## 20-768A-07

1 A bill to be entitled 2 An act relating to court costs; amending s. 28.24, F.S.; requiring the clerk of court to 3 4 deposit certain funds for court-related 5 technology needs with the chief judge of the 6 circuit; requiring the principal county in the 7 circuit to use the funds in accordance with a 8 strategic plan approved by the chief judge; amending s. 29.008, F.S.; requiring that 9 10 certain specified personnel funded by a county be under the direction, control, and 11 12 supervision of the chief judge; requiring a 13 county to provide benefits to certain employees in the same manner as benefits are provided to 14 other county employees; providing legislative 15 intent that county employees be aggregated for 16 17 purposes of a flexible benefits plan; amending s. 29.0081, F.S.; requiring the county to 18 provide certain benefits to county-funded court 19 employees; requiring that the county be 20 21 considered the employer; providing that 22 county-funded court employees and other county 23 employees may be aggregated for purposes of a flexible benefits plan; amending s. 318.18, 2.4 F.S.; directing the county commission, rather 25 than the clerk of court, to report certain 26 27 information to the Governor and other 2.8 designated officers; amending s. 775.083, F.S.; removing certain provisions relating to 29 30 specified court costs that must be assessed if a defendant pleads nolo contendere to, is 31

1	convicted of, or is adjudicated delinquent for
2	a felony, misdemeanor, or criminal traffic
3	offense; creating s. 938.065, F.S.; requiring
4	that certain specified court costs be assessed
5	when a defendant pleads nolo contendere to, is
6	convicted of, or is adjudicated delinquent for
7	a felony, misdemeanor, or criminal traffic
8	offense; transferring, renumbering, and
9	amending s. 939.185, F.S., relating to
10	authorization for a board of county
11	commissioners to adopt by ordinance additional
12	court costs; providing for the allocation of
13	the additional court costs; requiring the
14	county commission to report certain information
15	to the Governor and other designated officers
16	by a specified date and quarterly thereafter;
17	reenacting ss. 55.141(2) and 712.06(3), F.S.,
18	relating to the satisfaction of judgments and
19	decrees and the recordation of titles to real
20	estate, respectively, to incorporate the
21	amendments made to s. 28.24, F.S., in
22	references thereto; amending ss. 938.17 and
23	938.19, F.S.; conforming cross-references;
24	providing an effective date.
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26	Be It Enacted by the Legislature of the State of Florida:
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28	Section 1. Paragraph (e) of subsection (12) of section
29	28.24, Florida Statutes, is amended to read:
30	28.24 Service charges by clerk of the circuit
31	courtThe clerk of the circuit court shall charge for

services rendered by the clerk's office in recording documents and instruments and in performing the duties enumerated in amounts not to exceed those specified in this section. Notwithstanding any other provision of this section, the clerk of the circuit court shall provide without charge to the state attorney, public defender, guardian ad litem, public guardian, attorney ad litem, and court-appointed counsel paid by the state, and to the authorized staff acting on behalf of each, access to and a copy of any public record, if the requesting party is entitled by law to view the exempt or confidential record, as maintained by and in the custody of the clerk of the circuit court as provided in general law and the Florida Rules of Judicial Administration. The clerk of the circuit court may provide the requested public record in an electronic format in lieu of a paper format when capable of being accessed by the requesting entity.

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- (12) For recording, indexing, and filing any instrument not more than 14 inches by 8 1/2 inches, including required notice to property appraiser where applicable:
- (e) An additional service charge of \$4 per page shall be paid to the clerk of the circuit court for each instrument listed in s. 28.222, except judgments received from the courts and notices of lis pendens, recorded in the official records. From the additional \$4 service charge collected:
- 1. If the counties maintain legal responsibility for the costs of the court-related technology needs as defined in s. 29.008(1)(f)2. and (h), 10 cents shall be distributed to the Florida Association of Court Clerks and Comptroller, Inc.,

for the cost of development, implementation, operation, and maintenance of the clerks' Comprehensive Case Information System, in which system all clerks shall participate on or 3 before January 1, 2006; \$1.90 shall be retained by the clerk 4 to be deposited in the Public Records Modernization Trust Fund 5 and used exclusively for funding court-related technology needs of the clerk as defined in s. 29.008(1)(f)2. and (h); 8 and \$2 shall be distributed to the board of county 9 commissioners to be used exclusively to fund court-related technology, and court technology needs as defined in s. 10 29.008(1)(f)2. and (h) for the state trial courts, state 11 attorney, and public defender in that county. The clerk of the 13 circuit court for each county in the circuit shall deposit the \$2 designated for court-related and court technology needs in 14 a fund established in the principal county of the circuit as 15 designated by the chief judge of the circuit. The principal 16 17 county must use the funds in conformity with the judicial 18 circuit's technology strategic plan approved by the chief judge of the circuit. If the counties maintain legal 19 responsibility for the costs of the court-related technology 20 21 needs as defined in s. 29.008(1)(f)2. and (h), notwithstanding 22 any other provision of law, the county is not required to 23 provide additional funding beyond that provided herein for the court-related technology needs of the clerk as defined in s. 2.4 29.008(1)(f)2. and (h). All court records and official records 25 26 are the property of the State of Florida, including any 27 records generated as part of the Comprehensive Case 2.8 Information System funded pursuant to this paragraph and the 29 clerk of court is designated as the custodian of such records, except in a county where the duty of maintaining official 30 records exists in a county office other than the clerk of

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court or comptroller, such county office is designated the custodian of all official records, and the clerk of court is designated the custodian of all court records. The clerk of court or any entity acting on behalf of the clerk of court, including an association, shall not charge a fee to any agency as defined in s. 119.011, the Legislature, or the State Court System for copies of records generated by the Comprehensive Case Information System or held by the clerk of court or any entity acting on behalf of the clerk of court, including an association.

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

Section 2. Subsection (2) of section 29.008, Florida Statutes, is amended to read:

29.008 County funding of court-related functions.--

(2) Counties shall pay reasonable and necessary salaries, <u>benefits</u>, costs, and expenses of the state courts system, including associated staff, <u>benefits</u>, and expenses, to meet local requirements <u>as specified in this subsection and to fulfill the requirements of subsection (1)</u>. <u>Personnel funded by a county under this section or s. 29.0081 shall be under the direction, control, and supervision of the chief judge.</u>

The county shall provide benefits to such employees in the same manner as benefits are provided to other county employees, including, but not limited to, those specified in ss. 112.08(2)(a), 112.0801, 112.215, 121.021(10), 440.10, and 443.036(19). It is the intent of the Legislature that such

employees and other county employees be aggregated for

purposes of a flexible benefits plan pursuant to s. 125 of the Internal Revenue Code of 1986, as amended.

- (a) Local requirements are those specialized programs, nonjudicial staff, and other expenses associated with specialized court programs, specialized prosecution needs, specialized defense needs, or resources required of a local jurisdiction as a result of special factors or circumstances. Local requirements exist:
- 9 1. When imposed pursuant to an express statutory
  10 directive, based on such factors as provided in paragraph (b);
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- 12 2. When:

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- a. The county has enacted an ordinance, adopted a local program, or funded activities with a financial or operational impact on the circuit or a county within the circuit; or
- b. Circumstances in a given circuit or county result in or necessitate implementation of specialized programs, the provision of nonjudicial staff and expenses to specialized court programs, special prosecution needs, specialized defense needs, or the commitment of resources to the court's jurisdiction.
- (b) Factors and circumstances resulting in the establishment of a local requirement include, but are not limited to:
  - Geographic factors;
    - 2. Demographic factors;
  - Labor market forces;
    - 4. The number and location of court facilities; or
- 5. The volume, severity, complexity, or mix of court cases.

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- (c) Local requirements under subparagraph (a)2. must be determined by the following method:
- 1. The chief judge of the circuit, in conjunction with the state attorney and the public defender only on matters that impact their offices, shall identify all local requirements within the circuit or within each county in the circuit and shall identify the reasonable and necessary salaries, costs, and expenses to meet these local requirements.
- 2. On or before June 1 of each year, the chief judge shall submit to the board of county commissioners a tentative budget request for local requirements for the ensuing fiscal year. The tentative budget must certify a listing of all local requirements and the reasonable and necessary salaries, costs, and expenses for each local requirement. The board of county commissioners may, by resolution, require the certification to be submitted earlier.
- 3. The board of county commissioners shall thereafter treat the certification in accordance with the county's budgetary procedures. A board of county commissioners may:
- a. Determine whether to provide funding, and to what extent it will provide funding, for salaries, costs, and expenses under this section;
- b. Require a county finance officer to conduct a preaudit review of any county funds provided under this section prior to disbursement;
- c. Require review or audit of funds expended under this section by the appropriate county office; and
- $\hbox{d. Provide additional financial support for the courts} \\$   $\hbox{system, state attorneys, or public defenders.}$

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

Section 3. Section 29.0081, Florida Statutes, is amended to read:

29.0081 County funding of additional court personnel.--

- (1) A county and the chief judge of a judicial circuit that includes that county may enter into an agreement under which the county funds personnel positions to assist in the operation of the circuit.
  - (2) The agreement shall, at a minimum, provide that:
- (a) Funding for the positions is provided on at least a court fiscal-year basis.
- (b) The personnel whose employment is funded under the agreement are employees of the judicial circuit and are hired, supervised, managed, and fired by personnel of the judicial circuit. The county shall provide benefits to such employees in the same manner as benefits are provided to other county employees, including, but not limited to, those specified in ss. 112.08(2)(a), 112.0801, 112.215, 121.021(10), 440.10, and 443.036(19). It is the intent of the Legislature that such employees and other county employees be aggregated for purposes of a flexible benefits plan pursuant to s. 125 of the Internal Revenue Code of 1986, as amended.
- (c) The positions terminate upon the expiration of, or substantial breach of, the agreement or upon the expiration of county funding for the positions.
- (3) Positions funded under this section shall be full-time equivalent positions of the judicial circuit but  $\underline{do}$

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shall not count against any formula or similar process used by the Office of the State Courts Administrator to determine personnel needs or levels of a judicial circuit.

- (4) Nothing in This section does not obliqate obligates the state to fund any personnel positions.
- Section 4. Subsection (13) of section 318.18, Florida Statutes, is amended to read:
- 318.18 Amount of civil penalties.--The penalties required for a noncriminal disposition pursuant to s. 318.14 are as follows:
- (13) In addition to any penalties imposed for noncriminal traffic infractions <u>under pursuant to</u> this chapter or imposed for criminal violations listed in s. 318.17, a board of county commissioners or any unit of local government which is consolidated as provided by s. 9, Art. VIII of the State Constitution of 1885, as preserved by s. 6(e), Art. VIII of the Constitution of 1968:
- (a) May impose by ordinance a surcharge of up to \$15 for any infraction or violation to fund state court facilities. The court may shall not waive this surcharge. Up to 25 percent of the revenue from this such surcharge may be used to support local law libraries if provided that the county or unit of local government provides a level of service equal to that provided prior to July 1, 2004, which shall include the continuation of library facilities located in or near the county courthouse or annexes.
- (b) That imposed increased fees or service charges by ordinance under s. 28.2401, s. 28.241, or s. 34.041 for the purpose of securing payment of the principal and interest on bonds issued by the county before July 1, 2003, to finance state court facilities, may impose by ordinance a surcharge

for any infraction or violation for the exclusive purpose of 2 securing payment of the principal and interest on bonds issued by the county before July 1, 2003, to fund state court 3 facilities until the date of stated maturity. The court may 4 shall not waive this surcharge. The Such surcharge may not 5 exceed an amount per violation calculated as the quotient of 7 the maximum annual payment of the principal and interest on 8 the bonds as of July 1, 2003, divided by the number of traffic citations for county fiscal year 2002-2003 certified as paid 9 by the clerk of the court of the county. The Such quotient 10 shall be rounded up to the next highest dollar amount. The 11 12 bonds may be refunded only if savings will be realized on 13 payments of debt service and the refunding bonds are scheduled to mature on the same date or before the bonds being refunded. 14 15 A county may not impose both of the surcharges authorized 16 17 under paragraphs (a) and (b) concurrently. The county clerk of 18 court shall report, no later than 30 days after the end of the quarter, the amount of funds collected, the amount of funds 19 expended, and the uses of those funds under this subsection 20 21 during each quarter of the fiscal year. The county clerk shall 22 submit the report, in a format developed by the Office of 23 State Courts Administrator, to the chief judge of the circuit, the Governor, the President of the Senate, and the Speaker of 2.4 the House of Representatives. 25 Section 5. Subsections (2) and (3) of section 775.083, 26 27 Florida Statutes, are amended to read: 2.8 775.083 Fines.--29 (2) In addition to the fines set forth in subsection costs shall be assessed and collected in each 30 instance a defendant pleads nolo contendere to,

convicted of, or adjudicated delinquent for, a felony, a 2 misdemeanor, or a criminal traffic offense under state law, 3 a violation of any municipal or county ordinance if the 4 violation constitutes a misdemeanor under state law. The court 5 costs imposed by this section shall be \$50 for a felony and 6 \$20 for any other offense and shall be deposited by the clerk 7 of the court into an appropriate county account for 8 disbursement for the purposes provided in this subsection. A 9 county shall account for the funds separately from other 10 county funds as crime prevention funds. The county, in consultation with the sheriff, must expend such funds for 11 12 crime prevention programs in the county, including safe 13 neighborhood programs under ss. 163.501 163.523. (2) (3) The purpose of this section is to provide 14 uniform penalty authorization for criminal offenses and, to 15 this end, a reference to this section constitutes a general 16 reference under the doctrine of incorporation by reference. 18 Section 6. Section 938.065, Florida Statutes, is created to read: 19 938.065 County crime prevention programs.--Court costs 2.0 21 shall be assessed and collected in each instance in which a defendant pleads nolo contendere to, is convicted of, or is 2.2 23 adjudicated delinquent for a felony, a misdemeanor, or a criminal traffic offense under state law, or a violation of 2.4 any municipal or county ordinance if the violation constitutes 2.5 a misdemeanor under state law. The court costs imposed by this 26 27 section shall be \$50 for a felony and \$20 for any other 2.8 offense and shall be deposited by the clerk of the court into an appropriate county account for disbursement to programs 29 30 described in this section. A county shall account for the

funds separately from other county funds as crime prevention

- funds. The county, in consultation with the sheriff, must
  expend the funds for crime prevention programs in the county,
  including safe neighborhood programs under ss.
- 4 163.501-163.523.

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Section 7. Section 939.185, Florida Statutes, is transferred, renumbered as section 938.195, Florida Statutes, and amended to read:

 $\underline{938.195}$   $\underline{939.185}$  Assessment of additional court costs and surcharges.--

- (1)(a) The board of county commissioners may adopt by ordinance an additional court cost, not to exceed \$65, to be imposed by the court when a person pleads guilty or nolo contendere to, or is found guilty of, any felony, misdemeanor, or criminal traffic offense under the laws of this state. Such additional assessment shall be accounted for separately by the county in which the offense occurred and be used only in the county imposing this cost, to be allocated as follows:
- 1. Twenty-five percent of the amount collected shall be allocated to fund innovations to supplement state funding for the elements of the state courts system identified in s. 29.004 and county funding for local requirements under s. 29.008(2)(a)2.
- 2. Twenty-five percent of the amount collected shall be allocated to assist counties in providing legal aid programs required under s. 29.008(3)(a).
- 3. Twenty-five percent of the amount collected shall be allocated to fund personnel and legal materials for the public as part of a law library.
- 4. Twenty-five percent of the amount collected shall
  be used as determined by the board of county commissioners to
  support teen court programs, except as provided in s.

938.19(7), juvenile assessment centers, and other juvenile 2 alternative programs. 3 4 Each county receiving funds under this section shall report the amount of funds collected under <del>pursuant to</del> this section 5 and an itemized list of expenditures for all authorized programs and activities. The report shall be submitted in a 8 format developed by the Supreme Court to the Governor, the Chief Financial Officer, the President of the Senate, and the 9 Speaker of the House of Representatives on a quarterly basis 10 beginning with the quarter ending September 30, 2004. 11 Quarterly reports shall be submitted no later than 30 days 13 after the end of the quarter. Any unspent funds at the close of the county fiscal year allocated under subparagraphs 2., 14 3., and 4., shall be transferred for use pursuant to 15 16 subparagraph 1. 17 (b) In addition to the court costs imposed under 18 paragraph (a) and any other cost, fine, or penalty imposed by law, any unit of local government which is consolidated as 19 provided by s. 9, Art. VIII of the State Constitution of 1885, 20 21 as preserved by s. 6(e), Art. VIII of the State Constitution 22 of 1968, and which is granted the authority in the State 23 Constitution to exercise all the powers of a municipal corporation, and any unit of local government operating under 2.4 a home rule charter adopted pursuant to ss. 10, 11, and 24, 25 Art. VIII of the State Constitution of 1885, as preserved by 26 27 s. 6(e), Art. VIII of the State Constitution of 1968, which is 2.8 granted the authority in the State Constitution to exercise 29 all the powers conferred now or hereafter by general law upon municipalities, may impose by ordinance a surcharge in the 30

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guilty or nolo contendere to, or is found guilty of, any felony, misdemeanor, or criminal traffic offense under the laws of this state. Revenue from the surcharge shall be transferred to such unit of local government for the purpose of replacing fine revenue deposited into the clerk's fine and forfeiture fund under s. 142.01. Proceeds from the imposition of the surcharge authorized in this paragraph may shall not be used for the purpose of securing payment of the principal and interest on bonds. This paragraph, and any surcharge imposed under pursuant to this paragraph, shall stand repealed on September 30, 2007.

- (c) The disbursement of costs collected under this section shall be subordinate in priority order of disbursement to all other state-imposed costs authorized in this chapter, restitution or other compensation to victims, and child support payments.
- (2) The court shall order a person to pay the additional court cost. If the person is determined to be indigent, the clerk shall defer payment of this cost.

Section 8. For the purpose of incorporating the amendments made by this act to section 28.24, Florida Statutes, in a reference thereto, subsection (2) of section 55.141, Florida Statutes, is reenacted to read:

- 55.141 Satisfaction of judgments and decrees; duties of clerk.--
- (2) Upon such payment, the clerk shall execute and record in the official records a satisfaction of judgment upon payment of the recording charge prescribed in s. 28.24(12). Upon payment of the amount required in subsection (1) and the recording charge required by this subsection and execution and

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recordation of the satisfaction by the clerk, any lien created
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   by the judgment is satisfied and discharged.
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           Section 9. For the purpose of incorporating the
   amendments made by this act to section 28.24, Florida
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   Statutes, in a reference thereto, subsection (3) of section
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    712.06, Florida Statutes, is reenacted to read:
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           712.06 Contents of notice; recording and indexing.--
           (3) The clerk of the circuit court shall, upon such
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    filing, mail by registered or certified mail to the purported
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    owner of said property, as stated in such notice, a copy
    thereof and shall enter on the original, before recording the
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    same, a certificate showing such mailing. For preparing the
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    certificate, the claimant shall pay to the clerk the service
    charge as prescribed in s. 28.24(8) and the necessary costs of
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   mailing, in addition to the recording charges as prescribed in
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    s. 28.24(12). If the notice names purported owners having more
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    than one address, the person filing the same shall furnish a
    true copy for each of the several addresses stated, and the
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    clerk shall send one such copy to the purported owners named
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    at each respective address. Such certificate shall be
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    sufficient if the same reads substantially as follows:
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           I hereby certify that I did on this ...., mail by
   registered (or certified) mail a copy of the foregoing notice
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    to each of the following at the address stated:
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    ...(Clerk of the circuit court)...
   of .... County, Florida,
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   By ...(Deputy clerk)...
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The clerk of the circuit court is not required to mail to the purported owner of such property any such notice that pertains solely to the preserving of any covenant or restriction or any portion of a covenant or restriction.

Section 10. Section 938.17, Florida Statutes, is amended to read:

- 938.17 County delinquency prevention; juvenile assessment centers and school board suspension programs.--
- (1) Prior to the use of costs received pursuant to <u>s.</u>

  938.195 s. 939.185, the sheriff's office of the county must be a partner in a written agreement with the Department of Juvenile Justice to participate in a juvenile assessment center or with the district school board to participate in a suspension program.
- (2) Assessments collected by clerks of the circuit courts comprised of more than one county shall remit the funds collected pursuant to  $\underline{s.~938.195}$   $\underline{s.~939.185}$  to the county in which the offense at issue was committed for deposit and disbursement.
- (3) Any other funds the sheriff's office obtains for the implementation or operation of an assessment center or suspension program may be deposited into the designated account for disbursement to the sheriff as needed.
- (4) A sheriff's office that receives proceeds pursuant to  $\underline{s. 938.195}$  s.  $\underline{939.185}$  shall account for all funds annually by August 1 in a written report to the juvenile justice county council if funds are used for assessment centers, and to the district school board if funds are used for suspension programs.
- 30 Section 11. Subsection (7) of section 938.19, Florida 31 Statutes, is amended to read:

938.19 Teen courts.--2 (7) A teen court administered in a county that adopts 3 an ordinance to assess court costs under this section may not 4 receive court costs collected under s. 938.195(1)(a)4 s. 939.185(1)(a)4. 5 6 Section 12. This act shall take effect July 1, 2007. 7 \*\*\*\*\*\*\*\*\*\* 8 9 SENATE SUMMARY 10 Requires the clerk of court to deposit certain funds for court-related technology needs with the chief judge of the circuit. Directs the principal county in the circuit 11 to use the funds in accordance with a strategic plan 12 approved by the chief judge which is designed to address the court-related technology needs of each county. 13 Requires that certain county-paid employees be under the supervision and control of the chief judge. Requires the county to provide certain benefits to county-funded court 14 employees. Provides that county-funded court employees 15 and other county employees may be aggregated for purposes of a flexible benefits plan. Requires that certain specified court costs be assessed whenever a defendant 16 pleads nolo contendere to, is convicted of, or is adjudicated delinquent for a felony, misdemeanor, or criminal traffic offense. Authorizes a board of county 17 18 commissioners to adopt by ordinance additional court costs. Provides for the allocation of the additional 19 court costs. Requires the county commission to report certain information to the Governor and other designated 2.0 officers by a specified date and quarterly thereafter. 21 22 23 2.4 25 26 27 28 29 30 31