

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; requiring attorneys
17 to provide information in a form prescribed by
18 the Justice Administrative Commission; creating
19 s. 27.405, F.S.; requiring the Justice
20 Administrative Commission to track expenditures
21 and performance measures of court-appointed
22 counsel; requiring reports concerning
23 expenditures, performance measures, and certain
24 characteristics of court-appointed counsel;
25 creating s. 27.425, F.S.; requiring the chief
26 circuit judge to recommend compensation rates
27 for providers of due process services;
28 providing for rates to be prescribed in the
29 General Appropriations Act; creating s. 27.511,
30 F.S.; creating an office of criminal conflict
31 and civil regional counsel within the

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

1 pay plans; providing for appropriations to be
2 determined by a funding formula; amending s.
3 27.5301, F.S.; providing for salaries for the
4 regional counsel and assistant counsel;
5 amending s. 27.5303, F.S., relating to
6 conflicts of interest in the representation of
7 indigent defendants; conforming provisions to
8 changes made by the act; eliminating the
9 authority for the Justice Administrative
10 Commission to contest motions to withdraw;
11 requiring public defenders to submit orders
12 granting motions to withdraw to the commission;
13 requiring the commission to report on such
14 orders; providing for the regional counsel to
15 file a motion to withdraw from a criminal or
16 civil case due to a conflict of interest;
17 providing procedures and criteria; amending s.
18 27.5304, F.S., relating to compensation of
19 private court-appointed counsel, to conform;
20 providing that compensation is based upon a
21 flat fee prescribed in the General
22 Appropriations Act; revising and eliminating
23 certain procedures relating to billings;
24 requiring bills to be submitted within a
25 specified time; providing for penalties for
26 bills submitted after a specified time; raising
27 the maximum fee for representation in capital
28 cases; providing a definition of the term
29 "capital case"; prescribing fee limits for
30 representation in certain dependency
31 proceedings; providing that state compensation

1 for court-appointed attorneys in specified
2 civil cases may not exceed certain limits;
3 prescribing conditions, procedures, and amounts
4 for paying compensation to counsel in excess of
5 established limits; requiring counsel to file a
6 motion and submit documentation; providing for
7 a hearing; requiring a written order and
8 findings; requiring the Office of State Courts
9 Administrator to report data on compensation
10 exceeding prescribed limits; amending s. 27.54,
11 F.S., relating to payments for public
12 defenders; conforming provisions to the
13 creation of the offices of criminal conflict
14 and civil regional counsel; amending s. 27.59,
15 F.S.; authorizing the regional counsel to have
16 access to prisoners; amending s. 28.24, F.S.;
17 requiring the clerk of court to provide certain
18 services to the criminal conflict and civil
19 regional counsel without charge; expanding the
20 authorized use of certain service-charge
21 revenues distributed to counties to include
22 technology for the regional counsel; amending
23 s. 28.345, F.S.; exempting the regional counsel
24 from certain court-related fees and charges;
25 amending s. 29.001, F.S.; providing for the
26 public defenders' offices to include the
27 criminal conflict and civil regional counsel
28 for purposes of implementing provisions of the
29 State Constitution; providing for state
30 funding; amending ss. 29.006 and 29.007, F.S.,
31 relating to indigent defense costs and

1 court-appointed counsel; conforming provisions
2 to the creation of the regional counsel;
3 amending s. 29.008, F.S.; requiring counties to
4 provide certain funding related to the offices
5 of the guardian ad litem and the criminal
6 conflict and civil regional counsel; revising
7 definitions related to county funding
8 responsibilities; revising methods for
9 determining certain local funding requirements,
10 to conform; amending s. 29.015, F.S., relating
11 to deficits in due-process funds; conforming
12 provisions to the creation of the regional
13 counsel; revising procedures for use of certain
14 contingency funds; amending s. 29.018, F.S.,
15 relating to cost sharing of due-process
16 services; conforming provisions to the creation
17 of the regional counsel; amending s. 39.815,
18 F.S.; conforming a cross-reference; amending s.
19 43.16, F.S.; authorizing the Justice
20 Administrative Commission to provide
21 administrative assistance to criminal conflict
22 and civil regional counsel; revising the
23 application of provisions to conform to changes
24 made by the act; amending s. 57.082, F.S.;
25 revising provisions governing the determination
26 of civil indigent status in order to include
27 the appointment of public attorneys in addition
28 to private attorneys; requiring the court to
29 appoint the office of criminal conflict and
30 civil regional counsel in certain civil cases;
31 amending s. 110.205, F.S.; exempting officers

1 and employees of the regional offices from the
2 state career service system; amending s.
3 125.69, F.S.; authorizing counties to contract
4 with the regional counsel to represent
5 defendants charged with violations of
6 ordinances; amending s. 216.011, F.S.;
7 providing that the regional offices are state
8 agencies for state budgeting purposes; amending
9 s. 744.331, F.S.; providing for the appointment
10 of the office of criminal conflict and civil
11 regional counsel or a private attorney for
12 alleged incapacitated persons; providing a
13 temporary exception from certain education
14 requirements for regional counsel; amending s.
15 938.29, F.S.; providing that certain defendants
16 are liable for regional counsel fees and
17 certain due-process costs; providing for
18 disbursement of collected costs and fees;
19 creating a lien against the property of persons
20 who receive regional counsel representation and
21 other due-process services; creating a lien
22 against certain parents for fees and costs;
23 providing for enforcement by the clerk and
24 valuation of fees and costs by the court;
25 repealing s. 27.42, F.S., relating to circuit
26 Article V indigent services committees;
27 providing legislative findings and intent
28 regarding implementation of the act; requiring
29 attorneys to report on active court-appointed
30 cases; providing payment priority for attorneys
31 complying with the reporting requirement;

1 providing for severability; providing effective
2 dates.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Effective October 1, 2007, subsections (1),
7 (2), (3), (7), and (9) of section 27.40, Florida Statutes, are
8 amended to read:

9 27.40 Court-appointed counsel; circuit registries;
10 minimum requirements; appointment by court.--

11 (1) Counsel shall be appointed to represent any
12 individual in a criminal or civil proceeding entitled to
13 court-appointed counsel under the Federal or State
14 Constitution or as authorized by general law. The court shall
15 appoint a public defender to represent indigent persons as
16 authorized in s. 27.51. The office of criminal conflict and
17 civil regional counsel shall be appointed to represent persons
18 in those cases in which provision is made for court-appointed
19 counsel but the public defender is unable to provide
20 representation due to a conflict of interest or is not
21 authorized to provide representation.

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

28 (b)(2) Private counsel appointed by the court to
29 provide representation shall be selected from a registry of
30 individual attorneys maintained under this section ~~established~~
31

1 ~~by the circuit Article V indigent services committee or~~
2 ~~procured through a competitive bidding process.~~

3 (3) In utilizing a registry:

4 (a) The chief judge of the circuit ~~Each circuit~~
5 ~~Article V indigent services committee~~ shall compile ~~and~~
6 ~~maintain~~ a list of attorneys in private practice, by county
7 and by category of cases and provide the list to the clerk of
8 court in each county. From October 1, 2005, through September
9 30, 2007, the list of attorneys compiled by the Eleventh
10 Judicial Circuit shall provide the race, gender, and national
11 origin of assigned attorneys. To be included on a registry,
12 attorneys shall certify that they meet any minimum
13 requirements established in general law for court appointment,
14 are available to represent indigent defendants in cases
15 requiring court appointment of private counsel, and are
16 willing to abide by the terms of the contract for services. To
17 be included on a registry, an attorney also must enter into a
18 contract for services with the Justice Administrative
19 Commission. Failure to comply with the terms of the contract
20 for services may result in termination of the contract and
21 removal from the registry. Each attorney on the registry shall
22 be responsible for notifying the clerk of the court ~~circuit~~
23 ~~Article V indigent services committee~~ and the Justice
24 Administrative Commission of any change in his or her status.
25 Failure to comply with this requirement shall be cause for
26 termination of the contract for services and removal from the
27 registry until the requirement is fulfilled.

28 (b) The court shall appoint attorneys in rotating
29 order in the order in which names appear on the applicable
30 registry, unless the court makes a finding of good cause on
31 the record for appointing an attorney out of order. The clerk

1 of court shall maintain the registry and provide to the court
 2 the name of the attorney for appointment. An attorney not
 3 appointed in the order in which his or her name appears on the
 4 list shall remain next in order.

5 (c) If ~~it finds~~ the number of attorneys on the
 6 registry in a county or circuit for a particular category of
 7 cases is inadequate, ~~the circuit Article V indigent services~~
 8 ~~committee shall notify~~ the chief judge of the particular
 9 circuit ~~in writing.~~ The chief judge shall provide to the clerk
 10 of court submit the names of at least three private attorneys
 11 who have with relevant experience. The clerk of court shall
 12 send an application to each of these attorneys to register for
 13 appointment.

14 (d) Quarterly, each chief judge ~~circuit Article V~~
 15 ~~indigent services committee~~ shall provide a current copy of
 16 each registry to the Chief Justice of the Supreme Court, ~~the~~
 17 ~~chief judge,~~ the state attorney and public defender in each
 18 judicial circuit, the office of criminal conflict and civil
 19 regional counsel, the clerk of court in each county, and the
 20 Justice Administrative Commission, ~~and the Indigent Services~~
 21 ~~Advisory Board.~~ From October 1, 2005, through September 30,
 22 2007, the report submitted by the Eleventh Judicial Circuit
 23 shall include the race, gender, and national origin of all
 24 attorneys listed in and appointed under the registry.

25 (7)(a) A private An attorney appointed by the court
 26 from the registry to represent a ~~defendant or other~~ client is
 27 entitled to payment as provided in pursuant to s. 27.5304. An
 28 attorney appointed by the court who is not on the registry
 29 list may be compensated under s. 27.5304 if the court finds in
 30 the order of appointment that there were no registry attorneys
 31 available for representation for that case., only upon full

1 ~~performance by the attorney of specified duties, approval of~~
2 ~~payment by the court, except for payment based on a flat fee~~
3 ~~per case as provided in s. 27.5304; and attorney submission of~~
4 ~~a payment request to the Justice Administrative Commission.~~
5 ~~Upon being permitted to withdraw from a case, a~~
6 ~~court appointed attorney shall submit a copy of the order to~~
7 ~~the Justice Administrative Commission at the time it is issued~~
8 ~~by the court. If an attorney is permitted to withdraw or is~~
9 ~~otherwise removed from representation prior to full~~
10 ~~performance of the duties specified in this section for~~
11 ~~reasons other than breach of duty, the trial court shall~~
12 ~~approve payment of attorney's fees and costs for work~~
13 ~~performed in an amount not to exceed the amounts specified in~~
14 ~~s. 27.5304. Withdrawal from a case prior to full performance~~
15 ~~of the duties specified shall create a rebuttable presumption~~
16 ~~that the attorney is not entitled to the entire flat fee for~~
17 ~~those cases paid on a flat fee per case basis.~~

18 (b) The attorney shall maintain appropriate
19 documentation, including contemporaneous ~~a current~~ and
20 detailed hourly accounting of time spent representing the
21 ~~defendant or other client. If the attorney fails to maintain~~
22 such contemporaneous and detailed hourly records, the attorney
23 waives the right to seek compensation in excess of the flat
24 fee established in s. 27.5304 and the General Appropriations
25 Act. These records and documents are subject to review by the
26 Justice Administrative Commission, subject to the
27 attorney-client privilege and work product privilege.

28 (9) ~~A circuit Article V indigent services committee or~~
29 Any interested person may advise the court of any circumstance
30 affecting the quality of representation, including, but not
31 limited to, false or fraudulent billing, misconduct, failure

1 to meet continuing legal education requirements, solicitation
2 to receive compensation from the ~~defendant or other~~ client the
3 attorney is appointed to represent, or failure to file
4 appropriate motions in a timely manner.

5 (10) The attorney shall provide information in the
6 form specified by the Justice Administrative Commission
7 pursuant to s. 27.405, subject to the attorney-client
8 privilege and work product privilege.

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

11 27.405 Court-appointed counsel; Justice Administrative
12 Commission tracking and reporting.--

13 (1) The Justice Administrative Commission shall
14 separately track expenditures and performance measures for
15 private court-appointed counsel for the each of the categories
16 of criminal or civil cases in which private counsel may be
17 appointed.

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

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

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

3 27.425 Due process service rates; responsibilities of
4 chief judge.--

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

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

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

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

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

25 27.511 Offices of criminal conflict and civil regional
26 counsel; legislative intent; qualifications; appointment;
27 duties.--

28 (1) It is the intent of the Legislature to provide
29 adequate representation to persons entitled to court-appointed
30 counsel under the Federal or State Constitution or as
31 authorized by general law. It is the further intent of the

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

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

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

1 nominations and request that the Supreme Court Judicial
2 Nominating Commission submit three new nominees. The regional
3 counsel shall be appointed to a term of 4 years, the first
4 term beginning on July 1, 2007. Vacancies shall be filled in
5 the same manner as appointments.

6 (4) Each regional counsel shall serve on a full-time
7 basis and may not engage in the private practice of law while
8 holding office. Assistant regional counsel shall give priority
9 and preference to their duties as assistant regional counsel
10 and may not otherwise engage in the practice of criminal law
11 or in civil proceedings for which the state compensates
12 attorneys for representation.

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

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

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

27 1. A misdemeanor authorized for prosecution by the
28 state attorney;

29 2. A violation of chapter 316 punishable by
30 imprisonment;

31 3. Criminal contempt; or

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

7
8 The office of criminal conflict and civil regional counsel may
9 not provide representation pursuant to this paragraph if the
10 court, prior to trial, files in the cause an order of no
11 imprisonment as provided in s. 27.512;

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

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

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

22 (f) Is appealing a matter in a case arising under
23 paragraphs (a)-(d).

24 (6)(a) Effective October 1, 2007, the office of
25 criminal conflict and civil regional counsel has primary
26 responsibility for representing persons entitled to
27 court-appointed counsel under the Federal or State
28 Constitution or as authorized by general law in civil
29 proceedings, including, but not limited to, proceedings under
30 s. 393.12 and chapters 39, 390, 392, 397, 415, 743, 744, and
31 984.

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

7 (c) Notwithstanding paragraph (b) or any provision of
8 chapter 744 to the contrary, when chapter 744 provides for
9 appointment of counsel, the court, in consultation with the
10 clerk of court and prior to appointing counsel, shall
11 determine, if possible, whether the person entitled to
12 representation is indigent, using the best available evidence.

13 1. If the person is indigent, the court shall appoint
14 the regional counsel. If at any time after appointment the
15 regional counsel determines that the person is not indigent
16 and that there are sufficient assets available for the payment
17 of legal representation under s. 744.108, the regional counsel
18 shall move the court to reassign the case to a private
19 attorney.

20 2. If the person is not indigent or if the court and
21 the clerk are not able to determine whether the person is
22 indigent at the time of appointment, the court shall appoint a
23 private attorney. If at any time after appointment the private
24 attorney determines that the person is indigent and that there
25 are not sufficient assets available for the payment of legal
26 representation under s. 744.108, the private attorney shall
27 move the court to reassign the case to the regional counsel.
28 When a case is reassigned, the private attorney may seek
29 compensation from the Justice Administrative Commission for
30 representation not recoverable from any assets of the person
31 in an amount approved by the court as a pro rata portion of

1 the compensation limits prescribed in the General
2 Appropriations Act.

3 (d) The regional counsel may not represent any
4 plaintiff in a civil action brought under the Florida Rules of
5 Civil Procedure, the Federal Rules of Civil Procedure, or
6 federal statutes, and may not represent a petitioner in a rule
7 challenge under chapter 120, unless specifically authorized by
8 law.

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

15 (8) The office of criminal conflict and civil regional
16 counsel shall handle all circuit court appeals within the
17 state courts system and any authorized appeals to the federal
18 courts which are required in cases in which the office of
19 criminal conflict and civil regional counsel is appointed
20 under this section.

21 (9) When direct appellate proceedings prosecuted by
22 the office of criminal conflict and civil regional counsel on
23 behalf of an accused and challenging a judgment of conviction
24 and sentence of death terminate in an affirmance of such
25 conviction and sentence, whether by the Supreme Court or by
26 the United States Supreme Court or by expiration of any
27 deadline for filing such appeal in a state or federal court,
28 the office of criminal conflict and civil regional counsel
29 shall notify the accused of his or her rights pursuant to Rule
30 3.850, Florida Rules of Criminal Procedure, including any time
31 limits pertinent thereto, and shall advise such person that

1 representation in any collateral proceedings is the
2 responsibility of the capital collateral regional counsel. The
3 office of criminal conflict and civil regional counsel shall
4 forward all original files on the matter to the capital
5 collateral regional counsel, retaining such copies for his or
6 her files as may be desired or required by law. However, the
7 trial court shall retain the power to appoint the office of
8 criminal conflict and civil regional counsel or other attorney
9 not employed by the capital collateral regional counsel to
10 represent such person in proceedings for relief by executive
11 clemency pursuant to ss. 27.40 and 27.5303.

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

14 27.512 Order of no imprisonment.--

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

26 Section 6. Effective October 1, 2007, subsections (2),
27 (3), (4), (5), (6), and (7) of section 27.52, Florida
28 Statutes, are amended to read:

29 27.52 Determination of indigent status.--

30 (2) DETERMINATION BY THE CLERK.--The clerk of the
31 court shall determine whether an applicant seeking appointment

1 of a public defender is indigent based upon the information
2 provided in the application and the criteria prescribed in
3 this subsection.

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

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

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

- 22 1. The applicant is not indigent.
- 23 2. The applicant is indigent.

24 (c)1. If the clerk determines that the applicant is
25 indigent, the clerk shall submit the determination to the
26 office of the public defender and immediately file the
27 determination in the case file.

28 2. If the public defender is unable to provide
29 representation due to a conflict pursuant to s. 27.5303, the
30 public defender shall move the court for withdrawal from
31

1 representation and appointment of the office of criminal
2 conflict and civil regional ~~private~~ counsel.

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

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

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

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

27 (a) If the clerk of the court determines that the
28 applicant is not indigent, and the applicant seeks review of
29 the clerk's determination, the court shall make a final
30 determination of indigent status by reviewing the information
31 provided in the application against the criteria prescribed in

1 subsection (2) and by considering the following additional
2 factors:

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

5 2. Whether a bond has been posted, the type of bond,
6 and who paid the bond.

7 3. Whether paying for private counsel in an amount
8 that exceeds the limitations in s. 27.5304, or other due
9 process services creates a substantial hardship for the
10 applicant or the applicant's family.

11 4. Any other relevant financial circumstances of the
12 applicant or the applicant's family.

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

18 1. The applicant is not indigent.

19 2. The applicant is indigent.

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

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

29 1. The completed application prescribed in subsection
30 (1).

31

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

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

5 1. Whether the applicant applied for a determination
6 of indigent status under subsection (1) and the outcome of
7 such application.

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

10 3. The additional factors prescribed in subsection
11 (4).

12 4. Whether the applicant is proceeding pro se.

13 5. When the applicant retained private counsel.

14 6. The amount of any attorney's fees and who is paying
15 the fees.

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

18 1. The applicant is not indigent for costs.

19 2. The applicant is indigent for costs.

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

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

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

28 (a) If the court learns of discrepancies between the
29 application or motion and the actual financial status of the
30 person found to be indigent or indigent for costs, the court
31 shall determine whether the public defender, office of

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

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

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

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

30 27.525 Indigent Criminal Defense Trust Fund.--The
31 Indigent Criminal Defense Trust Fund is ~~hereby~~ created, to be

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

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

12 27.53 Appointment of assistants and other staff;
13 method of payment.--

14 (4) The five criminal conflict and civil regional
15 counsel may employ and establish, in the numbers authorized by
16 the General Appropriations Act, assistant regional counsel and
17 other staff and personnel in each judicial district pursuant
18 to s. 29.006, who shall be paid from funds appropriated for
19 that purpose. Notwithstanding s. 790.01, s. 790.02, or s.
20 790.25(2)(a), an investigator employed by an office of
21 criminal conflict and civil regional counsel, while actually
22 carrying out official duties, is authorized to carry concealed
23 weapons if the investigator complies with s. 790.25(3)(o).
24 However, such investigators are not eligible for membership in
25 the Special Risk Class of the Florida Retirement System. The
26 five regional counsel shall jointly develop recommended
27 modifications to the classification plan and the salary and
28 benefits plan for the Justice Administrative Commission. The
29 recommendations shall be submitted to the commission, the
30 office of the President of the Senate, and the office of the
31 Speaker of the House of Representatives by September 15, 2007,

1 for the regional offices' initial establishment and before
2 January 1 of each year thereafter. Such recommendations shall
3 be developed in accordance with policies and procedures of the
4 Executive Office of the Governor established in s. 216.181.
5 Each assistant regional counsel appointed by the regional
6 counsel under this section shall serve at the pleasure of the
7 regional counsel. Each investigator employed by the regional
8 counsel shall have full authority to serve any witness
9 subpoena or court order issued by any court or judge in a
10 criminal case in which the regional counsel has been appointed
11 to represent the accused.

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

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

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

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

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

1 performed in an amount to be in proportion to the salary
2 allowed for full-time services.

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

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

14 Section 10. Effective October 1, 2007, section
15 27.5303, Florida Statutes, is amended to read:

16 27.5303 Public defenders; criminal conflict and civil
17 regional counsel; conflict of interest.--

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

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

20 (b) If, at any time during the representation of two
21 or more persons in a criminal or civil proceeding, a criminal
22 conflict and civil regional counsel determines that the
23 interests of those clients are so adverse or hostile that they
24 cannot all be counseled by the regional counsel or his or her
25 staff without conflict of interest, or that none can be
26 counseled by the regional counsel or his or her staff because
27 of a conflict of interest, the regional counsel shall file a
28 motion to withdraw and move the court to appoint other
29 counsel. If requested by the Justice Administrative
30 Commission, the regional counsel shall submit a copy of the
31 motion to the Justice Administrative Commission at the time it

1 is filed with the court. The court shall review and may
 2 inquire or conduct a hearing into the adequacy of the regional
 3 counsel's representations regarding a conflict of interest
 4 without requiring the disclosure of any confidential
 5 communications. The court shall deny the motion to withdraw if
 6 the court finds the grounds for withdrawal are insufficient or
 7 the asserted conflict is not prejudicial to the client. If the
 8 court grants the motion to withdraw, the court shall appoint
 9 one or more private attorneys to represent the person as
 10 provided in s. 27.40. The clerk of court shall inform the
 11 regional office and the commission when the court appoints
 12 private counsel.

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

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

28 ~~(e)(d)~~ In determining whether or not there is a
 29 conflict of interest, the public defender or regional counsel
 30 shall apply the standards contained in the Uniform Standards
 31 for Use in Conflict of Interest Cases found in appendix C to

1 the Final Report of the Article V Indigent Services Advisory
2 Board dated January 6, 2004. Before a motion to withdraw is
3 filed under this section, the public defender or regional
4 counsel serving the circuit, or his or her designee, must:

5 1. Determine if there is a viable alternative to
6 withdrawal from representation which would remedy the conflict
7 of interest and, if its exists, implement that alternative;
8 and

9 2. Approve in writing the filing of the motion to
10 withdraw.

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

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

24 (4)(a) If a defendant is convicted and the death
25 sentence is imposed, the appointed attorney shall continue
26 representation through appeal to the Supreme Court. The
27 attorney shall be compensated as provided in s. 27.5304. If
28 the attorney first appointed is unable to handle the appeal,
29 the court shall appoint another attorney and that attorney
30 shall be compensated as provided in s. 27.5304.

31

1 (b) The public defender or an attorney appointed
2 pursuant to this section may be appointed by the court
3 rendering the judgment imposing the death penalty to represent
4 an indigent defendant who has applied for executive clemency
5 as relief from the execution of the judgment imposing the
6 death penalty.

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

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

13 27.5304 Private court-appointed counsel;
14 compensation.--

15 (1) Private court-appointed counsel shall be
16 compensated by the Justice Administrative Commission as
17 provided in an amount not to exceed the fee limits established
18 in this section and the General Appropriations Act. The flat
19 fees prescribed in this section are limitations on
20 compensation. The specific flat fee amounts for compensation
21 shall be established annually in the General Appropriations
22 Act. The attorney also shall be reimbursed for reasonable and
23 necessary expenses in accordance with s. 29.007. If the
24 attorney is representing a defendant charged with more than
25 one offense in the same case, the attorney shall be
26 compensated at the rate provided for the most serious offense
27 for which he or she represented the defendant. This section
28 does not allow stacking of the fee limits established by this
29 section. ~~Private court appointed counsel providing~~
30 ~~representation under an alternative model shall enter into a~~
31 ~~uniform contract with the Justice Administrative Commission~~

1 ~~and shall use the Justice Administrative Commission's uniform~~
2 ~~procedures and forms in support of billing for attorney's~~
3 ~~fees, costs, and related expenses. Failure to comply with the~~
4 ~~terms of the contract for services may result in termination~~
5 ~~of the contract.~~

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

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

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

28 (4) The attorney shall submit a bill for attorney's
29 fees, costs, and related expenses within 90 days after the
30 disposition of the case at the lower court level,
31 notwithstanding any appeals. The Justice Administrative

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

18 ~~(5)(3)~~ The compensation for representation in a
 19 criminal proceeding shall not exceed the following:

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

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

24 3. For life felonies represented at the trial level:
 25 \$3,000.

26 4. For capital cases represented at the trial level:
 27 ~~\$15,000~~\$3,500. For purposes of this subparagraph, a "capital
 28 case" is any offense for which the potential sentence is death
 29 and the state has not waived seeking the death penalty.

30 5. For representation on appeal: \$2,000.
 31

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

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

11 (6)(5) For compensation for representation pursuant to
12 a court appointment in a proceeding under chapter 39:

13 (a) At the trial level, compensation for
14 representation for dependency proceedings shall not exceed
15 \$1,000 for the first year following the date of appointment
16 and shall not exceed \$200 each year thereafter. Compensation
17 shall be paid based upon representation of a parent
18 irrespective of the number of case numbers that may be
19 assigned or the number of children involved, including any
20 children born during the pendency of the proceeding. Any
21 appeal, except for an appeal from an adjudication of
22 dependency, shall be completed by the trial attorney and is
23 considered compensated by the flat fee for dependency
24 proceedings.

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

27 2. Counsel may bill the annual flat fee not exceeding
28 \$200 following the first judicial review in the second year
29 following the date of appointment and each year thereafter as
30 long as the case remains under protective supervision.

31

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

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

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

27 1. Counsel may bill the flat fee not exceeding \$1,000
28 30 days after rendition of the final order. Each request for
29 payment submitted to the Justice Administrative Commission
30 must include the trial counsel's certification that:
31

1 a. Counsel discussed grounds for appeal with the
2 parent or that counsel attempted and was unable to contact the
3 parent; and

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

7 2. Counsel may bill the annual flat fee not exceeding
8 \$200 following the first judicial review in the second year
9 after the date of appointment and each year thereafter as long
10 as the termination of parental rights proceedings are still
11 ongoing.

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

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

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

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

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

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

26 ~~If counsel is entitled to receive compensation for~~
27 ~~representation pursuant to court appointment in a termination~~
28 ~~of parental rights proceeding under chapter 39, such~~
29 ~~compensation shall not exceed \$1,000 at the trial level and~~
30 ~~\$2,500 at the appellate level.~~

31

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

9 ~~(8)(6)~~ A private attorney appointed in lieu of the
 10 public defender or the criminal conflict and civil regional
 11 counsel to represent an indigent defendant may not reassign or
 12 subcontract the case to another attorney or allow another
 13 attorney to appear at a critical stage of a case who is not on
 14 the registry developed under s. 27.40.

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

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

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

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

23
 24 ~~In no case, however, may counsel submit requests under this~~
 25 ~~subsection more than once per quarter, unless the court finds~~
 26 ~~extraordinary circumstances justifying more frequent~~
 27 ~~submission of payment requests.~~

28 ~~(9)(8)~~ Private court-appointed counsel representing an
 29 individual in an appeal to a district court of appeal or the
 30 Supreme Court may submit a request for payment to the Justice
 31 Administrative Commission at the following intervals:

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

3 (b) When the opinion of the appellate court is
4 finalized.

5 ~~(10)(9)~~ Private court-appointed counsel may not bill
6 for preparation of invoices ~~whether or not the case is paid on~~
7 ~~the basis of an hourly rate or by flat fee.~~

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

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

26 (a) If court-appointed counsel moves to withdraw prior
27 to the full performance of his or her duties through the
28 completion of the case, the court shall presume that the
29 attorney is not entitled to the payment of the full flat fee
30 established under this section and the General Appropriations
31 Act.

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

8
9 This subsection constitutes notice to any subsequently
10 appointed attorney that he or she will not be compensated the
11 full flat fee.

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

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

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

24 2. The Justice Administrative Commission shall review
25 the billings, affidavit, and documentation for completeness
26 and compliance with contractual and statutory requirements. If
27 the Justice Administrative Commission objects to any portion
28 of the proposed billing, the objection and reasons therefor
29 shall be communicated in writing to the private
30 court-appointed counsel. The counsel may thereafter file his
31 or her motion, which must specify whether the commission

1 objects to any portion of the billing or the sufficiency of
2 documentation, and shall attach the commission's letter
3 stating its objection.

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

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

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

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

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

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

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

29 (f) The Justice Administrative Commission shall
30 provide to the Office of the State Courts Administrator data
31 concerning the number of cases approved for compensation in

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

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

9 27.54 Limitation on payment of expenditures ~~for public~~
10 ~~defender's office~~ other than by the state.--

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

17 (2) A county or municipality may contract with, or
18 appropriate or contribute funds to, the operation of the
19 offices of the various public defenders and regional counsel
20 as provided in this subsection. A public defender or regional
21 counsel defending violations of special laws or county or
22 municipal ordinances punishable by incarceration and not
23 ancillary to a state charge shall contract with counties and
24 municipalities to recover the full cost of services rendered
25 on an hourly basis or reimburse the state for the full cost of
26 assigning one or more full-time equivalent attorney positions
27 to work on behalf of the county or municipality.
28 Notwithstanding any other provision of law, in the case of a
29 county with a population of less than 75,000, the public
30 defender or regional counsel shall contract for full
31 reimbursement, or for reimbursement as the parties otherwise

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

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

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

1 available work hours for one full-time equivalent attorney
2 position, or, in the absence of that standard, 1,854 hours.
3 The contract may provide for funding full-time equivalent
4 positions in one-quarter increments.

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

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

13 (4) Unless expressly authorized by law or in the
14 General Appropriations Act, public defenders and regional
15 counsel are prohibited from spending state-appropriated funds
16 on county funding obligations under s. 14, Art. V of the State
17 Constitution beginning January 1, 2005. This includes
18 expenditures on communications services and facilities as
19 defined in s. 29.008. This does not prohibit a public defender
20 from spending funds for these purposes in exceptional
21 circumstances when necessary to maintain operational
22 continuity in the form of a short-term advance pending
23 reimbursement from the county. If a public defender or
24 regional counsel provides short-term advance funding for a
25 county responsibility as authorized by this subsection, the
26 public defender or regional counsel shall request full
27 reimbursement from the board of county commissioners prior to
28 making the expenditure or at the next meeting of the board of
29 county commissioners after the expenditure is made. The total
30 of all short-term advances authorized by this subsection shall
31 not exceed 2 percent of the public defender's or regional

1 counsel's approved operating budget in any given year. No
 2 short-term advances authorized by this subsection shall be
 3 permitted until all reimbursements arising from advance
 4 funding in the prior state fiscal year have been received by
 5 the public defender or regional counsel. All reimbursement
 6 payments received by the public defender or regional counsel
 7 shall be deposited into the General Revenue Fund.

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

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

14 27.59 Access to prisoners.--The public defenders, ~~and~~
 15 assistant public defenders, criminal conflict and civil
 16 regional counsel, and assistant regional counsel shall be
 17 empowered to inquire of all persons who are incarcerated in
 18 lieu of bond and to tender them advice and counsel at any
 19 time, but the provisions of this section shall not apply with
 20 respect to persons who have engaged private counsel.

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

23 28.24 Service charges by clerk of the circuit
 24 court.--The clerk of the circuit court shall charge for
 25 services rendered by the clerk's office in recording documents
 26 and instruments and in performing the duties enumerated in
 27 amounts not to exceed those specified in this section.

28 Notwithstanding any other provision of this section, the clerk
 29 of the circuit court shall provide without charge to the state
 30 attorney, public defender, guardian ad litem, public guardian,
 31 attorney ad litem, criminal conflict and civil regional

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

Charges

- 14 (1) For examining, comparing, correcting, verifying,
 15 and certifying transcripts of record in appellate proceedings,
 16 prepared by attorney for appellant or someone else other than
 17 clerk per page.....4.50
- 18 (2) For preparing, numbering, and indexing an original
 19 record of appellate proceedings, per instrument.....3.00
- 20 (3) For certifying copies of any instrument in the
 21 public records.....1.50
- 22 (4) For verifying any instrument presented for
 23 certification prepared by someone other than clerk, per page
 243.00
- 25 (5)(a) For making copies by photographic process of
 26 any instrument in the public records consisting of pages of
 27 not more than 14 inches by 8 1/2 inches, per page.....1.00
- 28 (b) For making copies by photographic process of any
 29 instrument in the public records of more than 14 inches by 8
 30 1/2 inches, per page.....5.00
- 31 (6) For making microfilm copies of any public records:

1 (a) 16 mm 100' microfilm roll.....37.50

2 (b) 35 mm 100' microfilm roll.....52.50

3 (c) Microfiche, per fiche.....3.00

4 (7) For copying any instrument in the public records

5 by other than photographic process, per page.....6.00

6 (8) For writing any paper other than herein

7 specifically mentioned, same as for copying, including signing

8 and sealing.....6.00

9 (9) For indexing each entry not recorded.....1.00

10 (10) For receiving money into the registry of court:

11 (a)1. First \$500, percent.....3

12 2. Each subsequent \$100, percent.....1.5

13 (b) Eminent domain actions, per deposit.....\$150.00

14 (11) For examining, certifying, and recording plats

15 and for recording condominium exhibits larger than 14 inches

16 by 8 1/2 inches:

17 (a) First page.....30.00

18 (b) Each additional page.....15.00

19 (12) For recording, indexing, and filing any

20 instrument not more than 14 inches by 8 1/2 inches, including

21 required notice to property appraiser where applicable:

22 (a) First page or fraction thereof.....5.00

23 (b) Each additional page or fraction thereof.....4.00

24 (c) For indexing instruments recorded in the official

25 records which contain more than four names, per additional

26 name.....1.00

27 (d) An additional service charge shall be paid to the

28 clerk of the circuit court to be deposited in the Public

29 Records Modernization Trust Fund for each instrument listed in

30 s. 28.222, except judgments received from the courts and

31 notices of lis pendens, recorded in the official records:

1 1. First page.....1.00
2 2. Each additional page.....0.50
3
4 Said fund shall be held in trust by the clerk and used
5 exclusively for equipment and maintenance of equipment,
6 personnel training, and technical assistance in modernizing
7 the public records system of the office. In a county where the
8 duty of maintaining official records exists in an office other
9 than the office of the clerk of the circuit court, the clerk
10 of the circuit court is entitled to 25 percent of the moneys
11 deposited into the trust fund for equipment, maintenance of
12 equipment, training, and technical assistance in modernizing
13 the system for storing records in the office of the clerk of
14 the circuit court. The fund may not be used for the payment of
15 travel expenses, membership dues, bank charges,
16 staff-recruitment costs, salaries or benefits of employees,
17 construction costs, general operating expenses, or other costs
18 not directly related to obtaining and maintaining equipment
19 for public records systems or for the purchase of furniture or
20 office supplies and equipment not related to the storage of
21 records. On or before December 1, 1995, and on or before
22 December 1 of each year immediately preceding each year during
23 which the trust fund is scheduled for legislative review under
24 s. 19(f)(2), Art. III of the State Constitution, each clerk of
25 the circuit court shall file a report on the Public Records
26 Modernization Trust Fund with the President of the Senate and
27 the Speaker of the House of Representatives. The report must
28 itemize each expenditure made from the trust fund since the
29 last report was filed; each obligation payable from the trust
30 fund on that date; and the percentage of funds expended for
31 each of the following: equipment, maintenance of equipment,

1 personnel training, and technical assistance. The report must
2 indicate the nature of the system each clerk uses to store,
3 maintain, and retrieve public records and the degree to which
4 the system has been upgraded since the creation of the trust
5 fund.

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

11 1. If the counties maintain legal responsibility for
12 the costs of the court-related technology needs as defined in
13 s. 29.008(1)(f)2. and (h), 10 cents shall be distributed to
14 the Florida Association of Court Clerks and Comptroller, Inc.,
15 for the cost of development, implementation, operation, and
16 maintenance of the clerks' Comprehensive Case Information
17 System, in which system all clerks shall participate on or
18 before January 1, 2006; \$1.90 shall be retained by the clerk
19 to be deposited in the Public Records Modernization Trust Fund
20 and used exclusively for funding court-related technology
21 needs of the clerk as defined in s. 29.008(1)(f)2. and (h);
22 and \$2 shall be distributed to the board of county
23 commissioners to be used exclusively to fund court-related
24 technology, and court technology needs as defined in s.
25 29.008(1)(f)2. and (h) for the state trial courts, state
26 attorney, ~~and~~ public defender, and criminal conflict and civil
27 regional counsel in that county. If the counties maintain
28 legal responsibility for the costs of the court-related
29 technology needs as defined in s. 29.008(1)(f)2. and (h),
30 notwithstanding any other provision of law, the county is not
31 required to provide additional funding beyond that provided

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

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

- 24 (13) Oath, administering, attesting, and sealing, not
 25 otherwise provided for herein.....3.00
- 26 (14) For validating certificates, any authorized
 27 bonds, each.....3.00
- 28 (15) For preparing affidavit of domicile.....5.00
- 29 (16) For exemplified certificates, including signing
 30 and sealing.....6.00

31

1 (17) For authenticated certificates, including signing
2 and sealing.....6.00

3 (18)(a) For issuing and filing a subpoena for a
4 witness, not otherwise provided for herein (includes writing,
5 preparing, signing, and sealing).....6.00

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

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

8 (20) For searching of records, for each year's search
91.50

10 (21) For processing an application for a tax deed sale
11 (includes application, sale, issuance, and preparation of tax
12 deed, and disbursement of proceeds of sale), other than excess
13 proceeds.....60.00

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

16 (23) Upon receipt of an application for a marriage
17 license, for preparing and administering of oath; issuing,
18 sealing, and recording of the marriage license; and providing
19 a certified copy.....30.00

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

21 (25) For sealing any court file or expungement of any
22 record.....37.50

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

25 (b) For receiving and disbursing all partial payments,
26 other than restitution payments, for which an administrative
27 processing service charge is not imposed pursuant to s.
28 28.246, per month.....5.00

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

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

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

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

10 28.345 Exemption from court-related fees and
11 charges.--Notwithstanding any other provision of this chapter
12 or law to the contrary, judges and those court staff acting on
13 behalf of judges, state attorneys, guardians ad litem, public
14 guardians, attorneys ad litem, court-appointed private
15 counsel, criminal conflict and civil regional counsel, and
16 public defenders, acting in their official capacity, and state
17 agencies, are exempt from all court-related fees and charges
18 assessed by the clerks of the circuit courts.

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

21 29.001 State courts system elements and definitions.--

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

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

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

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

17 29.006 ~~Public defenders and~~ Indigent defense
18 costs.--For purposes of implementing s. 14, Art. V of the
19 State Constitution, the elements of the public defenders'
20 offices and criminal conflict and civil regional counsel
21 offices to be provided from state revenues appropriated by
22 general law are as follows:

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

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

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

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

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

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

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

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

27 (8) Reasonable pretrial consultation fees and costs.

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

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

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

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

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

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

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

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

30 (6) Reasonable pretrial consultation fees and costs.

31

1 (7) Travel expenses reimbursable under s. 112.061
2 reasonably necessary in the performance of constitutional and
3 statutory responsibilities.

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

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

22 29.008 County funding of court-related functions.--

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

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

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

1 in this paragraph, the office space provided by the county may
2 vary from the standards for space allotment adopted by the
3 Department of Management Services.

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

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

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

1 (c) "Maintenance" includes, but is not limited to, all
2 reasonable and necessary costs of custodial and groundskeeping
3 services and renovation and reconstruction as needed to
4 accommodate functions for the circuit and county courts, the
5 public defenders' offices, and state attorneys' offices and
6 for performing the court-related functions of the offices of
7 the clerks of the circuit and county court and for maintaining
8 the facilities in a condition appropriate and safe for the use
9 intended.

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

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

29 (f) "Communications services" are defined as any
30 reasonable and necessary transmission, emission, and reception
31 of signs, signals, writings, images, and sounds of

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

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

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

1 transmission of revenue, performance accountability, case
2 management, data collection, budgeting, and auditing purposes.
3 The integrated computer system shall be operational by July 1,
4 2006, and, at a minimum, permit the exchange of financial,
5 performance accountability, case management, case disposition,
6 and other data across multiple state and county information
7 systems involving multiple users at both the state level and
8 within each judicial circuit and be able to electronically
9 exchange judicial case background data, sentencing
10 scoresheets, and video evidence information stored in
11 integrated case management systems over secure networks. Once
12 the integrated system becomes operational, counties may reject
13 requests to purchase communication services included in this
14 subparagraph not in compliance with standards, protocols, or
15 processes adopted by the board established pursuant to s.
16 29.0086.

17 3. Courier messenger and subpoena services.

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

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

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

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

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

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

6 Local requirements exist:

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

10 2. When:

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

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

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

24 1. Geographic factors;

25 2. Demographic factors;

26 3. Labor market forces;

27 4. The number and location of court facilities; or

28 5. The volume, severity, complexity, or mix of court
29 cases.

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

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

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

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

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

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

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

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

30 (d) Counties may satisfy these requirements by
31 entering into interlocal agreements for the collective funding

1 of these reasonable and necessary salaries, costs, and
 2 expenses.

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

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

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

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

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

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

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

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

27 (3) In the event that there is a deficit in a
28 statewide contracted due process services appropriation
29 category provided for private court-appointed counsel
30 necessary due to withdrawal of the public defender and
31

1 criminal conflict and civil regional counsel due to an ethical
2 conflict, the following steps shall be taken in order:

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

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

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

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

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

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

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

1 39.815 Appeal.--

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

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

14 43.16 Justice Administrative Commission; membership,
15 powers and duties.--

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

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

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

1 the commission for recording and submission to the proper
2 state officer. However, when requested by a state attorney, ~~or~~
3 a public defender, a criminal conflict and civil regional
4 counsel, or the Guardian Ad Litem Program, the commission will
5 either assist in the preparation of budget requests, voucher
6 schedules, and other forms and reports or accomplish the
7 entire project involved.

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

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

16 57.082 Determination of civil indigent status.--

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

25 (a) The application must include, at a minimum, the
26 following financial information:

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

30 2. Other income, including, but not limited to, social
31 security benefits, union funds, veterans' benefits, workers'

1 compensation, other regular support from absent family
2 members, public or private employee pensions, unemployment
3 compensation, dividends, interest, rent, trusts, and gifts.

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

8 4. All liabilities and debts.
9

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

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

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

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

30 (a)1. An applicant, including an applicant who is a
31 minor or an adult tax-dependent person, is indigent if the

1 applicant's income is equal to or below 200 percent of the
2 then-current federal poverty guidelines prescribed for the
3 size of the household of the applicant by the United States
4 Department of Health and Human Services.

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

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

14 1. The applicant is not indigent.

15 2. The applicant is indigent.

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

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

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

1 which a filing fee may not be charged. If the applicant seeks
2 review of the clerk's determination of indigent status, the
3 court shall make a final determination as provided in
4 subsection (4).

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

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

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

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

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

27 3. When the applicant retained private counsel.

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

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

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

- 4 1. The applicant is not indigent.
- 5 2. The applicant is indigent.

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

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

27 ~~(7)(6)~~ FINANCIAL DISCREPANCIES; FRAUD; FALSE
28 INFORMATION.--

29 (a) If the court learns of discrepancies between the
30 application and the actual financial status of the person
31 found to be indigent, the court shall determine whether the

1 status and any relief provided as a result of that status
2 shall be revoked. The person may be heard regarding the
3 information learned by the court. If the court, based on the
4 information, determines that the person is not indigent, the
5 court shall revoke the provision of any relief under this
6 section.

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

19 (c) A person who knowingly provides false information
20 to the clerk or the court in seeking a determination of
21 indigent status under this section commits a misdemeanor of
22 the first degree, punishable as provided in s. 775.082 or s.
23 775.083.

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

26 110.205 Career service; exemptions.--

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

29 (y) All officers and employees of the Justice
30 Administrative Commission, Office of the State Attorney,
31 Office of the Public Defender, regional offices of capital

1 collateral counsel, offices of criminal conflict and civil
2 regional counsel, and Statewide Guardian Ad Litem Office,
3 including the circuit guardian ad litem programs.

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

6 125.69 Penalties; enforcement by code inspectors.--

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

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

23 216.011 Definitions.--

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

28 (qq) "State agency" or "agency" means any official,
29 officer, commission, board, authority, council, committee, or
30 department of the executive branch of state government. For
31 purposes of this chapter and chapter 215, "state agency" or

1 "agency" includes, but is not limited to, state attorneys,
 2 public defenders, criminal conflict and civil regional
 3 counsel, capital collateral regional counsel, the Justice
 4 Administrative Commission, the Florida Housing Finance
 5 Corporation, and the Florida Public Service Commission. Solely
 6 for the purposes of implementing s. 19(h), Art. III of the
 7 State Constitution, the terms "state agency" or "agency"
 8 include the judicial branch.

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

11 744.331 Procedures to determine incapacity.--

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

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

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

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

31

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

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

13 938.29 Legal assistance; lien for payment of
14 attorney's fees or costs.--

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

1 Costs shall not include expenses inherent in providing a
2 constitutionally guaranteed jury trial or expenditures in
3 connection with the maintenance and operation of government
4 agencies that must be made by the public irrespective of
5 specific violations of law. Any costs assessed pursuant to
6 this paragraph shall be reduced by any amount assessed against
7 a defendant pursuant to s. 938.05.

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

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

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

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

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

8
9 Such lien constitutes a claim against the defendant-recipient
10 or parent and his or her estate, enforceable according to law.

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

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

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

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

18 Section 30. Effective October 1, 2007, section 27.42,
19 Florida Statutes, is repealed.

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

27 (2) It is the intent of the Legislature to facilitate
28 the orderly transition to the creation and operation of the
29 offices of criminal conflict and civil regional counsel, as
30 provided in this act, in order to enhance and fiscally support
31 the system of court-appointed representation for eligible

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

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

31

1 Section 32. Each private attorney with an active court
2 appointment as of the effective date of this act in a case for
3 which the attorney will seek compensation from the state shall
4 report the case number and type of case to the Justice
5 Administrative Commission by July 15, 2007, unless he or she
6 has already provided this information to the commission. If
7 there is a shortfall in appropriations for court-appointed
8 counsel, the commission shall give priority in payment to
9 those attorneys who have fully complied with the reporting
10 requirement of this section.

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

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