

1  
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  
 24 .....3.00
- 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	
9	.....	1.50
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.  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31