

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1 110.205 Career service; exemptions.--

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

4 (y) All officers and employees of the Justice
5 Administrative Commission, Office of the State Attorney,
6 Office of the Public Defender, regional offices of capital
7 collateral counsel, offices of criminal conflict and civil
8 regional counsel, and Statewide Guardian Ad Litem Office,
9 including the circuit guardian ad litem programs.

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

12 125.69 Penalties; enforcement by code inspectors.--

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

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

29 216.011 Definitions.--

30 (1) For the purpose of fiscal affairs of the state,
31 appropriations acts, legislative budgets, and approved

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1 budgets, each of the following terms has the meaning
2 indicated:

3 (qq) "State agency" or "agency" means any official,
4 officer, commission, board, authority, council, committee, or
5 department of the executive branch of state government. For
6 purposes of this chapter and chapter 215, "state agency" or
7 "agency" includes, but is not limited to, state attorneys,
8 public defenders, criminal conflict and civil regional
9 counsel, capital collateral regional counsel, the Justice
10 Administrative Commission, the Florida Housing Finance
11 Corporation, and the Florida Public Service Commission. Solely
12 for the purposes of implementing s. 19(h), Art. III of the
13 State Constitution, the terms "state agency" or "agency"
14 include the judicial branch.

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

17 744.331 Procedures to determine incapacity.--

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

19 (a) When a court appoints an attorney for an alleged
20 incapacitated person, the court must first appoint the office
21 of criminal conflict and civil regional counsel. If the
22 regional office has a conflict of interest, the court shall
23 appoint a private ~~an~~ attorney who is included in the attorney
24 registry compiled pursuant to s. 27.40 ~~ss. 27.40 and 27.42~~ by
25 ~~the circuit's Article V indigent services committee.~~
26 Appointments of private attorneys must be made on a rotating
27 basis, taking into consideration conflicts arising under this
28 chapter.

29 (b) The court shall appoint an attorney for each
30 person alleged to be incapacitated in all cases involving a
31 petition for adjudication of incapacity. The alleged

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1 incapacitated person may substitute her or his own attorney
2 for the attorney appointed by the court.

3 (c) Any attorney representing an alleged incapacitated
4 person may not serve as guardian of the alleged incapacitated
5 person or as counsel for the guardian of the alleged
6 incapacitated person or the petitioner.

7 (d) Effective January 1, 2007, an attorney seeking to
8 be appointed by a court for incapacity and guardianship
9 proceedings must have completed a minimum of 8 hours of
10 education in guardianship. A court may waive the initial
11 training requirement for an attorney who has served as a
12 court-appointed attorney in incapacity proceedings or as an
13 attorney of record for guardians for not less than 3 years.
14 The education requirement of this paragraph does not apply to
15 the office of criminal conflict and civil regional counsel
16 until July 1, 2008.

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

19 938.29 Legal assistance; lien for payment of
20 attorney's fees or costs.--

21 (1)(a) A defendant determined to be guilty of a
22 criminal act by a court or jury or through a plea of guilty or
23 nolo contendere and who has received the assistance of the
24 public defender's office, a special assistant public defender,
25 the office of criminal conflict and civil regional counsel, or
26 a private conflict attorney, or who has received due process
27 services after being found indigent for costs under s. 27.52,
28 shall be liable for payment of attorney's fees and costs. The
29 court shall determine the amount of the obligation. Such costs
30 shall include, but not be limited to, the cost of depositions;
31 cost of transcripts of depositions, including the cost of

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1 defendant's copy, which transcripts are certified by the
 2 defendant's attorney as having served a useful purpose in the
 3 disposition of the case; investigative costs; witness fees;
 4 the cost of psychiatric examinations; or other reasonable
 5 costs specially incurred by the state and the clerk of court
 6 for the defense of the defendant in criminal prosecutions.
 7 Costs shall not include expenses inherent in providing a
 8 constitutionally guaranteed jury trial or expenditures in
 9 connection with the maintenance and operation of government
 10 agencies that must be made by the public irrespective of
 11 specific violations of law. Any costs assessed pursuant to
 12 this paragraph shall be reduced by any amount assessed against
 13 a defendant pursuant to s. 938.05.

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

17 (c) The defendant shall pay the application fee under
 18 s. 27.52(1)(b) and attorney's fees and costs in full or in
 19 installments, at the time or times specified. The court may
 20 order payment of the assessed application fee and attorney's
 21 fees and costs as a condition of probation, of suspension of
 22 sentence, or of withholding the imposition of sentence.
 23 Attorney's fees and costs collected under this section shall
 24 be deposited into the General Revenue Fund.

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

- 28 1. Has received any assistance from any public
- 29 defender of the state, from any special assistant public
- 30 defender, from any office of criminal conflict and civil
- 31 regional counsel, or from any private conflict attorney, or

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1 who has received due process services after being found
2 indigent for costs; or

3 2. Is a parent of an accused minor or an accused adult
4 tax-dependent person who is being, or has been, represented by
5 any public defender of the state, by any special assistant
6 public defender, by any office of criminal conflict and civil
7 regional counsel, or by a private conflict attorney, or who is
8 receiving or has received due process services after being
9 found indigent for costs.

10

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

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

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

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1 which entered the order for deferral of the payment of
2 attorney's fees or costs or of any unpaid portion thereof.

3 (4) No lien thus created shall be foreclosed upon the
4 homestead of such defendant-recipient or parent, nor shall any
5 defendant-recipient or parent liable for payment of attorney's
6 fees or costs be denied any of the protections afforded any
7 other civil judgment debtor.

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

20 Section 30. Effective October 1, 2007, section 27.42,
21 Florida Statutes, is repealed.

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

29 (2) It is the intent of the Legislature to facilitate
30 the orderly transition to the creation and operation of the
31 offices of criminal conflict and civil regional counsel, as

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

27 (3) In furtherance of its findings and intent, the
28 Legislature intends to monitor and review the implementation
29 of this act over a period of 3 years, identify any impediments
30 to successful implementation, and evaluate if the delivery of
31 legal representation and due process services as prescribed in

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1 this act should be revised.

2 Section 32. Except as otherwise expressly provided in
3 this act, this act shall take effect upon becoming a law.

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