

Amendment No.

CHAMBER ACTION

Senate

House

1 Representative Seiler offered the following:

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

4 Remove lines 658-829 and insert:

5 ~~based on a flat fee per case for completeness and compliance~~
6 ~~with contractual, statutory, and circuit Article V indigent~~
7 ~~services committee requirements. The commission may approve the~~
8 ~~intended bill for a flat fee per case for payment without~~
9 ~~approval by the court if the intended billing is correct. For~~
10 ~~all other intended billings, prior to filing a motion for an~~
11 ~~order approving payment of attorney's fees, costs, or related~~
12 ~~expenses, the private court appointed counsel shall deliver a~~
13 ~~copy of the intended billing, together with supporting~~
14 ~~affidavits and all other necessary documentation, to the Justice~~
15 ~~Administrative Commission. The Justice Administrative Commission~~
16 ~~shall review the billings, affidavit, and documentation for~~
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17 ~~completeness and compliance with contractual and statutory~~
18 ~~requirements. If the Justice Administrative Commission objects~~
19 ~~to any portion of the proposed billing, the objection and~~
20 ~~reasons therefor shall be communicated to the private court-~~
21 ~~appointed counsel. The private court appointed counsel may~~
22 ~~thereafter file his or her motion for order approving payment of~~
23 ~~attorney's fees, costs, or related expenses together with~~
24 ~~supporting affidavits and all other necessary documentation. The~~
25 ~~motion must specify whether the Justice Administrative~~
26 ~~Commission objects to any portion of the billing or the~~
27 ~~sufficiency of documentation and shall attach the Justice~~
28 ~~Administrative Commission's letter stating its objection. The~~
29 ~~attorney shall have the burden to prove the entitlement to~~
30 ~~attorney's fees, costs, or related expenses. A copy of the~~
31 ~~motion and attachments shall be served on the Justice~~
32 ~~Administrative Commission at least 5 business days prior to the~~
33 ~~date of a hearing. The Justice Administrative Commission shall~~
34 ~~have standing to appear before the court to contest any motion~~
35 ~~for order approving payment of attorney's fees, costs, or~~
36 ~~related expenses and may participate in a hearing on the motion~~
37 ~~by use of telephonic or other communication equipment unless~~
38 ~~ordered otherwise. The Justice Administrative Commission may~~
39 ~~contract with other public or private entities or individuals to~~
40 ~~appear before the court for the purpose of contesting any motion~~
41 ~~for order approving payment of attorney's fees, costs, or~~
42 ~~related expenses. The fact that the Justice Administrative~~
43 ~~Commission has not objected to any portion of the billing or to~~
44 ~~the sufficiency of the documentation is not binding on the~~

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45 ~~court. The court retains primary authority and responsibility~~
46 ~~for determining the reasonableness of all billings for~~
47 ~~attorney's fees, costs, and related expenses, subject to~~
48 ~~statutory limitations. Private court appointed counsel is~~
49 ~~entitled to compensation upon final disposition of a case,~~
50 ~~except as provided in subsections (7), (8), and (10). Before~~
51 ~~final disposition of a case, a private court appointed counsel~~
52 ~~may file a motion for fees, costs, and related expenses for~~
53 ~~services completed up to the date of the motion in any case or~~
54 ~~matter in which legal services have been provided by the~~
55 ~~attorney for more than 1 year. The amount approved by the court~~
56 ~~may not exceed 80 percent of the fees earned, or costs and~~
57 ~~related expenses incurred, to date, or an amount proportionate~~
58 ~~to the maximum fees permitted under this section based on legal~~
59 ~~services provided to date, whichever is less. The court may~~
60 ~~grant the motion if counsel shows that failure to grant the~~
61 ~~motion would work a particular hardship upon counsel.~~

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

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

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

68 3. For life felonies represented at the trial level:
69 \$3,000.

70 4. For capital cases represented at the trial level:
71 \$3,500.

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

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

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

83 (4)(5)(a) If counsel is entitled to receive compensation
84 for representation pursuant to court appointment in a
85 termination of parental rights proceeding under chapter 39, such
86 compensation shall not exceed \$1,000 at the trial level and
87 \$2,500 at the appellate level.

88 (5)(b) Counsel entitled to receive compensation for
89 representation pursuant to court appointment in a proceeding
90 under chapter 384 or chapter 392 shall receive reasonable
91 compensation as fixed by the public defender court making the
92 appointment.

93 (6) A private attorney appointed in lieu of the public
94 defender to represent an indigent defendant may not reassign or
95 subcontract the case to another attorney or allow another
96 attorney to appear at a critical stage of a case except as
97 authorized by the public defender ~~who is not on the registry~~
98 ~~developed under s. 27.40.~~

99 (7) The public defender may authorize Private court-
100 ~~appointed counsel representing a parent in a dependency case~~
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101 ~~that is open may submit a request for payment in to the Justice~~
102 ~~Administrative Commission at the following intervals in complex~~
103 ~~or lengthy cases.+~~

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

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

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

108

109 ~~In no case, however, may counsel submit requests under this~~
110 ~~subsection more than once per quarter, unless the court finds~~
111 ~~extraordinary circumstances justifying more frequent submission~~
112 ~~of payment requests.~~

113 ~~(8) The General Appropriations Act may amend the general~~
114 ~~limits per case provided for in this section. Private court-~~
115 ~~appointed counsel representing an individual in an appeal to a~~
116 ~~district court of appeal or the Supreme Court may submit a~~
117 ~~request for payment to the Justice Administrative Commission at~~
118 ~~the following intervals:~~

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

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

122 ~~(9) A public defender may, in extraordinary circumstances,~~
123 ~~approve a fee in excess of the general limits per case provided~~
124 ~~for in this section. Extraordinary circumstances will not,~~
125 ~~however, authorize the public defender to expend moneys in~~
126 ~~excess of the total appropriation for indigent services provided~~
127 ~~in the General Appropriations Act. The public defenders of the~~
128 ~~state shall jointly establish criteria for determining what are~~

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129 extraordinary circumstances under this subsection. No court
130 shall have jurisdiction to determine what are extraordinary
131 circumstances under this subsection, nor shall any court order
132 that a public defender find that such extraordinary
133 circumstances exist. The question of whether a case or cases
134 present extraordinary circumstances under this subsection is one
135 of discretion within the limited budgetary authority of a public
136 defender. Private court appointed counsel may not bill for
137 preparation of invoices whether or not the case is paid on the
138 basis of an hourly rate or by flat fee.

139 (10) No indigent services committee shall authorize the
140 payment of any compensation to a court-appointed counsel that is
141 in excess of the fee schedules in subsections (3)-(5) or in
142 excess of the local fee schedule adopted by such committee,
143 whichever is lower. The Justice Administrative Commission shall
144 not pay any invoice for compensation to a court-appointed
145 counsel that is in excess of the fee schedules in subsections
146 (3)-(5) or in excess of the local fee schedule adopted by the
147 indigent services committee, whichever is lower. If any court
148 orders payment of compensation to a private court-appointed
149 counsel that is in excess of the fee schedules in subsections
150 (3)-(5) or in excess of the local fee schedule adopted by the
151 indigent services committee, whichever is lower, the amount of
152 the compensation that is in excess of the lower fee cap shall be
153 paid from funds appropriated to the state courts system. The
154 Justice Administrative Commission shall develop a schedule to
155 provide partial payment of criminal attorney fees for cases that
156 are not resolved within 6 months. The schedule must provide that

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157 ~~the aggregate payments shall not exceed limits established by~~
158 ~~law. Any partial payment made pursuant to this subsection shall~~
159 ~~not exceed the actual value of services provided to date. Any~~
160 ~~partial payment shall be proportionate to the value of services~~
161 ~~provided based on payment rates included in the contract, not to~~
162 ~~exceed any limit provided by law.~~

163

164 ===== T I T L E A M E N D M E N T =====

165 Remove lines 24-35 and insert:
166 a specified report; amending s. 27.5304, F.S.;
167 limiting expenditures on appointed counsel; deleting
168 forms of billing and payment by private attorneys
169 representing indigent persons; deleting report of the
170 Article V Indigent Services Advisory Board; providing
171 for amendment of the general limits per case in the
172 General Appropriations Act; allowing for extraordinary
173 payment; providing limits on the