

By the Committee on Criminal and Civil Justice Appropriations;
and Senator Crist

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1 A bill to be entitled
2 An act relating to the state judicial system; amending
3 s. 25.241, F.S.; requiring that \$50 from the Supreme
4 Court filing fee be deposited into the State Courts
5 Revenue Trust Fund; amending s. 25.3844, F.S.;
6 renaming the Operating Trust Fund in the state courts
7 system as the "Administrative Trust Fund"; amending s.
8 25.386, F.S.; directing that fees from the foreign
9 language court interpreters program be deposited into
10 the Administrative Trust Fund within the state courts
11 system; amending s. 27.366, F.S.; deleting a provision
12 requiring that each state attorney report to the
13 Florida Prosecuting Attorneys Association, Inc., why a
14 defendant did not receive the mandatory minimum prison
15 sentence in cases involving possession or use of a
16 weapon; deleting a provision requiring a report to the
17 Governor and Legislature regarding the prosecution and
18 sentencing of such offenders; amending s. 27.40, F.S.;
19 requiring private court-appointed counsel compensated
20 by the state to maintain records and documents in a
21 prescribed manner; providing for waiver of the right
22 to seek fees in excess of prescribed limits if the
23 attorney refuses to allow the Justice Administrative
24 Commission to review the documentation; providing that
25 the commission's finding of a valid waiver of fees may
26 be overcome by competent and substantial evidence;
27 amending s. 27.425, F.S.; eliminating a requirement
28 for the chief judge of the judicial circuit to
29 recommend and submit compensation rates for state-

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30 funded due process service providers; requiring the
31 Justice Administrative Commission to approve forms and
32 procedures governing billings for the provision of due
33 process services; amending s. 27.511, F.S.; providing
34 for the appointment of criminal conflict and civil
35 regional counsel in certain proceedings under the
36 Florida Rules of Criminal Procedure and in certain
37 adoption proceedings; providing for private court-
38 appointed counsel, rather than criminal conflict and
39 civil regional counsel, to have primary responsibility
40 for representing minors in proceedings under the
41 Parental Notice of Abortion Act; amending s. 27.52,
42 F.S.; requiring the clerk of the court to review
43 certain property records in evaluating an application
44 from a criminal defendant for a determination of
45 indigency; providing that the Justice Administrative
46 Commission has standing in a motion seeking to have a
47 person declared indigent for purposes of state payment
48 of due process costs; providing a presumption that a
49 person is not indigent for costs if the person's
50 attorney's fees are being paid from private funds at a
51 specified level; providing that the presumption may be
52 overcome through clear and convincing evidence;
53 providing requirements and rates for reimbursement of
54 due process costs; providing that a person who
55 receives state-funded due process services after being
56 deemed indigent for costs is liable for repayment to
57 the state; requiring the person to submit an
58 accounting to the court of state-paid costs; providing

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59 for the court to issue an order determining the amount
60 of the costs; providing for creation and enforcement
61 of a repayment lien; amending s. 27.5304, F.S.;
62 providing for a reduction in the amount paid for an
63 attorney's fees, costs, and related expenses as
64 increased penalties for submitting a bill to the state
65 after prescribed periods; creating s. 27.5305, F.S.;
66 prescribing conditions and requirements related to
67 payment by the state of legal fees and the costs of
68 due process services in certain criminal and civil
69 cases; prescribing conditions and requirements
70 governing electronic funds transfer, transcripts,
71 court reporters and investigators, expert witnesses
72 and mitigation specialists, and discovery; amending s.
73 28.24, F.S.; clarifying that counties are not required
74 to spend certain funds on court-related technology for
75 the criminal conflict and civil regional counsel;
76 amending s. 28.241, F.S.; providing an exception to
77 the imposition of filing fees in certain family law
78 cases; amending s. 28.36, F.S.; delaying the
79 implementation date of unit-cost budgeting for the
80 clerks of court; amending s. 29.001, F.S.; eliminating
81 the offices of criminal conflict and civil regional
82 counsel from inclusion in the defined elements of the
83 "offices of public defenders" for purposes of certain
84 state courts system funding; amending s. 29.008, F.S.;
85 removing criminal conflict and civil regional counsel
86 from the definition of the term "public defender
87 offices" in the context of county responsibility for

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88 funding court-related functions; eliminating
89 requirements for county funding of criminal conflict
90 and civil regional counsel; repealing s. 29.0095,
91 F.S., relating to a requirement for chief judges,
92 state attorneys, and public defenders to submit budget
93 expenditure reports; amending s. 29.0195, F.S.;

94 providing for moneys from the recovery of expenditures
95 for state-funded services to be deposited into the
96 Administrative Trust Fund within the state courts
97 system; amending s. 34.041, F.S.; specifying that the
98 prescribed filing fee for an action involving claims
99 of not more than \$1,000 filed along with an action for
100 replevin is the total filing fee; amending s. 35.22,
101 F.S.; requiring that \$50 from the District Court of
102 Appeals filing fee be deposited into the State Courts
103 Revenue Trust Fund; amending s. 39.0134, F.S.;

104 providing that certain parents in proceedings related
105 to children are liable for fees and costs after
106 receiving legal representation or due process services
107 funded by the state; authorizing the court to make
108 payment of attorney's fees and costs part of a case
109 plan in dependency proceedings; authorizing and
110 providing for enforcement of a lien upon court-ordered
111 payment of fees and costs; providing for deposit of
112 fees and costs into the Indigent Civil Defense Trust
113 Fund; amending s. 39.821, F.S.; requiring certain
114 background screenings for persons certified as a
115 guardian ad litem; amending s. 57.082, F.S.;

116 prescribing circumstances for payment of an

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117 application fee when a person seeks to be determined
118 indigent and eligible for appointment of counsel in
119 proceedings relating to children; providing for the
120 court to order payment of the fee and the clerk of the
121 court to pursue collection of the fee; amending s.
122 316.192, F.S.; increasing the minimum fine for
123 reckless driving; amending s. 320.02, F.S.; extending
124 the time within which the owner of a motor vehicle
125 registered within the state is required to notify the
126 Department of Highway Safety and Motor Vehicles of a
127 change of address; amending s. 320.061, F.S.; creating
128 a noncriminal infraction for altering or obscuring a
129 license plate or mobile home sticker; deleting the
130 second-degree misdemeanor penalty imposed for the
131 offense; amending s. 320.131, F.S.; creating a
132 noncriminal traffic infraction for the unlawful use of
133 a temporary tag; deleting the second-degree
134 misdemeanor penalty imposed for the offense; amending
135 s. 320.38, F.S.; extending the time within which a
136 nonresident of the state is required to register his
137 or her motor vehicle with the Department of Highway
138 Safety and Motor Vehicles after commencing employment
139 or education in the state; amending s. 322.03, F.S.;
140 creating a noncriminal traffic infraction for a
141 commercial motor vehicle driver who fails to surrender
142 driver's licenses from other jurisdictions prior to
143 issuance of a license by the Department of Highway
144 Safety and Motor Vehicles; extending the period
145 allowed for operating a motor vehicle following

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146 expiration of a driver's license; amending s. 322.16,
147 F.S.; creating a noncriminal traffic infraction for
148 persons who fail to abide by driver's license
149 restrictions; deleting the second-degree misdemeanor
150 penalty imposed for the offense; amending s. 394.4599,
151 F.S., relating to the notice given to various parties
152 upon a person's involuntary admission to a mental
153 health facility; removing reference to the state
154 attorney providing notice; amending s. 394.4615, F.S.,
155 relating to clinical records in cases of involuntary
156 placement; removing the state attorney from the list
157 of parties who are entitled to receive clinical
158 records; amending s. 394.4655, F.S., relating to
159 involuntary outpatient placement; removing the
160 requirement for the clerk to provide a copy of the
161 petition for involuntary outpatient placement to the
162 state attorney; removing the requirement for the state
163 attorney for the circuit in which the patient is
164 located to represent the state in the proceeding;
165 removing the requirement for the clerk of the court to
166 provide copies of the certificate and treatment plan
167 to the state attorney; amending s. 394.467, F.S.,
168 relating to involuntary inpatient placement; removing
169 the requirement for the clerk of the court to provide
170 a copy of the petition for involuntary inpatient
171 placement to the state attorney; removing the
172 requirement for the state attorney for the circuit in
173 which the patient is located to represent the state at
174 the hearing; amending s. 775.082, F.S.; deleting a

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175 provision requiring each state attorney to report to
176 the Florida Prosecuting Attorneys Association, Inc.,
177 certain deviations in the sentencing of reoffenders;
178 amending s. 775.083, F.S.; redirecting revenues from
179 certain criminal fines from the State Courts Revenue
180 Trust Fund into the General Revenue Fund; repealing s.
181 775.08401, F.S., relating to criteria to be used by
182 state attorneys when pursuing sanctions against
183 habitual felony offenders and habitual violent felony
184 offenders; repealing s. 775.087(5), F.S., relating to
185 a provision requiring each state attorney to place in
186 the court file a report explaining why a defendant did
187 not receive the mandatory minimum prison sentence in
188 cases involving certain specified offenses; amending
189 s. 775.0843, F.S.; removing a cross-reference to
190 conform to the repeal of the referenced statute;
191 amending s. 938.06, F.S.; requiring the assessment of
192 a court cost following conviction of a criminal
193 offense; defining the term "convicted" for purposes of
194 the assessed cost; amending s. 939.08, F.S.;

195 authorizing a designee of the trial court
196 administrator to review, approve, and certify certain
197 bills related to costs, fees, or expenses of the state
198 courts system; amending s. 939.185, F.S.; authorizing
199 the chief judge of the circuit to determine
200 innovations eligible for funding from a county-
201 assessed court cost; amending s. 943.03, F.S.;

202 requiring the Department of Law Enforcement to modify
203 the statewide uniform statute table in its criminal

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204 history system; amending s. 943.053, F.S.; providing
205 for a discounted fee for criminal history record
206 checks for the guardian ad litem program; amending s.
207 943.0585, F.S., relating to court-ordered expunction
208 of criminal history records; removing the requirement
209 for the state attorney or statewide prosecutor to
210 provide written certified documentation to a person
211 seeking a certificate of eligibility to expunge a
212 criminal record; repealing s. 985.557(4), F.S.,
213 relating to a requirement for state attorneys to
214 develop direct-file policies and guidelines for
215 juveniles and report to the Governor and Legislature;
216 transferring certain funds from the Operating Trust
217 Fund to the State Courts Revenue Trust Fund and the
218 Administrative Trust Fund within the state courts
219 system; providing effective dates.

220

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

222

223 Section 1. Subsection (5) of section 25.241, Florida
224 Statutes, is amended to read:

225 25.241 Clerk of Supreme Court; compensation; assistants;
226 filing fees, etc.—

227 (5) The Clerk of the Supreme Court is hereby required to
228 prepare a statement of all fees collected each month and remit
229 such statement, together with all fees collected by him or her,
230 to the Chief Financial Officer. The Chief Financial Officer
231 shall deposit \$250 of each \$300 filing fee and all other fees
232 collected into the General Revenue Fund. The Chief Financial

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233 Officer shall deposit \$50 of each filing fee collected into the
234 State Courts Revenue ~~state court's Operating~~ Trust Fund to fund
235 court operations ~~improvement projects~~ as authorized in the
236 General Appropriations Act.

237 Section 2. Section 25.3844, Florida Statutes, is amended to
238 read:

239 25.3844 Administrative ~~Operating~~ Trust Fund.—

240 (1) The Administrative ~~Operating~~ Trust Fund is created
241 within the state courts system.

242 (2) The fund is established ~~for use as a depository of fees~~
243 ~~and related revenue~~ for the purpose of supporting the ~~program~~
244 operations of the judicial branch and for such other purposes as
245 may be appropriate, and shall be expended only pursuant to
246 legislative appropriation or an approved amendment to the
247 agency's operating budget pursuant to the provisions of chapter
248 216.

249 Section 3. Section 25.386, Florida Statutes, is amended to
250 read:

251 25.386 Foreign language court interpreters.—The Supreme
252 Court shall establish minimum standards and procedures for
253 qualifications, certification, professional conduct, discipline,
254 and training of foreign language court interpreters who are
255 appointed by a court of competent jurisdiction. The Supreme
256 Court shall set fees to be charged to applicants for
257 certification and renewal of certification as a foreign language
258 court interpreter. The revenues generated from such fees shall
259 be used to offset the costs of administration of the
260 certification program and shall be deposited into the
261 Administrative ~~Operating~~ Trust Fund within the state courts

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262 system. The Supreme Court may appoint or employ such personnel
263 as are necessary to assist the court in administering this
264 section.

265 Section 4. Section 27.366, Florida Statutes, is amended to
266 read:

267 27.366 Legislative intent and policy in cases meeting
268 criteria of s. 775.087(2) and (3); ~~report.~~

269 ~~(1)~~ It is the intent of the Legislature that convicted
270 criminal offenders who meet the criteria in s. 775.087(2) and
271 (3) be sentenced to the minimum mandatory prison terms provided
272 herein. It is the intent of the Legislature to establish zero
273 tolerance of criminals who use, threaten to use, or avail
274 themselves of firearms in order to commit crimes and thereby
275 demonstrate their lack of value for human life. It is also the
276 intent of the Legislature that prosecutors should appropriately
277 exercise their discretion in those cases in which the offenders'
278 possession of the firearm is incidental to the commission of a
279 crime and not used in furtherance of the crime, used in order to
280 commit the crime, or used in preparation to commit the crime.
281 ~~For every case in which the offender meets the criteria in this~~
282 ~~act and does not receive the mandatory minimum prison sentence,~~
283 ~~the state attorney must explain the sentencing deviation in~~
284 ~~writing and place such explanation in the case file maintained~~
285 ~~by the state attorney. On a quarterly basis, each state attorney~~
286 ~~shall submit copies of deviation memoranda regarding offenses~~
287 ~~committed on or after the effective date of this act to the~~
288 ~~President of the Florida Prosecuting Attorneys Association, Inc.~~
289 ~~The association must maintain such information and make such~~
290 ~~information available to the public upon request for at least a~~

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291 ~~10-year period.~~

292 ~~(2) Effective July 1, 2000, each state attorney shall~~
293 ~~annually report to the Speaker of the House of Representatives,~~
294 ~~the President of the Senate, and the Executive Office of the~~
295 ~~Governor regarding the prosecution and sentencing of offenders~~
296 ~~who met the criteria in s. 775.087(2) and (3). The report must~~
297 ~~categorize the defendants by age, gender, race, and ethnicity.~~
298 ~~Cases in which a final disposition has not yet been reached~~
299 ~~shall be reported in a subsequent annual report.~~

300 Section 5. Subsection (7) of section 27.40, Florida
301 Statutes, is amended to read:

302 27.40 Court-appointed counsel; circuit registries; minimum
303 requirements; appointment by court.—

304 (7) (a) A private attorney appointed by the court from the
305 registry to represent a client is entitled to payment as
306 provided in s. 27.5304. An attorney appointed by the court who
307 is not on the registry list may be compensated under s. 27.5304
308 if the court finds in the order of appointment that there were
309 no registry attorneys available for representation for that
310 case.

311 (b) 1. The attorney shall maintain appropriate
312 documentation, including contemporaneous and detailed hourly
313 accounting of time spent representing the client. If the
314 attorney fails to maintain such contemporaneous and detailed
315 hourly records, the attorney waives the right to seek
316 compensation in excess of the flat fee established in s. 27.5304
317 and the General Appropriations Act. These records and documents
318 are subject to review by the Justice Administrative Commission,
319 subject to the attorney-client privilege and work-product

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320 privilege. The attorney shall maintain the records and documents
321 in a manner that enables the attorney to redact information
322 subject to a privilege in order to facilitate and not impede the
323 commission's review of the records and documents. The attorney
324 may redact information from the records and documents only to
325 the extent necessary to comply with the privilege.

326 2. If an attorney fails, refuses, or declines to permit the
327 commission to review documentation for a case as provided in
328 this paragraph, the attorney waives the right to seek, and the
329 commission may not pay, compensation in excess of the flat fee
330 established in s. 27.5304 and the General Appropriations Act for
331 that case.

332 3. A finding by the commission that an attorney waives the
333 right to seek compensation in excess of the flat fee established
334 in s. 27.5304 and the General Appropriations Act, as provided in
335 this paragraph, is presumed to be valid, unless a court
336 concludes that the commission's finding is not supported by
337 competent and substantial evidence.

338 Section 6. Section 27.425, Florida Statutes, is amended to
339 read:

340 27.425 Due process service rates; responsibilities of chief
341 judge.—

342 (1) The ~~maximum~~ chief judge of each circuit shall recommend
343 compensation rates for state-funded due process service
344 providers in cases in which the court has appointed private
345 counsel or declared a person indigent for costs shall be
346 specified annually in the General Appropriations Act. For
347 purposes of this section, due process compensation rates do not
348 include attorney's fees for legal representation of the client.

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349 ~~(2) Annually, the chief judge shall submit proposed due~~
350 ~~process compensation rates to the Office of the State Courts~~
351 ~~Administrator for inclusion in the legislative budget request~~
352 ~~for the state courts system.~~

353 ~~(3) The maximum rates shall be specified annually in the~~
354 ~~General Appropriations Act. For the 2007-2008 fiscal year, the~~
355 ~~maximum rates shall be the rates in effect on June 30, 2007.~~

356 (2)-(4) The total amount expended for providers of due
357 process services in eligible cases may not exceed the amount
358 budgeted in the General Appropriations Act for the particular
359 due process service.

360 (3) The Justice Administrative Commission shall approve
361 uniform contract forms for use in procuring due process services
362 and uniform procedures for use by a due process provider, or a
363 private attorney on behalf of a due process provider, in support
364 of billing for due process services to demonstrate completion of
365 the specified services.

366 Section 7. Subsections (5) and (6) of section 27.511,
367 Florida Statutes, are amended to read:

368 27.511 Offices of criminal conflict and civil regional
369 counsel; legislative intent; qualifications; appointment;
370 duties.—

371 ~~(5) Effective October 1, 2007,~~ When the Office of the
372 Public Defender, at any time during the representation of two or
373 more defendants, determines that the interests of those accused
374 are so adverse or hostile that they cannot all be counseled by
375 the public defender or his or her staff without a conflict of
376 interest, or that none can be counseled by the public defender
377 or his or her staff because of a conflict of interest, and the

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378 court grants the public defender's motion to withdraw, the
379 office of criminal conflict and civil regional counsel shall be
380 appointed and shall provide legal services, without additional
381 compensation, to any person determined to be indigent under s.
382 27.52, who is:

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

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

385 1. A misdemeanor authorized for prosecution by the state
386 attorney;

387 2. A violation of chapter 316 punishable by imprisonment;

388 3. Criminal contempt; or

389 4. A violation of a special law or county or municipal
390 ordinance ancillary to a state charge or, if not ancillary to a
391 state charge, only if the office of criminal conflict and civil
392 regional counsel contracts with the county or municipality to
393 provide representation pursuant to ss. 27.54 and 125.69.

394

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

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

401 (d) Sought by petition filed in such court to be
402 involuntarily placed as a mentally ill person under part I of
403 chapter 394, involuntarily committed as a sexually violent
404 predator under part V of chapter 394, or involuntarily admitted
405 to residential services as a person with developmental
406 disabilities under chapter 393;

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

409 (f) ~~Is~~ Appealing a matter in a case arising under
410 paragraphs (a)-(d); ~~or-~~

411 (g) Seeking correction, reduction, or modification of a
412 sentence under Rule 3.800 or seeking postconviction relief under
413 Rule 3.850 of the Florida Rules of Criminal Procedure if, in
414 either case, the court determines that appointment of counsel is
415 necessary to protect a person's due process rights.

416 (6) (a) ~~Effective October 1, 2007,~~ The office of criminal
417 conflict and civil regional counsel has primary responsibility
418 for representing persons entitled to court-appointed counsel
419 under the Federal or State Constitution or as authorized by
420 general law in civil proceedings, including, but not limited to,
421 proceedings under s. 393.12 and chapters 39, ~~390,~~ 392, 397, 415,
422 743, 744, and 984 and proceedings to terminate parental rights
423 under chapter 63. Private court-appointed counsel eligible under
424 s. 27.40 have primary responsibility for representing minors who
425 request counsel under s. 390.01114, the Parental Notice of
426 Abortion Act. The office of criminal conflict and civil regional
427 counsel may represent a minor under that section if the court
428 finds that no private court-appointed attorney is available.

429 (b) If constitutional principles or general law provide for
430 court-appointed counsel in civil proceedings, the court shall
431 first appoint the regional counsel unless general law
432 specifically provides for appointment of the public defender, in
433 which case the court shall appoint the regional counsel if the
434 public defender has a conflict of interest.

435 (c) Notwithstanding paragraph (b) or any provision of

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436 chapter 744 to the contrary, when chapter 744 provides for
437 appointment of counsel, the court, in consultation with the
438 clerk of court and prior to appointing counsel, shall determine,
439 if possible, whether the person entitled to representation is
440 indigent, using the best available evidence.

441 1. If the person is indigent, the court shall appoint the
442 regional counsel. If at any time after appointment the regional
443 counsel determines that the person is not indigent and that
444 there are sufficient assets available for the payment of legal
445 representation under s. 744.108, the regional counsel shall move
446 the court to reassign the case to a private attorney.

447 2. If the person is not indigent or if the court and the
448 clerk are not able to determine whether the person is indigent
449 at the time of appointment, the court shall appoint a private
450 attorney. If at any time after appointment the private attorney
451 determines that the person is indigent and that there are not
452 sufficient assets available for the payment of legal
453 representation under s. 744.108, the private attorney shall move
454 the court to reassign the case to the regional counsel. When a
455 case is reassigned, the private attorney may seek compensation
456 from the Justice Administrative Commission for representation
457 not recoverable from any assets of the person in an amount
458 approved by the court as a pro rata portion of the compensation
459 limits prescribed in the General Appropriations Act.

460 (d) The regional counsel may not represent any plaintiff in
461 a civil action brought under the Florida Rules of Civil
462 Procedure, the Federal Rules of Civil Procedure, or federal
463 statutes, and may not represent a petitioner in a rule challenge
464 under chapter 120, unless specifically authorized by law.

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465 Section 8. Section 27.52, Florida Statutes, is amended to
466 read:

467 27.52 Determination of indigent status.—

468 (1) APPLICATION TO THE CLERK.—A person seeking appointment
469 of a public defender under s. 27.51 based upon an inability to
470 pay must apply to the clerk of the court for a determination of
471 indigent status using an application form developed by the
472 Florida Clerks of Court Operations Corporation with final
473 approval by the Supreme Court.

474 (a) The application must include, at a minimum, the
475 following financial information:

476 1. Net income, consisting of total salary and wages, minus
477 deductions required by law, including court-ordered support
478 payments.

479 2. Other income, including, but not limited to, social
480 security benefits, union funds, veterans' benefits, workers'
481 compensation, other regular support from absent family members,
482 public or private employee pensions, unemployment compensation,
483 dividends, interest, rent, trusts, and gifts.

484 3. Assets, including, but not limited to, cash, savings
485 accounts, bank accounts, stocks, bonds, certificates of deposit,
486 equity in real estate, and equity in a boat or a motor vehicle
487 or in other tangible property.

488 4. All liabilities and debts.

489 5. If applicable, the amount of any bail paid for the
490 applicant's release from incarceration and the source of the
491 funds.

492

493 The application must include a signature by the applicant which

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494 attests to the truthfulness of the information provided. The
495 application form developed by the corporation must include
496 notice that the applicant may seek court review of a clerk's
497 determination that the applicant is not indigent, as provided in
498 this section.

499 (b) An applicant shall pay a \$50 application fee to the
500 clerk for each application for court-appointed counsel filed.
501 The applicant shall pay the fee within 7 days after submitting
502 the application. If the applicant does not pay the fee prior to
503 the disposition of the case, the clerk shall notify the court,
504 and the court shall:

505 1. Assess the application fee as part of the sentence or as
506 a condition of probation; or

507 2. Assess the application fee pursuant to s. 938.29.

508 (c) Notwithstanding any provision of law, court rule, or
509 administrative order, the clerk shall assign the first \$50 of
510 any fees or costs paid by an indigent person as payment of the
511 application fee. A person found to be indigent may not be
512 refused counsel or other required due process services for
513 failure to pay the fee.

514 (d) All application fees collected by the clerk under this
515 section shall be transferred monthly by the clerk to the
516 Department of Revenue for deposit in the Indigent Criminal
517 Defense Trust Fund administered by the Justice Administrative
518 Commission, to be used to as appropriated by the Legislature.
519 The clerk may retain 2 percent of application fees collected
520 monthly for administrative costs prior to remitting the
521 remainder to the Department of Revenue.

522 (e)1. The clerk shall assist a person who appears before

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523 the clerk and requests assistance in completing the application,
524 and the clerk shall notify the court if a person is unable to
525 complete the application after the clerk has provided
526 assistance.

527 2. If the person seeking appointment of a public defender
528 is incarcerated, the public defender is responsible for
529 providing the application to the person and assisting him or her
530 in its completion and is responsible for submitting the
531 application to the clerk on the person's behalf. The public
532 defender may enter into an agreement for jail employees,
533 pretrial services employees, or employees of other criminal
534 justice agencies to assist the public defender in performing
535 functions assigned to the public defender under this
536 subparagraph.

537 (2) DETERMINATION BY THE CLERK.—The clerk of the court
538 shall determine whether an applicant seeking appointment of a
539 public defender is indigent based upon the information provided
540 in the application and the criteria prescribed in this
541 subsection.

542 (a)1. An applicant, including an applicant who is a minor
543 or an adult tax-dependent person, is indigent if the applicant's
544 income is equal to or below 200 percent of the then-current
545 federal poverty guidelines prescribed for the size of the
546 household of the applicant by the United States Department of
547 Health and Human Services or if the person is receiving
548 Temporary Assistance for Needy Families-Cash Assistance,
549 poverty-related veterans' benefits, or Supplemental Security
550 Income (SSI).

551 2.a. There is a presumption that the applicant is not

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552 indigent if the applicant owns, or has equity in, any intangible
553 or tangible personal property or real property or the expectancy
554 of an interest in any such property having a net equity value of
555 \$2,500 or more, excluding the value of the person's homestead
556 and one vehicle having a net value not exceeding \$5,000.

557 b. Notwithstanding the information that the applicant
558 provides, the clerk shall conduct a review of the property
559 records for the county in which the applicant resides and the
560 motor vehicle title records of the state to identify any
561 property interests of the applicant under this subparagraph. The
562 clerk shall evaluate and consider the results of the review in
563 making its determination under this subsection. The clerk shall
564 maintain the results of the review in a file with the
565 application and provide the file to the court if the applicant
566 seeks review under subsection (4) of the clerk's determination
567 of indigent status.

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

- 570 1. The applicant is not indigent.
- 571 2. The applicant is indigent.

572 (c)1. If the clerk determines that the applicant is
573 indigent, the clerk shall submit the determination to the office
574 of the public defender and immediately file the determination in
575 the case file.

576 2. If the public defender is unable to provide
577 representation due to a conflict pursuant to s. 27.5303, the
578 public defender shall move the court for withdrawal from
579 representation and appointment of the office of criminal
580 conflict and civil regional counsel.

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581 (d) The duty of the clerk in determining whether an
582 applicant is indigent shall be limited to receiving the
583 application and comparing the information provided in the
584 application to the criteria prescribed in this subsection. The
585 determination of indigent status is a ministerial act of the
586 clerk and not a decision based on further investigation or the
587 exercise of independent judgment by the clerk. The clerk may
588 contract with third parties to perform functions assigned to the
589 clerk under this section.

590 (e) The applicant may seek review of the clerk's
591 determination that the applicant is not indigent in the court
592 having jurisdiction over the matter at the next scheduled
593 hearing. If the applicant seeks review of the clerk's
594 determination of indigent status, the court shall make a final
595 determination as provided in subsection (4).

596 (3) APPOINTMENT OF COUNSEL ON INTERIM BASIS.—If the clerk
597 of the court has not made a determination of indigent status at
598 the time a person requests appointment of a public defender, the
599 court shall make a preliminary determination of indigent status,
600 pending further review by the clerk, and may, by court order,
601 appoint a public defender, the office of criminal conflict and
602 civil regional counsel, or private counsel on an interim basis.

603 (4) REVIEW OF CLERK'S DETERMINATION.—

604 (a) If the clerk of the court determines that the applicant
605 is not indigent, and the applicant seeks review of the clerk's
606 determination, the court shall make a final determination of
607 indigent status by reviewing the information provided in the
608 application against the criteria prescribed in subsection (2)
609 and by considering the following additional factors:

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

612 2. Whether a bond has been posted, the type of bond, and
613 who paid the bond.

614 3. Whether paying for private counsel in an amount that
615 exceeds the limitations in s. 27.5304, or other due process
616 services creates a substantial hardship for the applicant or the
617 applicant's family.

618 4. Any other relevant financial circumstances of the
619 applicant or the applicant's family.

620 (b) Based upon its review, the court shall make one of the
621 following determinations and, if the applicant is indigent,
622 shall appoint a public defender, the office of criminal conflict
623 and civil regional counsel, or, if appropriate, private counsel:

624 1. The applicant is not indigent.

625 2. The applicant is indigent.

626 (5) INDIGENT FOR COSTS.—A person who is ~~eligible to be~~
627 ~~represented by a public defender under s. 27.51 but who is~~
628 represented by private counsel not appointed by the court for a
629 reasonable fee as approved by the court, or on a pro bono basis,
630 or who is proceeding pro se, may move the court for a
631 determination that he or she is indigent for costs and eligible
632 for the provision of due process services, as prescribed by ss.
633 29.006 and 29.007, funded by the state.

634 (a) The person must file a written motion with the court
635 and submit to the court:

636 1. The completed application prescribed in subsection (1).

637 2. In the case of a person represented by counsel, an
638 affidavit attesting to the estimated amount of attorney's fees

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639 and the source of payment for these fees.

640 (b) The person shall arrange for service of a copy of the
641 motion and attachments on the Justice Administrative Commission.
642 The commission has standing to appear before the court to
643 contest any motion to declare a person indigent for costs and
644 may participate in a hearing on the motion by use of telephonic
645 or other communication equipment.

646 (c) If the person did not apply for a determination of
647 indigent status under subsection (1) in the same case and is not
648 already liable for the application fee required under that
649 subsection, he or she becomes liable for payment of the fee upon
650 filing the motion with the court.

651 (d) ~~(b)~~ In reviewing the motion, the court shall consider:

652 1. Whether the applicant applied for a determination of
653 indigent status under subsection (1) and the outcome of such
654 application.

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

657 3. The additional factors prescribed in subsection (4).

658 4. Whether the applicant is proceeding pro se.

659 5. When the applicant retained private counsel.

660 6. The amount of any attorney's fees and who is paying the
661 fees. There is a presumption that the applicant is not indigent
662 for costs if the amount of attorney's fees exceeds \$5,000 for a
663 noncapital case or \$25,000 for a capital case in which the state
664 is seeking the death penalty. To overcome this presumption, the
665 applicant has the burden to show through clear and convincing
666 evidence that the fees are reasonable based on the nature and
667 complexity of the case. In determining the reasonableness of the

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668 fees, the court shall consider the amount that a private court-
669 appointed attorney paid by the state would receive for providing
670 representation for the type of case.

671 (e)~~(e)~~ Based upon its review, the court shall make one of
672 the following determinations:

673 1. The applicant is not indigent for costs.

674 2. The applicant is indigent for costs.

675 (f)~~(d)~~ The provision of due process services based upon a
676 determination that a person is indigent for costs under this
677 subsection must be effectuated pursuant to a court order, a copy
678 of which the clerk shall provide to counsel representing the
679 person, or to the person directly if he or she is proceeding pro
680 se, for use in requesting payment of due process expenses
681 through the Justice Administrative Commission. Private counsel
682 representing a person declared indigent for costs shall execute
683 the Justice Administrative Commission's contract for counsel
684 representing persons determined to be indigent for costs.
685 Private counsel representing a person declared indigent for
686 costs may not receive state funds, either directly or on behalf
687 of due process providers, unless the attorney has executed the
688 contract required under this paragraph.

689 (g) Costs shall be reimbursed at the rates established
690 under ss. 27.425 and 27.5305. To receive reimbursement of costs,
691 either directly or on behalf of due process providers, private
692 counsel representing a person declared indigent for costs shall
693 comply with the procedures and requirements under this chapter
694 governing billings by and compensation of private court-
695 appointed counsel.

696 (h) The court may not appoint an attorney paid by the state

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697 based on a finding that the defendant is indigent for costs if
698 the defendant has privately retained and paid counsel.

699 (i) A defendant who is found guilty of a criminal act by a
700 court or jury or enters a plea of guilty or nolo contendere and
701 who received due process services after being found indigent for
702 costs under this subsection is liable for payment of due process
703 costs expended by the state.

704 1. The attorney representing the defendant, or the
705 defendant if he or she is proceeding pro se, shall provide an
706 accounting to the court delineating all costs paid or to be paid
707 by the state within 90 days after disposition of the case
708 notwithstanding any appeals.

709 2. The court shall issue an order determining the amount of
710 all costs paid by the state and any costs for which prepayment
711 was waived under this section or s. 57.081. The clerk shall
712 cause a certified copy of the order to be recorded in the
713 official records of the county, at no cost. The recording
714 constitutes a lien against the person in favor of the state in
715 the county in which the order is recorded. The lien may be
716 enforced in the same manner prescribed in s. 938.29.

717 3. If the attorney or the pro se defendant fails to provide
718 a complete accounting of costs expended by the state and
719 consequently costs are omitted from the lien, the attorney or
720 pro se defendant may not receive reimbursement or any other form
721 of direct or indirect payment for those costs if the state has
722 not paid the costs. The attorney or pro se defendant shall repay
723 the state for those costs if the state has already paid the
724 costs. The clerk of the court may establish a payment plan under
725 s. 28.246 and may charge the attorney or pro se defendant a one-

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726 time administrative processing charge under s. 28.24(26)(c).

727 (6) DUTIES OF PARENT OR LEGAL GUARDIAN.—A nonindigent
728 parent or legal guardian of an applicant who is a minor or an
729 adult tax-dependent person shall furnish the minor or adult tax-
730 dependent person with the necessary legal services and costs
731 incident to a delinquency proceeding or, upon transfer of such
732 person for criminal prosecution as an adult pursuant to chapter
733 985, a criminal prosecution in which the person has a right to
734 legal counsel under the Constitution of the United States or the
735 Constitution of the State of Florida. The failure of a parent or
736 legal guardian to furnish legal services and costs under this
737 section does not bar the appointment of legal counsel pursuant
738 to this section, s. 27.40, or s. 27.5303. When the public
739 defender, the office of criminal conflict and civil regional
740 counsel, a private court-appointed conflict counsel, or a
741 private attorney is appointed to represent a minor or an adult
742 tax-dependent person in any proceeding in circuit court or in a
743 criminal proceeding in any other court, the parents or the legal
744 guardian shall be liable for payment of the fees, charges, and
745 costs of the representation even if the person is a minor being
746 tried as an adult. Liability for the fees, charges, and costs of
747 the representation shall be imposed in the form of a lien
748 against the property of the nonindigent parents or legal
749 guardian of the minor or adult tax-dependent person. The lien is
750 enforceable as provided in s. 27.561 or s. 938.29.

751 (7) FINANCIAL DISCREPANCIES; FRAUD; FALSE INFORMATION.—

752 (a) If the court learns of discrepancies between the
753 application or motion and the actual financial status of the
754 person found to be indigent or indigent for costs, the court

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755 shall determine whether the public defender, office of criminal
756 conflict and civil regional counsel, or private attorney shall
757 continue representation or whether the authorization for any
758 other due process services previously authorized shall be
759 revoked. The person may be heard regarding the information
760 learned by the court. If the court, based on the information,
761 determines that the person is not indigent or indigent for
762 costs, the court shall order the public defender, office of
763 criminal conflict and civil regional counsel, or private
764 attorney to discontinue representation and revoke the provision
765 of any other authorized due process services.

766 (b) If the court has reason to believe that any applicant,
767 through fraud or misrepresentation, was improperly determined to
768 be indigent or indigent for costs, the matter shall be referred
769 to the state attorney. Twenty-five percent of any amount
770 recovered by the state attorney as reasonable value of the
771 services rendered, including fees, charges, and costs paid by
772 the state on the person's behalf, shall be remitted to the
773 Department of Revenue for deposit into the Grants and Donations
774 Trust Fund within the Justice Administrative Commission.
775 Seventy-five percent of any amount recovered shall be remitted
776 to the Department of Revenue for deposit into the General
777 Revenue Fund.

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

782 Section 9. Subsection (4) of section 27.5304, Florida
783 Statutes, is amended to read:

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784 27.5304 Private court-appointed counsel; compensation.—

785 (4) (a) The attorney shall submit a bill for attorney's
786 fees, costs, and related expenses within 90 days after the
787 disposition of the case at the lower court level,
788 notwithstanding any appeals. The Justice Administrative
789 Commission shall provide by contract with the attorney for
790 imposition of a penalty of:

791 1. Fifteen ~~15~~ percent of the allowable attorney's fees,
792 costs, and related expenses for a bill that is submitted more
793 than 90 days after the disposition of the case at the lower
794 court level, notwithstanding any appeals;—

795 2. For cases for which disposition occurs on or after July
796 1, 2010, 50 percent of the allowable attorney's fees, costs, and
797 related expenses for a bill that is submitted more than 1 year
798 after the disposition of the case at the lower court level,
799 notwithstanding any appeals; and

800 3. For cases for which disposition occurs on or after July
801 1, 2010, 75 percent of the allowable attorney's fees, costs, and
802 related expenses for a bill that is submitted more than 2 years
803 after the disposition of the case at the lower court level,
804 notwithstanding any appeals.

805 (b) For purposes of this subsection, the term "disposition"
806 means:

807 1. At the trial court level, that the court has entered a
808 final appealable judgment, unless rendition of judgment is
809 stayed by the filing of a timely motion for rehearing. The
810 filing of a notice of appeal does not stay the time for
811 submission of an intended billing; and

812 2. At the appellate court level, that the court has issued

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813 its mandate.

814 Section 10. Section 27.5305, Florida Statutes, is created
815 to read:

816 27.5305 Attorney or provider compensation; conditions;
817 requirements.—The provisions of this section apply to the
818 payment by the state through the Justice Administrative
819 Commission of legal fees and due process costs in an eligible
820 criminal or civil matter when a person receives the services of
821 a private court-appointed attorney or is declared indigent for
822 costs under s. 27.52 or s. 57.082.

823 (1) ELECTRONIC FUNDS TRANSFER.—A person, as defined in s.
824 1.01, requesting compensation from the state through the Justice
825 Administrative Commission for the provision of criminal or civil
826 legal representation or other due process services must, as a
827 condition for compensation, participate in a direct-deposit
828 program under which the person authorizes the transfer of funds
829 electronically to an account in the person's name at a federal-
830 or state-chartered financial institution.

831 (a) The Justice Administrative Commission may exempt a
832 person from compliance with this section if the commission finds
833 that participation in a direct-deposit program creates a
834 financial hardship for the person.

835 (b) This subsection applies to compensation for services
836 that are provided on or after January 1, 2011.

837 (2) TRANSCRIPTS.—

838 (a) The state may pay for the cost of preparing a
839 transcript of a deposition only if the private court-appointed
840 attorney secures an order from the court finding that
841 preparation of the transcript is necessary, in which case the

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842 state may pay for one original and one copy only.

843 (b) The state may pay for the cost of one original
844 transcript of any deposition, hearing, or other proceeding. Any
845 other payment for a transcript of that same deposition, hearing,
846 or other proceeding, regardless of whether the transcript is an
847 additional original transcript or a copy, shall be at the rate
848 paid for a copy of a transcript. This paragraph applies
849 regardless of which state agency pays for the first original
850 transcript.

851 (3) COURT REPORTERS; INVESTIGATORS.—Beginning with the
852 2010-2011 fiscal year, and applicable to services performed
853 starting in that year, uniform statewide rates shall be
854 prescribed annually in the General Appropriations Act for the
855 payment of:

856 (a) Court reporting services that are not provided through
857 the state courts system; and

858 (b) Private investigation services.

859 (4) EXPERT WITNESSES; MITIGATION SPECIALISTS.—A private
860 court-appointed attorney must obtain authorization from the
861 court to employ an out-of-state expert or mitigation specialist
862 upon a showing that an expert or mitigation specialist who has
863 appropriate skills or expertise is not available from within the
864 county in which the case was filed or from elsewhere in the
865 state. An order authorizing the employment must be in writing
866 and contain specific findings regarding the unavailability of a
867 qualified in-state expert or mitigation specialist. The attorney
868 shall submit a copy of the order to the Justice Administrative
869 Commission.

870 (5) RIGHT TO DISCOVERY.—The Justice Administrative

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871 Commission has a right to engage in discovery in accordance with
872 the Florida Rules of Civil Procedure on a motion to the court
873 seeking payment of attorney's fees, costs, or other expenses.
874 This right includes a reasonable opportunity to obtain discovery
875 prior to a hearing on the motion.

876 Section 11. Subsection (12) of section 28.24, Florida
877 Statutes, is amended to read:

878 28.24 Service charges by clerk of the circuit court.—The
879 clerk of the circuit court shall charge for services rendered by
880 the clerk's office in recording documents and instruments and in
881 performing the duties enumerated in amounts not to exceed those
882 specified in this section. Notwithstanding any other provision
883 of this section, the clerk of the circuit court shall provide
884 without charge to the state attorney, public defender, guardian
885 ad litem, public guardian, attorney ad litem, criminal conflict
886 and civil regional counsel, and private court-appointed counsel
887 paid by the state, and to the authorized staff acting on behalf
888 of each, access to and a copy of any public record, if the
889 requesting party is entitled by law to view the exempt or
890 confidential record, as maintained by and in the custody of the
891 clerk of the circuit court as provided in general law and the
892 Florida Rules of Judicial Administration. The clerk of the
893 circuit court may provide the requested public record in an
894 electronic format in lieu of a paper format when capable of
895 being accessed by the requesting entity.

896
897 Charges

898 (12) For recording, indexing, and filing any instrument not
899 more than 14 inches by 8 1/2 inches, including required notice

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- 900 to property appraiser where applicable:
- 901 (a) First page or fraction thereof.....5.00
- 902 (b) Each additional page or fraction thereof.....4.00
- 903 (c) For indexing instruments recorded in the official
- 904 records which contain more than four names, per additional
- 905 name.....1.00
- 906 (d) An additional service charge shall be paid to the clerk
- 907 of the circuit court to be deposited in the Public Records
- 908 Modernization Trust Fund for each instrument listed in s.
- 909 28.222, except judgments received from the courts and notices of
- 910 lis pendens, recorded in the official records:
- 911 1. First page.....1.00
- 912 2. Each additional page.....0.50

913

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

915 exclusively for equipment and maintenance of equipment,

916 personnel training, and technical assistance in modernizing the

917 public records system of the office. In a county where the duty

918 of maintaining official records exists in an office other than

919 the office of the clerk of the circuit court, the clerk of the

920 circuit court is entitled to 25 percent of the moneys deposited

921 into the trust fund for equipment, maintenance of equipment,

922 training, and technical assistance in modernizing the system for

923 storing records in the office of the clerk of the circuit court.

924 The fund may not be used for the payment of travel expenses,

925 membership dues, bank charges, staff-recruitment costs, salaries

926 or benefits of employees, construction costs, general operating

927 expenses, or other costs not directly related to obtaining and

928 maintaining equipment for public records systems or for the

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929 purchase of furniture or office supplies and equipment not
930 related to the storage of records. On or before December 1,
931 1995, and on or before December 1 of each year immediately
932 preceding each year during which the trust fund is scheduled for
933 legislative review under s. 19(f)(2), Art. III of the State
934 Constitution, each clerk of the circuit court shall file a
935 report on the Public Records Modernization Trust Fund with the
936 President of the Senate and the Speaker of the House of
937 Representatives. The report must itemize each expenditure made
938 from the trust fund since the last report was filed; each
939 obligation payable from the trust fund on that date; and the
940 percentage of funds expended for each of the following:
941 equipment, maintenance of equipment, personnel training, and
942 technical assistance. The report must indicate the nature of the
943 system each clerk uses to store, maintain, and retrieve public
944 records and the degree to which the system has been upgraded
945 since the creation of the trust fund.

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

951 1. If the counties maintain legal responsibility for the
952 costs of the court-related technology needs as defined in s.
953 29.008(1)(f)2. and (h), 10 cents shall be distributed to the
954 Florida Association of Court Clerks and Comptroller, Inc., for
955 the cost of development, implementation, operation, and
956 maintenance of the clerks' Comprehensive Case Information
957 System, in which system all clerks shall participate on or

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958 before January 1, 2006; \$1.90 shall be retained by the clerk to
959 be deposited in the Public Records Modernization Trust Fund and
960 used exclusively for funding court-related technology needs of
961 the clerk as defined in s. 29.008(1)(f)2. and (h); and \$2 shall
962 be distributed to the board of county commissioners to be used
963 exclusively to fund court-related technology, and court
964 technology needs as defined in s. 29.008(1)(f)2. and (h) for the
965 state trial courts, state attorney, public defender, and, at the
966 board's discretion, criminal conflict and civil regional counsel
967 in that county. If the counties maintain legal responsibility
968 for the costs of the court-related technology needs as defined
969 in s. 29.008(1)(f)2. and (h), notwithstanding any other
970 provision of law, the county is not required to provide
971 additional funding beyond that provided herein for the court-
972 related technology needs of the clerk as defined in s.
973 29.008(1)(f)2. and (h). All court records and official records
974 are the property of the State of Florida, including any records
975 generated as part of the Comprehensive Case Information System
976 funded pursuant to this paragraph and the clerk of court is
977 designated as the custodian of such records, except in a county
978 where the duty of maintaining official records exists in a
979 county office other than the clerk of court or comptroller, such
980 county office is designated the custodian of all official
981 records, and the clerk of court is designated the custodian of
982 all court records. The clerk of court or any entity acting on
983 behalf of the clerk of court, including an association, shall
984 not charge a fee to any agency as defined in s. 119.011, the
985 Legislature, or the State Court System for copies of records
986 generated by the Comprehensive Case Information System or held

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987 by the clerk of court or any entity acting on behalf of the
988 clerk of court, including an association.

989 2. If the state becomes legally responsible for the costs
990 of court-related technology needs as defined in s.
991 29.008(1)(f)2. and (h), whether by operation of general law or
992 by court order, \$4 shall be remitted to the Department of
993 Revenue for deposit into the General Revenue Fund.

994 Section 12. Paragraph (a) of subsection (1) of section
995 28.241, Florida Statutes, is amended, and subsection (7) is
996 added to that section, to read:

997 28.241 Filing fees for trial and appellate proceedings.—

998 (1)(a)1.a. Except as provided in sub-subparagraph b. and
999 subparagraph 2., the party instituting any civil action, suit,
1000 or proceeding in the circuit court shall pay to the clerk of
1001 that court a filing fee of up to \$395 in all cases in which
1002 there are not more than five defendants and an additional filing
1003 fee of up to \$2.50 for each defendant in excess of five. Of the
1004 first \$265 in filing fees, \$80 must be remitted by the clerk to
1005 the Department of Revenue for deposit into the General Revenue
1006 Fund, \$180 must be remitted to the Department of Revenue for
1007 deposit into the State Courts Revenue Trust Fund, \$3.50 must be
1008 remitted to the Department of Revenue for deposit into the
1009 Clerks of the Court Trust Fund within the Justice Administrative
1010 Commission and used to fund the Florida Clerks of Court
1011 Operations Corporation created in s. 28.35, and \$1.50 shall be
1012 remitted to the Department of Revenue for deposit into the
1013 Administrative Trust Fund within the Department of Financial
1014 Services to fund clerk budget reviews conducted by the
1015 Department of Financial Services. The next \$15 of the filing fee

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1016 collected shall be deposited in the state courts' Mediation and
1017 Arbitration Trust Fund. One third of any filing fees collected
1018 by the clerk of the circuit court in excess of \$100 shall be
1019 remitted to the Department of Revenue for deposit into the
1020 Clerks of the Court Trust Fund within the Justice Administrative
1021 Commission.

1022 b. Except where the assessment of a filing fee is otherwise
1023 prohibited by law, the party instituting any civil action, suit,
1024 or proceeding in the circuit court under chapter 39, chapter 61,
1025 chapter 741, chapter 742, chapter 747, chapter 752, or chapter
1026 753 shall pay to the clerk of that court a filing fee of up to
1027 \$295 in all cases in which there are not more than five
1028 defendants and an additional filing fee of up to \$2.50 for each
1029 defendant in excess of five. Of the first \$165 in filing fees,
1030 \$80 must be remitted by the clerk to the Department of Revenue
1031 for deposit into the General Revenue Fund, \$80 must be remitted
1032 to the Department of Revenue for deposit into the State Courts
1033 Revenue Trust Fund, \$3.50 must be remitted to the Department of
1034 Revenue for deposit into the Clerks of the Court Trust Fund
1035 within the Justice Administrative Commission and used to fund
1036 the Florida Clerks of Court Operations Corporation created in s.
1037 28.35, and \$1.50 shall be remitted to the Department of Revenue
1038 for deposit into the Administrative Trust Fund within the
1039 Department of Financial Services to fund clerk budget reviews
1040 conducted by the Department of Financial Services. The next \$15
1041 of the filing fee collected shall be deposited in the state
1042 courts' Mediation and Arbitration Trust Fund.

1043 c. An additional filing fee of \$4 shall be paid to the
1044 clerk. The clerk shall remit \$3.50 to the Department of Revenue

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1045 for deposit into the Court Education Trust Fund and shall remit
1046 50 cents to the Department of Revenue for deposit into the
1047 Clerks of the Court Trust Fund within the Justice Administrative
1048 Commission to fund clerk education. An additional filing fee of
1049 up to \$18 shall be paid by the party seeking each severance that
1050 is granted. The clerk may impose an additional filing fee of up
1051 to \$85 for all proceedings of garnishment, attachment, replevin,
1052 and distress. Postal charges incurred by the clerk of the
1053 circuit court in making service by certified or registered mail
1054 on defendants or other parties shall be paid by the party at
1055 whose instance service is made. No additional fees, charges, or
1056 costs shall be added to the filing fees imposed under this
1057 section, except as authorized in this section or by general law.

1058 2.a. Notwithstanding the fees prescribed in subparagraph
1059 1., a party instituting a civil action in circuit court relating
1060 to real property or mortgage foreclosure shall pay a graduated
1061 filing fee based on the value of the claim.

1062 b. A party shall estimate in writing the amount in
1063 controversy of the claim upon filing the action. For purposes of
1064 this subparagraph, the value of a mortgage foreclosure action is
1065 based upon the principal due on the note secured by the
1066 mortgage, plus interest owed on the note and any moneys advanced
1067 by the lender for property taxes, insurance, and other advances
1068 secured by the mortgage, at the time of filing the foreclosure.
1069 The value shall also include the value of any tax certificates
1070 related to the property. In stating the value of a mortgage
1071 foreclosure claim, a party shall declare in writing the total
1072 value of the claim, as well as the individual elements of the
1073 value as prescribed in this sub-subparagraph.

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1074 c. In its order providing for the final disposition of the
1075 matter, the court shall identify the actual value of the claim.
1076 The clerk shall adjust the filing fee if there is a difference
1077 between the estimated amount in controversy and the actual value
1078 of the claim and collect any additional filing fee owed or
1079 provide a refund of excess filing fee paid.

1080 d. The party shall pay a filing fee of:

1081 (I) Three hundred and ninety-five dollars in all cases in
1082 which the value of the claim is \$50,000 or less and in which
1083 there are not more than five defendants. The party shall pay an
1084 additional filing fee of up to \$2.50 for each defendant in
1085 excess of five. Of the first \$265 in filing fees, \$80 must be
1086 remitted by the clerk to the Department of Revenue for deposit
1087 into the General Revenue Fund, \$180 must be remitted to the
1088 Department of Revenue for deposit into the State Courts Revenue
1089 Trust Fund, \$3.50 must be remitted to the Department of Revenue
1090 for deposit into the Clerks of the Court Trust Fund within the
1091 Justice Administrative Commission and used to fund the Florida
1092 Clerks of Court Operations Corporation created in s. 28.35, and
1093 \$1.50 shall be remitted to the Department of Revenue for deposit
1094 into the Administrative Trust Fund within the Department of
1095 Financial Services to fund clerk budget reviews conducted by the
1096 Department of Financial Services. The next \$15 of the filing fee
1097 collected shall be deposited in the state courts' Mediation and
1098 Arbitration Trust Fund;

1099 (II) Nine hundred dollars in all cases in which the value
1100 of the claim is more than \$50,000 but less than \$250,000 and in
1101 which there are not more than five defendants. The party shall
1102 pay an additional filing fee of up to \$2.50 for each defendant

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1103 in excess of five. Of the first \$770 in filing fees, \$80 must be
1104 remitted by the clerk to the Department of Revenue for deposit
1105 into the General Revenue Fund, \$685 must be remitted to the
1106 Department of Revenue for deposit into the State Courts Revenue
1107 Trust Fund, \$3.50 must be remitted to the Department of Revenue
1108 for deposit into the Clerks of the Court Trust Fund within the
1109 Justice Administrative Commission and used to fund the Florida
1110 Clerks of Court Operations Corporation described in s. 28.35,
1111 and \$1.50 shall be remitted to the Department of Revenue for
1112 deposit into the Administrative Trust Fund within the Department
1113 of Financial Services to fund clerk budget reviews conducted by
1114 the Department of Financial Services. The next \$15 of the filing
1115 fee collected shall be deposited in the state courts' Mediation
1116 and Arbitration Trust Fund; or

1117 (III) One thousand nine hundred dollars in all cases in
1118 which the value of the claim is \$250,000 or more and in which
1119 there are not more than five defendants. The party shall pay an
1120 additional filing fee of up to \$2.50 for each defendant in
1121 excess of five. Of the first \$1,770 in filing fees, \$80 must be
1122 remitted by the clerk to the Department of Revenue for deposit
1123 into the General Revenue Fund, \$1,685 must be remitted to the
1124 Department of Revenue for deposit into the State Courts Revenue
1125 Trust Fund, \$3.50 must be remitted to the Department of Revenue
1126 for deposit into the Clerks of the Court Trust Fund within the
1127 Justice Administrative Commission to fund the Florida Clerks of
1128 Court Operations Corporation created in s. 28.35, and \$1.50
1129 shall be remitted to the Department of Revenue for deposit into
1130 the Administrative Trust Fund within the Department of Financial
1131 Services to fund clerk budget reviews conducted by the

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1132 Department of Financial Services. The next \$15 of the filing fee
1133 collected shall be deposited in the state courts' Mediation and
1134 Arbitration Trust Fund.

1135 e. An additional filing fee of \$4 shall be paid to the
1136 clerk. The clerk shall remit \$3.50 to the Department of Revenue
1137 for deposit into the Court Education Trust Fund and shall remit
1138 50 cents to the Department of Revenue for deposit into the
1139 Clerks of the Court Trust Fund within the Justice Administrative
1140 Commission to fund clerk education. An additional filing fee of
1141 up to \$18 shall be paid by the party seeking each severance that
1142 is granted. The clerk may impose an additional filing fee of up
1143 to \$85 for all proceedings of garnishment, attachment, replevin,
1144 and distress. Postal charges incurred by the clerk of the
1145 circuit court in making service by certified or registered mail
1146 on defendants or other parties shall be paid by the party at
1147 whose instance service is made. No additional fees, charges, or
1148 costs shall be added to the filing fees imposed under this
1149 section, except as authorized in this section or by general law.

1150 (7) Nothing in this section or in the revisions made to it
1151 by chapters 2009-61 and 2009-204, Laws of Florida, authorizes
1152 the assessment of a filing fee if the assessment is otherwise
1153 prohibited by law.

1154 Section 13. Subsection (10) of section 28.36, Florida
1155 Statutes, is amended to read:

1156 28.36 Budget procedure.—There is established a budget
1157 procedure for preparing budget requests for funding for the
1158 court-related functions of the clerks of the court.

1159 (10) For the 2010-2011 ~~2009-2010~~ fiscal year, the
1160 corporation shall release appropriations in an amount equal to

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1161 one-twelfth of each clerk's approved budget each month. The
1162 statewide total appropriation for the 2010-2011 ~~2009-2010~~ fiscal
1163 year shall be set in the General Appropriations Act. The
1164 corporation shall determine the amount of each clerk of court
1165 budget, but the statewide total of such amounts may not exceed
1166 the amount listed in the General Appropriations Act. Beginning
1167 in the 2011-2012 ~~2010-2011~~ fiscal year, the corporation shall
1168 release appropriations to each clerk quarterly. The amount of
1169 the release shall be based on the prior quarter's performance of
1170 service units identified in the four core services and the
1171 established unit costs for each clerk.

1172 Section 14. Subsection (1) of section 29.001, Florida
1173 Statutes, is amended to read:

1174 29.001 State courts system elements and definitions.—

1175 (1) For the purpose of implementing s. 14, Art. V of the
1176 State Constitution, the state courts system is defined to
1177 include the enumerated elements of the Supreme Court, district
1178 courts of appeal, circuit courts, county courts, and certain
1179 supports thereto. The offices of public defenders and state
1180 attorneys are defined to include the enumerated elements of the
1181 20 state attorneys' offices and the enumerated elements of the
1182 20 public defenders' offices ~~and five offices of criminal~~
1183 ~~conflict and civil regional counsel~~. Court-appointed counsel are
1184 defined to include the enumerated elements for counsel appointed
1185 to ensure due process in criminal and civil proceedings in
1186 accordance with state and federal constitutional guarantees.
1187 Funding for the state courts system, the state attorneys'
1188 offices, the public defenders' offices, the offices of criminal
1189 conflict and civil regional counsel, and other court-appointed

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1190 counsel shall be provided from state revenues appropriated by
1191 general law.

1192 Section 15. Section 29.008, Florida Statutes, is amended to
1193 read:

1194 29.008 County funding of court-related functions.—

1195 (1) Counties are required by s. 14, Art. V of the State
1196 Constitution to fund the cost of communications services,
1197 existing radio systems, existing multiagency criminal justice
1198 information systems, and the cost of construction or lease,
1199 maintenance, utilities, and security of facilities for the
1200 circuit and county courts, public defenders' offices, state
1201 attorneys' offices, guardian ad litem offices, and the offices
1202 of the clerks of the circuit and county courts performing court-
1203 related functions. For purposes of this section, the term
1204 "circuit and county courts" includes the offices and staffing of
1205 the guardian ad litem programs, ~~and the term "public defenders'~~
1206 ~~offices" includes the offices of criminal conflict and civil~~
1207 ~~regional counsel.~~ The county designated under s. 35.05(1) as the
1208 headquarters for each appellate district shall fund these costs
1209 for the appellate division of the public defender's office in
1210 that county. For purposes of implementing these requirements,
1211 the term:

1212 (a) "Facility" means reasonable and necessary buildings and
1213 office space and appurtenant equipment and furnishings,
1214 structures, real estate, easements, and related interests in
1215 real estate, including, but not limited to, those for the
1216 purpose of housing legal materials for use by the general public
1217 and personnel, equipment, or functions of the circuit or county
1218 courts, public defenders' offices, state attorneys' offices, and

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1219 court-related functions of the office of the clerks of the
1220 circuit and county courts and all storage. The term "facility"
1221 includes all wiring necessary for court reporting services. The
1222 term also includes access to parking for such facilities in
1223 connection with such court-related functions that may be
1224 available free or from a private provider or a local government
1225 for a fee. The office space provided by a county may not be less
1226 than the standards for space allotment adopted by the Department
1227 of Management Services, except this requirement applies only to
1228 facilities that are leased, or on which construction commences,
1229 after June 30, 2003. County funding must include physical
1230 modifications and improvements to all facilities as are required
1231 for compliance with the Americans with Disabilities Act. Upon
1232 mutual agreement of a county and the affected entity in this
1233 paragraph, the office space provided by the county may vary from
1234 the standards for space allotment adopted by the Department of
1235 Management Services.

1236 1. As of July 1, 2005, equipment and furnishings shall be
1237 limited to that appropriate and customary for courtrooms,
1238 hearing rooms, jury facilities, and other public areas in
1239 courthouses and any other facility occupied by the courts, state
1240 attorneys, public defenders, and guardians ad litem, ~~and~~
1241 ~~criminal conflict and civil regional counsel~~. Court reporting
1242 equipment in these areas or facilities is not a responsibility
1243 of the county.

1244 2. Equipment and furnishings under this paragraph in
1245 existence and owned by counties on July 1, 2005, except for that
1246 in the possession of the clerks, for areas other than
1247 courtrooms, hearing rooms, jury facilities, and other public

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1248 areas in courthouses and any other facility occupied by the
1249 courts, state attorneys, and public defenders, shall be
1250 transferred to the state at no charge. This provision does not
1251 apply to any communications services as defined in paragraph
1252 (f).

1253 (b) "Construction or lease" includes, but is not limited
1254 to, all reasonable and necessary costs of the acquisition or
1255 lease of facilities for all judicial officers, staff, jurors,
1256 volunteers of a tenant agency, and the public for the circuit
1257 and county courts, the public defenders' offices, state
1258 attorneys' offices, and for performing the court-related
1259 functions of the offices of the clerks of the circuit and county
1260 courts. This includes expenses related to financing such
1261 facilities and the existing and future cost and bonded
1262 indebtedness associated with placing the facilities in use.

1263 (c) "Maintenance" includes, but is not limited to, all
1264 reasonable and necessary costs of custodial and groundskeeping
1265 services and renovation and reconstruction as needed to
1266 accommodate functions for the circuit and county courts, the
1267 public defenders' offices, and state attorneys' offices and for
1268 performing the court-related functions of the offices of the
1269 clerks of the circuit and county court and for maintaining the
1270 facilities in a condition appropriate and safe for the use
1271 intended.

1272 (d) "Utilities" means all electricity services for light,
1273 heat, and power; natural or manufactured gas services for light,
1274 heat, and power; water and wastewater services and systems,
1275 stormwater or runoff services and systems, sewer services and
1276 systems, all costs or fees associated with these services and

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1277 systems, and any costs or fees associated with the mitigation of
1278 environmental impacts directly related to the facility.

1279 (e) "Security" includes but is not limited to, all
1280 reasonable and necessary costs of services of law enforcement
1281 officers or licensed security guards and all electronic,
1282 cellular, or digital monitoring and screening devices necessary
1283 to ensure the safety and security of all persons visiting or
1284 working in a facility; to provide for security of the facility,
1285 including protection of property owned by the county or the
1286 state; and for security of prisoners brought to any facility.
1287 This includes bailiffs while providing courtroom and other
1288 security for each judge and other quasi-judicial officers.

1289 (f) "Communications services" are defined as any reasonable
1290 and necessary transmission, emission, and reception of signs,
1291 signals, writings, images, and sounds of intelligence of any
1292 nature by wire, radio, optical, audio equipment, or other
1293 electromagnetic systems and includes all facilities and
1294 equipment owned, leased, or used by judges, clerks, public
1295 defenders, state attorneys, guardians ad litem, ~~criminal~~
1296 ~~conflict and civil regional counsel~~, and all staff of the state
1297 courts system, state attorneys' offices, public defenders'
1298 offices, and clerks of the circuit and county courts performing
1299 court-related functions. Such system or services shall include,
1300 but not be limited to:

1301 1. Telephone system infrastructure, including computer
1302 lines, telephone switching equipment, and maintenance, and
1303 facsimile equipment, wireless communications, cellular
1304 telephones, pagers, and video teleconferencing equipment and
1305 line charges. Each county shall continue to provide access to a

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1306 local carrier for local and long distance service and shall pay
1307 toll charges for local and long distance service.

1308 2. All computer networks, systems and equipment, including
1309 computer hardware and software, modems, printers, wiring,
1310 network connections, maintenance, support staff or services
1311 including any county-funded support staff located in the offices
1312 of the circuit court, county courts, state attorneys, public
1313 defenders, and guardians ad litem, ~~and criminal conflict and~~
1314 ~~civil regional counsel~~; training, supplies, and line charges
1315 necessary for an integrated computer system to support the
1316 operations and management of the state courts system, the
1317 offices of the public defenders, the offices of the state
1318 attorneys, the guardian ad litem offices, ~~the offices of~~
1319 ~~criminal conflict and civil regional counsel~~, and the offices of
1320 the clerks of the circuit and county courts; and the capability
1321 to connect those entities and reporting data to the state as
1322 required for the transmission of revenue, performance
1323 accountability, case management, data collection, budgeting, and
1324 auditing purposes. The integrated computer system shall be
1325 operational by July 1, 2006, and, at a minimum, permit the
1326 exchange of financial, performance accountability, case
1327 management, case disposition, and other data across multiple
1328 state and county information systems involving multiple users at
1329 both the state level and within each judicial circuit and be
1330 able to electronically exchange judicial case background data,
1331 sentencing scoresheets, and video evidence information stored in
1332 integrated case management systems over secure networks. Once
1333 the integrated system becomes operational, counties may reject
1334 requests to purchase communications services included in this

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1335 subparagraph not in compliance with standards, protocols, or
1336 processes adopted by the board established pursuant to former s.
1337 29.0086.

1338 3. Courier messenger and subpoena services.

1339 4. Auxiliary aids and services for qualified individuals
1340 with a disability which are necessary to ensure access to the
1341 courts. Such auxiliary aids and services include, but are not
1342 limited to, sign language interpretation services required under
1343 the federal Americans with Disabilities Act other than services
1344 required to satisfy due-process requirements and identified as a
1345 state funding responsibility pursuant to ss. 29.004, 29.005,
1346 29.006, and 29.007, real-time transcription services for
1347 individuals who are hearing impaired, and assistive listening
1348 devices and the equipment necessary to implement such
1349 accommodations.

1350 (g) "Existing radio systems" includes, but is not limited
1351 to, law enforcement radio systems that are used by the circuit
1352 and county courts, the offices of the public defenders, the
1353 offices of the state attorneys, and for court-related functions
1354 of the offices of the clerks of the circuit and county courts.
1355 This includes radio systems that were operational or under
1356 contract at the time Revision No. 7, 1998, to Art. V of the
1357 State Constitution was adopted and any enhancements made
1358 thereafter, the maintenance of those systems, and the personnel
1359 and supplies necessary for operation.

1360 (h) "Existing multiagency criminal justice information
1361 systems" includes, but is not limited to, those components of
1362 the multiagency criminal justice information system as defined
1363 in s. 943.045, supporting the offices of the circuit or county

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1364 courts, the public defenders' offices, the state attorneys'
1365 offices, or those portions of the offices of the clerks of the
1366 circuit and county courts performing court-related functions
1367 that are used to carry out the court-related activities of those
1368 entities. This includes upgrades and maintenance of the current
1369 equipment, maintenance and upgrades of supporting technology
1370 infrastructure and associated staff, and services and expenses
1371 to assure continued information sharing and reporting of
1372 information to the state. The counties shall also provide
1373 additional information technology services, hardware, and
1374 software as needed for new judges and staff of the state courts
1375 system, state attorneys' offices, public defenders' offices,
1376 guardian ad litem offices, and the offices of the clerks of the
1377 circuit and county courts performing court-related functions.

1378 (2) Counties shall pay reasonable and necessary salaries,
1379 costs, and expenses of the state courts system, including
1380 associated staff and expenses, to meet local requirements.

1381 (a) Local requirements are those specialized programs,
1382 nonjudicial staff, and other expenses associated with
1383 specialized court programs, specialized prosecution needs,
1384 specialized defense needs, or resources required of a local
1385 jurisdiction as a result of special factors or circumstances.
1386 Local requirements exist:

1387 1. When imposed pursuant to an express statutory directive,
1388 based on such factors as provided in paragraph (b); or

1389 2. When:

1390 a. The county has enacted an ordinance, adopted a local
1391 program, or funded activities with a financial or operational
1392 impact on the circuit or a county within the circuit; or

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1393 b. Circumstances in a given circuit or county result in or
1394 necessitate implementation of specialized programs, the
1395 provision of nonjudicial staff and expenses to specialized court
1396 programs, special prosecution needs, specialized defense needs,
1397 or the commitment of resources to the court's jurisdiction.

1398 (b) Factors and circumstances resulting in the
1399 establishment of a local requirement include, but are not
1400 limited to:

- 1401 1. Geographic factors;
- 1402 2. Demographic factors;
- 1403 3. Labor market forces;
- 1404 4. The number and location of court facilities; or
- 1405 5. The volume, severity, complexity, or mix of court cases.

1406 (c) Local requirements under subparagraph (a)2. must be
1407 determined by the following method:

1408 1. The chief judge of the circuit, in conjunction with the
1409 state attorney and, the public defender, ~~and the criminal~~
1410 ~~conflict and civil regional counsel only~~ on matters that impact
1411 only their offices, shall identify all local requirements within
1412 the circuit or within each county in the circuit and shall
1413 identify the reasonable and necessary salaries, costs, and
1414 expenses to meet these local requirements.

1415 2. On or before June 1 of each year, the chief judge shall
1416 submit to the board of county commissioners a tentative budget
1417 request for local requirements for the ensuing fiscal year. The
1418 tentative budget must certify a listing of all local
1419 requirements and the reasonable and necessary salaries, costs,
1420 and expenses for each local requirement. The board of county
1421 commissioners may, by resolution, require the certification to

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1422 be submitted earlier.

1423 3. The board of county commissioners shall thereafter treat
1424 the certification in accordance with the county's budgetary
1425 procedures. A board of county commissioners may:

1426 a. Determine whether to provide funding, and to what extent
1427 it will provide funding, for salaries, costs, and expenses under
1428 this section;

1429 b. Require a county finance officer to conduct a preaudit
1430 review of any county funds provided under this section prior to
1431 disbursement;

1432 c. Require review or audit of funds expended under this
1433 section by the appropriate county office; and

1434 d. Provide additional financial support for the courts
1435 system, state attorneys, public defenders, or criminal conflict
1436 and civil regional counsel.

1437 (d) Counties may satisfy these requirements by entering
1438 into interlocal agreements for the collective funding of these
1439 reasonable and necessary salaries, costs, and expenses.

1440 (3) The following shall be considered a local requirement
1441 pursuant to subparagraph (2) (a)1.:

1442 (a) Legal aid programs, which shall be funded at a level
1443 equal to or greater than the amount provided from filing fees
1444 and surcharges to legal aid programs from October 1, 2002, to
1445 September 30, 2003.

1446 (b) Alternative sanctions coordinators pursuant to ss.
1447 984.09 and 985.037.

1448 (4) (a) The Department of Financial Services shall review
1449 county expenditure reports required under s. 29.0085 for the
1450 purpose of ensuring that counties fulfill the responsibilities

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1451 of this section. The department shall compare county fiscal
1452 reports to determine if expenditures for the items specified in
1453 paragraphs (1) (a)-(h) and subsection (3) have increased by 1.5
1454 percent over the prior county fiscal year. The initial review
1455 must compare county fiscal year 2005-2006 to county fiscal year
1456 2004-2005. If the department finds that expenditures for the
1457 items specified in paragraphs (1) (a)-(h) and subsection (3) have
1458 not increased by 1.5 percent over the prior county fiscal year,
1459 the department shall notify the President of the Senate and the
1460 Speaker of the House of Representatives and the respective
1461 county. The Legislature may determine that a county has met its
1462 obligations for items specified in this section if the prior
1463 county fiscal year included nonrecurring expenditures for
1464 facilities or information technology that is not needed in the
1465 next county fiscal year or expenditures or actions that enable a
1466 county to attain efficiencies in providing services to the court
1467 system. The Legislature may direct the Department of Revenue to
1468 withhold revenue-sharing receipts distributed pursuant to part
1469 II of chapter 218, except for revenues used for paying the
1470 principal or interest on bonds, tax anticipation certificates,
1471 or any other form of indebtedness allowed under s. 218.25(1),
1472 (2), or (4), from any county that is not in compliance with the
1473 funding obligations in this section by an amount equal to the
1474 difference between the amount spent and the amount that would
1475 have been spent had the county increased expenditures by 1.5
1476 percent per year.

1477 (b) The department shall transfer the withheld payments to
1478 the General Revenue Fund by March 31 of each year for the
1479 previous county fiscal year. These payments are appropriated to

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1480 the Department of Revenue to pay for these responsibilities on
1481 behalf of the county.

1482 Section 16. Section 29.0095, Florida Statutes, is repealed.

1483 Section 17. Section 29.0195, Florida Statutes, is amended
1484 to read:

1485 29.0195 Recovery of expenditures for state-funded
1486 services.—The trial court administrator of each circuit shall
1487 recover expenditures for state-funded services when those
1488 services have been furnished to a user of the state court system
1489 who possesses the present ability to pay. The rate of
1490 compensation for such services shall be the actual cost of the
1491 services, including the cost of recovery. The trial court
1492 administrator shall deposit moneys recovered under this section
1493 in the Administrative ~~Operating~~ Trust Fund within the state
1494 courts ~~court~~ system. The trial court administrator shall recover
1495 the costs of court reporter services and transcription; court
1496 interpreter services, including translation; and any other
1497 service for which state funds were used to provide a product or
1498 service within the circuit. This section does not authorize cost
1499 recovery from entities described in ss. 29.005, 29.006, and
1500 29.007.

1501 Section 18. Paragraph (a) of subsection (1) of section
1502 34.041, Florida Statutes, is amended to read:

1503 34.041 Filing fees.—

1504 (1) (a) Upon the institution of any civil action, suit, or
1505 proceeding in county court, the party shall pay the following
1506 filing fee, not to exceed:

- 1507 1. For all claims less than \$100.....\$50.
- 1508 2. For all claims of \$100 or more but not more than \$500\$75.

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- 1509 3. For all claims of more than \$500 but not more than
- 1510 \$2,500.....\$170.
- 1511 4. For all claims of more than \$2,500.....\$295.
- 1512 5. In addition, for all proceedings of garnishment,
- 1513 attachment, replevin, and distress.....\$85.
- 1514 6. Notwithstanding subparagraphs 3. and 5., for all claims
- 1515 of not more than \$1,000 filed simultaneously with an action for
- 1516 replevin of property that is the subject of the claim.....\$125.
- 1517 7. For removal of tenant action.....\$180.

1518

1519 The filing fee prescribed in subparagraph 6. is the total fee

1520 due under this paragraph for that type of filing. No other

1521 filing fee under this paragraph shall be assessed against such a

1522 filing.

1523 Section 19. Subsection (6) of section 35.22, Florida

1524 Statutes, is amended to read:

1525 35.22 Clerk of district court; appointment; compensation;

1526 assistants; filing fees; teleconferencing.-

1527 (6) The clerk of each district court of appeal is required

1528 to deposit all fees collected in the State Treasury to the

1529 credit of the General Revenue Fund, except that \$50 of each \$300

1530 filing fee collected shall be deposited into the State Courts

1531 Revenue ~~state court's Operating~~ Trust Fund to fund court

1532 operations ~~improvement projects~~ as authorized in the General

1533 Appropriations Act. The clerk shall retain an accounting of each

1534 such remittance.

1535 Section 20. Section 39.0134, Florida Statutes, is amended

1536 to read:

1537 39.0134 Appointed counsel; compensation.-

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1538 (1) If counsel is entitled to receive compensation for
1539 representation pursuant to a court appointment in a dependency
1540 proceeding or a termination of parental rights proceeding
1541 pursuant to this chapter, compensation shall be paid in
1542 accordance with s. 27.5304. The state may acquire and enforce a
1543 lien upon court-ordered payment of attorney's fees and costs in
1544 the same manner prescribed in s. 938.29 ~~accordance with s.~~
1545 ~~984.08.~~

1546 (2) (a) A parent whose child is dependent, whether or not
1547 adjudication was withheld, or whose parental rights are
1548 terminated and who has received the assistance of the office of
1549 criminal conflict and civil regional counsel, or any other
1550 court-appointed attorney, or who has received due process
1551 services after being found indigent for costs under s. 57.082,
1552 shall be liable for payment of the assessed application fee
1553 under s. 57.082, together with reasonable attorney's fees and
1554 costs as determined by the court.

1555 (b) If reasonable attorney's fees or costs are assessed,
1556 the court, at its discretion, may make payment of the fees or
1557 costs part of any case plan in dependency proceedings. However,
1558 a case plan may not remain open for the sole issue of payment of
1559 attorney's fees or costs. At the court's discretion, a lien upon
1560 court-ordered payment of attorney's fees and costs may be
1561 ordered by the court and enforced in the same manner prescribed
1562 in s. 938.29.

1563 (c) The clerk of the court shall transfer monthly all
1564 attorney's fees and costs collected under this subsection to the
1565 Department of Revenue for deposit into the Indigent Civil
1566 Defense Trust Fund, to be used as appropriated by the

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1567 Legislature and consistent with s. 27.5111.

1568 Section 21. Subsection (1) of section 39.821, Florida
1569 Statutes, is amended to read:

1570 39.821 Qualifications of guardians ad litem.—

1571 (1) Because of the special trust or responsibility placed
1572 in a guardian ad litem, the Guardian Ad Litem Program may use
1573 any private funds collected by the program, or any state funds
1574 so designated, to conduct a security background investigation
1575 before certifying a volunteer to serve. A security background
1576 investigation must include, but need not be limited to,
1577 employment history checks, checks of references, local criminal
1578 records checks through local law enforcement agencies, and
1579 statewide criminal records checks through the Department of Law
1580 Enforcement. Upon request, an employer shall furnish a copy of
1581 the personnel record for the employee or former employee who is
1582 the subject of a security background investigation conducted
1583 under this section. The information contained in the personnel
1584 record may include, but need not be limited to, disciplinary
1585 matters and the reason why the employee was terminated from
1586 employment. An employer who releases a personnel record for
1587 purposes of a security background investigation is presumed to
1588 have acted in good faith and is not liable for information
1589 contained in the record without a showing that the employer
1590 maliciously falsified the record. A security background
1591 investigation conducted under this section must ensure that a
1592 person is not certified as a guardian ad litem if the person has
1593 been convicted of, regardless of adjudication, or entered a plea
1594 of nolo contendere or guilty to, any offense prohibited under
1595 the provisions listed in s. 435.04 ~~of the Florida Statutes~~

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1596 ~~specified in s. 435.04(2) or under any similar law in another~~
1597 ~~jurisdiction.~~ Effective July 1, 2010, all applicants must
1598 undergo a level 2 background screening pursuant to chapter 435
1599 before being certified ~~Before certifying an applicant to serve~~
1600 as a guardian ad litem, and the Guardian Ad Litem Program may
1601 request a federal criminal records check of the applicant
1602 through the Federal Bureau of Investigation. In analyzing and
1603 evaluating the information obtained in the security background
1604 investigation, the program must give particular emphasis to past
1605 activities involving children, including, but not limited to,
1606 child-related criminal offenses or child abuse. The program has
1607 the sole discretion in determining whether to certify a person
1608 based on his or her security background investigation. The
1609 information collected pursuant to the security background
1610 investigation is confidential and exempt from s. 119.07(1).

1611 Section 22. Subsections (1) and (5) of section 57.082,
1612 Florida Statutes, are amended to read:

1613 57.082 Determination of civil indigent status.—

1614 (1) APPLICATION TO THE CLERK.—A person seeking appointment
1615 of an attorney in a civil case eligible for court-appointed
1616 counsel, or seeking relief from payment of filing fees and
1617 prepayment of costs under s. 57.081, based upon an inability to
1618 pay must apply to the clerk of the court for a determination of
1619 civil indigent status using an application form developed by the
1620 Florida Clerks of Court Operations Corporation with final
1621 approval by the Supreme Court.

1622 (a) The application must include, at a minimum, the
1623 following financial information:

1624 1. Net income, consisting of total salary and wages, minus

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1625 deductions required by law, including court-ordered support
1626 payments.

1627 2. Other income, including, but not limited to, social
1628 security benefits, union funds, veterans' benefits, workers'
1629 compensation, other regular support from absent family members,
1630 public or private employee pensions, unemployment compensation,
1631 dividends, interest, rent, trusts, and gifts.

1632 3. Assets, including, but not limited to, cash, savings
1633 accounts, bank accounts, stocks, bonds, certificates of deposit,
1634 equity in real estate, and equity in a boat or a motor vehicle
1635 or in other tangible property.

1636 4. All liabilities and debts.
1637

1638 The application must include a signature by the applicant which
1639 attests to the truthfulness of the information provided. The
1640 application form developed by the corporation must include
1641 notice that the applicant may seek court review of a clerk's
1642 determination that the applicant is not indigent, as provided in
1643 this section.

1644 (b) The clerk shall assist a person who appears before the
1645 clerk and requests assistance in completing the application, and
1646 the clerk shall notify the court if a person is unable to
1647 complete the application after the clerk has provided
1648 assistance.

1649 (c) The clerk shall accept an application that is signed by
1650 the applicant and submitted on his or her behalf by a private
1651 attorney who is representing the applicant in the applicable
1652 matter.

1653 (d) A person who seeks appointment of an attorney in a

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1654 proceeding ~~ease~~ under chapter 39, at shelter hearings or during
1655 the adjudicatory process, during the judicial review process,
1656 upon the filing of a petition to terminate parental rights, or
1657 upon the filing of any appeal, or if the person seeks
1658 appointment of an attorney in a reopened proceeding ~~the trial or~~
1659 ~~appellate level,~~ for which an indigent person is eligible for
1660 court-appointed representation must, ~~shall~~ pay a \$50 application
1661 fee to the clerk for each application filed. A person is not
1662 required to pay more than one application fee per case. However,
1663 an appeal or the reopening of a proceeding shall be deemed to be
1664 a distinct case. The applicant must ~~shall~~ pay the fee within 7
1665 days after submitting the application. If the applicant has not
1666 paid the fee within 7 days, the court shall enter an order
1667 requiring payment, and the clerk shall pursue collection under
1668 s. 28.246. The clerk shall transfer monthly all application fees
1669 collected under this paragraph to the Department of Revenue for
1670 deposit into the Indigent Civil Defense Trust Fund, to be used
1671 as appropriated by the Legislature. The clerk may retain 10
1672 percent of application fees collected monthly for administrative
1673 costs prior to remitting the remainder to the Department of
1674 Revenue. ~~A person found to be indigent may not be refused~~
1675 ~~counsel.~~ If the person cannot pay the application fee, the clerk
1676 shall enroll the person in a payment plan pursuant to s. 28.246.

1677 (5) APPOINTMENT OF COUNSEL.—In appointing counsel after a
1678 determination that a person is indigent under this section, the
1679 court shall first appoint the office of criminal conflict and
1680 civil regional counsel, as provided in s. 27.511, unless
1681 specific provision is made in law for the appointment of the
1682 public defender in the particular civil proceeding. The court

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1683 shall also order the person to pay the application fee under
1684 subsection (1), or enroll in a payment plan if he or she is
1685 unable to pay the fee, if the fee remains unpaid or if the
1686 person has not enrolled in a payment plan at the time the court
1687 appoints counsel. However, a person who is found to be indigent
1688 may not be refused counsel.

1689 Section 23. Subsection (2) of section 316.192, Florida
1690 Statutes, is amended to read:

1691 316.192 Reckless driving.—

1692 (2) Except as provided in subsection (3), any person
1693 convicted of reckless driving shall be punished:

1694 (a) Upon a first conviction, by imprisonment for a period
1695 of not more than 90 days or by fine of not less than \$100 ~~\$25~~
1696 nor more than \$500, or by both such fine and imprisonment.

1697 (b) On a second or subsequent conviction, by imprisonment
1698 for not more than 6 months or by a fine of not less than \$200
1699 ~~\$50~~ nor more than \$1,000, or by both such fine and imprisonment.

1700 Section 24. Effective October 1, 2010, subsection (4) of
1701 section 320.02, Florida Statutes, is amended to read:

1702 320.02 Registration required; application for registration;
1703 forms.—

1704 (4) The owner of any motor vehicle registered in the state
1705 shall notify the department in writing of any change of address
1706 within 60 ~~20~~ days after ~~of~~ such change. The notification shall
1707 include the registration license plate number, the vehicle
1708 identification number (VIN) or title certificate number, year of
1709 vehicle make, and the owner's full name.

1710 Section 25. Effective October 1, 2010, section 320.061,
1711 Florida Statutes, is amended to read:

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1712 320.061 Unlawful to alter motor vehicle registration
 1713 certificates, license plates, mobile home stickers, or
 1714 validation stickers or to obscure license plates; penalty.—No
 1715 person shall alter the original appearance of any registration
 1716 license plate, mobile home sticker, validation sticker, or
 1717 vehicle registration certificate issued for and assigned to any
 1718 motor vehicle or mobile home, whether by mutilation, alteration,
 1719 defacement, or change of color or in any other manner. No person
 1720 shall apply or attach any substance, reflective matter,
 1721 illuminated device, spray, coating, covering, or other material
 1722 onto or around any license plate that interferes with the
 1723 legibility, angular visibility, or detectability of any feature
 1724 or detail on the license plate or interferes with the ability to
 1725 record any feature or detail on the license plate. Any person
 1726 who violates this section commits a noncriminal traffic
 1727 infraction, punishable as a moving violation as provided in
 1728 chapter 318 ~~misdemeanor of the second degree, punishable as~~
 1729 ~~provided in s. 775.082 or s. 775.083.~~

1730 Section 26. Effective October 1, 2010, subsection (3) of
 1731 section 320.131, Florida Statutes, is amended to read:

1732 320.131 Temporary tags.—

1733 (3) Any person or corporation who unlawfully issues or uses
 1734 a temporary tag or violates this section or any rule adopted by
 1735 the department to implement this section is guilty of a
 1736 noncriminal infraction, punishable as a moving violation as
 1737 provided in chapter 318 ~~misdemeanor of the second degree~~
 1738 ~~punishable as provided in s. 775.082 or s. 775.083~~ in addition
 1739 to other administrative action by the department, ~~except that~~
 1740 Using a temporary tag that has been expired for a period of 7

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1741 days or less is a noncriminal infraction, and is a nonmoving
1742 violation punishable as provided for in chapter 318.

1743 Section 27. Effective October 1, 2010, section 320.38,
1744 Florida Statutes, is amended to read:

1745 320.38 When nonresident exemption not allowed.—The
1746 provisions of s. 320.37 authorizing the operation of motor
1747 vehicles over the roads of this state by nonresidents of this
1748 state when such vehicles are duly registered or licensed under
1749 the laws of some other state or foreign country do not apply to
1750 any nonresident who accepts employment or engages in any trade,
1751 profession, or occupation in this state, except a nonresident
1752 migrant or seasonal farm worker as defined in s. 316.003(61). In
1753 every case in which a nonresident, except a nonresident migrant
1754 or seasonal farm worker as defined in s. 316.003(61), accepts
1755 employment or engages in any trade, profession, or occupation in
1756 this state or enters his or her children to be educated in the
1757 public schools of this state, such nonresident shall, within 60
1758 ~~10~~ days after the commencement of such employment or education,
1759 register his or her motor vehicles in this state if such motor
1760 vehicles are proposed to be operated on the roads of this state.
1761 Any person who is enrolled as a student in a college or
1762 university and who is a nonresident but who is in this state for
1763 a period of up to 6 months engaged in a work-study program for
1764 which academic credits are earned from a college whose credits
1765 or degrees are accepted for credit by at least three accredited
1766 institutions of higher learning, as defined in s. 1005.02, is
1767 not required to have a Florida registration for the duration of
1768 the work-study program if the person's vehicle is properly
1769 registered in another jurisdiction. Any nonresident who is

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1770 enrolled as a full-time student in such institution of higher
1771 learning is also exempt for the duration of such enrollment.

1772 Section 28. Effective October 1, 2010, subsections (1) and
1773 (5) of section 322.03, Florida Statutes, are amended to read:

1774 322.03 Drivers must be licensed; penalties.—

1775 (1) Except as otherwise authorized in this chapter, a
1776 person may not drive any motor vehicle upon a highway in this
1777 state unless such person has a valid driver's license issued
1778 under this chapter.

1779 (a) A person who drives a commercial motor vehicle may not
1780 receive a driver's license unless and until he or she surrenders
1781 to the department all driver's licenses in his or her possession
1782 issued to him or her by any other jurisdiction or makes an
1783 affidavit that he or she does not possess a driver's license.
1784 Any such person who fails to surrender such licenses commits a
1785 noncriminal infraction punishable as a moving violation as set
1786 forth in chapter 318. Any such person ~~or~~ who makes a false
1787 affidavit concerning such licenses commits a misdemeanor of the
1788 first degree, punishable as provided in s. 775.082 or s.
1789 775.083.

1790 (b) All surrendered licenses may be returned by the
1791 department to the issuing jurisdiction together with information
1792 that the licensee is now licensed in a new jurisdiction or may
1793 be destroyed by the department, which shall notify the issuing
1794 jurisdiction of such destruction. A person may not have more
1795 than one valid driver's license at any time.

1796 (c) Part-time residents of this state issued a license that
1797 is valid within this state only under paragraph (b) as that
1798 paragraph existed before November 1, 2009, may continue to hold

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1799 such license until the next issuance of a Florida driver's
1800 license or identification card. Licenses that are identified as
1801 "Valid in Florida Only" may not be issued or renewed effective
1802 November 1, 2009. This paragraph expires June 30, 2017.

1803 (5) It is a violation of this section for any person whose
1804 driver's license has been expired for more than 6 4 months to
1805 operate a motor vehicle on the highways of this state.

1806 Section 29. Effective October 1, 2010, subsections (5) and
1807 (6) of section 322.16, Florida Statutes, are amended to read:

1808 322.16 License restrictions.—

1809 ~~(5) It is a misdemeanor of the second degree, punishable as~~
1810 ~~provided in s. 775.082 or s. 775.083, for any person to operate~~
1811 ~~a motor vehicle in any manner in violation of the restrictions~~
1812 ~~imposed in a license issued to him or her except for a violation~~
1813 ~~of paragraph (1)(d), subsection (2), or subsection (3).~~

1814 (5) ~~(6)~~ Any person who operates a motor vehicle in violation
1815 of the restrictions imposed in this section ~~subsection (2) or~~
1816 ~~subsection (3)~~ will be charged with a moving violation and fined
1817 in accordance with chapter 318.

1818 Section 30. Paragraph (a) of subsection (2) of section
1819 394.4599, Florida Statutes, is amended to read:

1820 394.4599 Notice.—

1821 (2) INVOLUNTARY PATIENTS.—

1822 (a) Whenever notice is required to be given under this
1823 part, such notice shall be given to the patient and the
1824 patient's guardian, guardian advocate, attorney, and
1825 representative.

1826 1. When notice is required to be given to a patient, it
1827 shall be given both orally and in writing, in the language and

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1828 terminology that the patient can understand, and, if needed, the
1829 facility shall provide an interpreter for the patient.

1830 2. Notice to a patient's guardian, guardian advocate,
1831 attorney, and representative shall be given by United States
1832 mail and by registered or certified mail with the receipts
1833 attached to the patient's clinical record. Hand delivery by a
1834 facility employee may be used as an alternative, with delivery
1835 documented in the clinical record. If notice is given by ~~a state~~
1836 ~~attorney or~~ an attorney for the department, a certificate of
1837 service shall be sufficient to document service.

1838 Section 31. Subsection (3) of section 394.4615, Florida
1839 Statutes, is amended to read:

1840 394.4615 Clinical records; confidentiality.—

1841 (3) Information from the clinical record may be released in
1842 the following circumstances:

1843 (a) When a patient has declared an intention to harm other
1844 persons. When such declaration has been made, the administrator
1845 may authorize the release of sufficient information to provide
1846 adequate warning to the person threatened with harm by the
1847 patient.

1848 (b) When the administrator of the facility or secretary of
1849 the department deems release to a qualified researcher as
1850 defined in administrative rule, an aftercare treatment provider,
1851 or an employee or agent of the department is necessary for
1852 treatment of the patient, maintenance of adequate records,
1853 compilation of treatment data, aftercare planning, or evaluation
1854 of programs.

1855
1856 For the purpose of determining whether a person meets the

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1857 criteria for involuntary outpatient placement or for preparing
1858 the proposed treatment plan pursuant to s. 394.4655, the
1859 clinical record may be released to ~~the state attorney,~~ the
1860 public defender or the patient's private legal counsel, the
1861 court, and to the appropriate mental health professionals,
1862 including the service provider identified in s.
1863 394.4655(6)(b)2., in accordance with state and federal law.

1864 Section 32. Paragraph (c) of subsection (3), paragraph (a)
1865 of subsection (6), and paragraph (a) of subsection (7) of
1866 section 394.4655, Florida Statutes, are amended to read:

1867 394.4655 Involuntary outpatient placement.—

1868 (3) PETITION FOR INVOLUNTARY OUTPATIENT PLACEMENT.—

1869 (c) The petition for involuntary outpatient placement must
1870 be filed in the county where the patient is located, unless the
1871 patient is being placed from a state treatment facility, in
1872 which case the petition must be filed in the county where the
1873 patient will reside. When the petition has been filed, the clerk
1874 of the court shall provide copies of the petition and the
1875 proposed treatment plan to the department, the patient, the
1876 patient's guardian or representative, ~~the state attorney,~~ and
1877 the public defender or the patient's private counsel. A fee may
1878 not be charged for filing a petition under this subsection.

1879 (6) HEARING ON INVOLUNTARY OUTPATIENT PLACEMENT.—

1880 (a)1. The court shall hold the hearing on involuntary
1881 outpatient placement within 5 working days after the filing of
1882 the petition, unless a continuance is granted. The hearing shall
1883 be held in the county where the petition is filed, shall be as
1884 convenient to the patient as is consistent with orderly
1885 procedure, and shall be conducted in physical settings not

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1886 likely to be injurious to the patient's condition. If the court
1887 finds that the patient's attendance at the hearing is not
1888 consistent with the best interests of the patient and if the
1889 patient's counsel does not object, the court may waive the
1890 presence of the patient from all or any portion of the hearing.
1891 ~~The state attorney for the circuit in which the patient is~~
1892 ~~located shall represent the state, rather than the petitioner,~~
1893 ~~as the real party in interest in the proceeding.~~

1894 2. The court may appoint a master to preside at the
1895 hearing. One of the professionals who executed the involuntary
1896 outpatient placement certificate shall be a witness. The patient
1897 and the patient's guardian or representative shall be informed
1898 by the court of the right to an independent expert examination.
1899 If the patient cannot afford such an examination, the court
1900 shall provide for one. The independent expert's report shall be
1901 confidential and not discoverable, unless the expert is to be
1902 called as a witness for the patient at the hearing. The court
1903 shall allow testimony from individuals, including family
1904 members, deemed by the court to be relevant under state law,
1905 regarding the person's prior history and how that prior history
1906 relates to the person's current condition. The testimony in the
1907 hearing must be given under oath, and the proceedings must be
1908 recorded. The patient may refuse to testify at the hearing.

1909 (7) PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT
1910 PLACEMENT.—

1911 (a)1. If the person continues to meet the criteria for
1912 involuntary outpatient placement, the service provider shall,
1913 before the expiration of the period during which the treatment
1914 is ordered for the person, file in the circuit court a petition

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1915 for continued involuntary outpatient placement.

1916 2. The existing involuntary outpatient placement order
1917 remains in effect until disposition on the petition for
1918 continued involuntary outpatient placement.

1919 3. A certificate shall be attached to the petition which
1920 includes a statement from the person's physician or clinical
1921 psychologist justifying the request, a brief description of the
1922 patient's treatment during the time he or she was involuntarily
1923 placed, and an individualized plan of continued treatment.

1924 4. The service provider shall develop the individualized
1925 plan of continued treatment in consultation with the patient or
1926 the patient's guardian advocate, if appointed. When the petition
1927 has been filed, the clerk of the court shall provide copies of
1928 the certificate and the individualized plan of continued
1929 treatment to the department, the patient, the patient's guardian
1930 advocate, ~~the state attorney,~~ and the patient's private counsel
1931 or the public defender.

1932 Section 33. Subsection (3) and paragraph (a) of subsection
1933 (6) of section 394.467, Florida Statutes, are amended to read:

1934 394.467 Involuntary inpatient placement.—

1935 (3) PETITION FOR INVOLUNTARY INPATIENT PLACEMENT.—The
1936 administrator of the facility shall file a petition for
1937 involuntary inpatient placement in the court in the county where
1938 the patient is located. Upon filing, the clerk of the court
1939 shall provide copies to the department, the patient, the
1940 patient's guardian or representative, ~~and the state attorney~~ and
1941 public defender of the judicial circuit in which the patient is
1942 located. No fee shall be charged for the filing of a petition
1943 under this subsection.

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1944 (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

1945 (a)1. The court shall hold the hearing on involuntary
1946 inpatient placement within 5 days, unless a continuance is
1947 granted. The hearing shall be held in the county where the
1948 patient is located and shall be as convenient to the patient as
1949 may be consistent with orderly procedure and shall be conducted
1950 in physical settings not likely to be injurious to the patient's
1951 condition. If the court finds that the patient's attendance at
1952 the hearing is not consistent with the best interests of the
1953 patient, and the patient's counsel does not object, the court
1954 may waive the presence of the patient from all or any portion of
1955 the hearing. ~~The state attorney for the circuit in which the~~
1956 ~~patient is located shall represent the state, rather than the~~
1957 ~~petitioning facility administrator, as the real party in~~
1958 ~~interest in the proceeding.~~

1959 2. The court may appoint a general or special magistrate to
1960 preside at the hearing. One of the professionals who executed
1961 the involuntary inpatient placement certificate shall be a
1962 witness. The patient and the patient's guardian or
1963 representative shall be informed by the court of the right to an
1964 independent expert examination. If the patient cannot afford
1965 such an examination, the court shall provide for one. The
1966 independent expert's report shall be confidential and not
1967 discoverable, unless the expert is to be called as a witness for
1968 the patient at the hearing. The testimony in the hearing must be
1969 given under oath, and the proceedings must be recorded. The
1970 patient may refuse to testify at the hearing.

1971 Section 34. Paragraph (d) of subsection (9) of section
1972 775.082, Florida Statutes, is amended to read:

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1973 775.082 Penalties; applicability of sentencing structures;
1974 mandatory minimum sentences for certain reoffenders previously
1975 released from prison.-

1976 (9)

1977 (d)~~1~~. It is the intent of the Legislature that offenders
1978 previously released from prison who meet the criteria in
1979 paragraph (a) be punished to the fullest extent of the law and
1980 as provided in this subsection, unless the state attorney
1981 determines that extenuating circumstances exist which preclude
1982 the just prosecution of the offender, including whether the
1983 victim recommends that the offender not be sentenced as provided
1984 in this subsection.

1985 ~~2. For every case in which the offender meets the criteria~~
1986 ~~in paragraph (a) and does not receive the mandatory minimum~~
1987 ~~prison sentence, the state attorney must explain the sentencing~~
1988 ~~deviation in writing and place such explanation in the case file~~
1989 ~~maintained by the state attorney. On an annual basis, each state~~
1990 ~~attorney shall submit copies of deviation memoranda regarding~~
1991 ~~offenses committed on or after the effective date of this~~
1992 ~~subsection, to the president of the Florida Prosecuting~~
1993 ~~Attorneys Association, Inc. The association must maintain such~~
1994 ~~information, and make such information available to the public~~
1995 ~~upon request, for at least a 10-year period.~~

1996 Section 35. Subsection (1) of section 775.083, Florida
1997 Statutes, is amended to read:

1998 775.083 Fines.-

1999 (1) A person who has been convicted of an offense other
2000 than a capital felony may be sentenced to pay a fine in addition
2001 to any punishment described in s. 775.082; when specifically

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2002 authorized by statute, he or she may be sentenced to pay a fine
2003 in lieu of any punishment described in s. 775.082. A person who
2004 has been convicted of a noncriminal violation may be sentenced
2005 to pay a fine. Fines for designated crimes and for noncriminal
2006 violations shall not exceed:

2007 (a) \$15,000, when the conviction is of a life felony.

2008 (b) \$10,000, when the conviction is of a felony of the
2009 first or second degree.

2010 (c) \$5,000, when the conviction is of a felony of the third
2011 degree.

2012 (d) \$1,000, when the conviction is of a misdemeanor of the
2013 first degree.

2014 (e) \$500, when the conviction is of a misdemeanor of the
2015 second degree or a noncriminal violation.

2016 (f) Any higher amount equal to double the pecuniary gain
2017 derived from the offense by the offender or double the pecuniary
2018 loss suffered by the victim.

2019 (g) Any higher amount specifically authorized by statute.
2020

2021 Fines imposed in this subsection shall be deposited by the clerk
2022 of the court in the fine and forfeiture fund established
2023 pursuant to s. 142.01, except that the clerk shall remit fines
2024 imposed when adjudication is withheld to the Department of
2025 Revenue for deposit shall be deposited in the General Revenue
2026 Fund State Courts Revenue Trust Fund, and such fines imposed
2027 when adjudication is withheld are not revenue for purposes of s.
2028 28.36 and may not be used in establishing the budget of the
2029 clerk of the court under that section or s. 28.35. If a
2030 defendant is unable to pay a fine, the court may defer payment

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2031 of the fine to a date certain. As used in this subsection, the
2032 term "convicted" or "conviction" means a determination of guilt
2033 which is the result of a trial or the entry of a plea of guilty
2034 or nolo contendere, regardless of whether adjudication is
2035 withheld.

2036 Section 36. Section 775.08401, Florida Statutes, is
2037 repealed.

2038 Section 37. Subsection (5) of section 775.087, Florida
2039 Statutes, is repealed.

2040 Section 38. Subsection (5) of section 775.0843, Florida
2041 Statutes, is amended to read:

2042 775.0843 Policies to be adopted for career criminal cases.—

2043 (5) Each career criminal apprehension program shall
2044 concentrate on the identification and arrest of career criminals
2045 and the support of subsequent prosecution. The determination of
2046 which suspected felony offenders shall be the subject of career
2047 criminal apprehension efforts shall be made in accordance with
2048 written target selection criteria selected by the individual law
2049 enforcement agency and state attorney consistent with the
2050 provisions of this section and s. ss. ~~775.08401~~ and 775.0842.

2051 Section 39. Section 938.06, Florida Statutes, is amended to
2052 read:

2053 938.06 ~~Additional~~ Cost for crime stoppers programs.—

2054 (1) In addition to any fine prescribed by law, when a
2055 person is convicted of ~~for~~ any criminal offense, the county or
2056 circuit court shall assess ~~there is hereby assessed as a court~~
2057 ~~cost an additional surcharge of \$20 on such fine, which shall be~~
2058 ~~imposed by all county and circuit courts and collected by the~~
2059 ~~clerks of the courts together with such fine.~~

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2060 (2) The clerk of the court shall collect and forward, on a
2061 monthly basis, all costs assessed under this section, less \$3
2062 per assessment as a service charge to be retained by the clerk,
2063 to the Department of Revenue for deposit in the Crime Stoppers
2064 Trust Fund, to be used as provided in s. 16.555.

2065 (3) As used in this section, the term "convicted" means a
2066 determination of guilt which is the result of a trial or the
2067 entry of a plea of guilty or nolo contendere, regardless of
2068 whether adjudication is withheld.

2069 Section 40. Section 939.08, Florida Statutes, is amended to
2070 read:

2071 939.08 Costs to be certified before audit.—In all cases
2072 wherein is claimed the payment of applicable bills of costs,
2073 fees, or expenses of the state courts system as provided in s.
2074 29.004, other than juror and witness fees, in the adjudication
2075 of any case payable by the state, the trial court administrator
2076 or the administrator's designee shall review the itemized bill.
2077 The bill shall not be paid until the trial court administrator
2078 or the administrator's designee has approved it and certified
2079 that it is just, correct, and reasonable and contains no
2080 unnecessary or illegal item.

2081 Section 41. Paragraph (a) of subsection (1) of section
2082 939.185, Florida Statutes, is amended to read:

2083 939.185 Assessment of additional court costs and
2084 surcharges.—

2085 (1) (a) The board of county commissioners may adopt by
2086 ordinance an additional court cost, not to exceed \$65, to be
2087 imposed by the court when a person pleads guilty or nolo
2088 contendere to, or is found guilty of, or adjudicated delinquent

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2089 for, any felony, misdemeanor, delinquent act, or criminal
2090 traffic offense under the laws of this state. Such additional
2091 assessment shall be accounted for separately by the county in
2092 which the offense occurred and be used only in the county
2093 imposing this cost, to be allocated as follows:

2094 1. Twenty-five percent of the amount collected shall be
2095 allocated to fund innovations, as determined by the chief judge
2096 of the circuit, to supplement state funding for the elements of
2097 the state courts system identified in s. 29.004 and county
2098 funding for local requirements under s. 29.008(2)(a)2.

2099 2. Twenty-five percent of the amount collected shall be
2100 allocated to assist counties in providing legal aid programs
2101 required under s. 29.008(3)(a).

2102 3. Twenty-five percent of the amount collected shall be
2103 allocated to fund personnel and legal materials for the public
2104 as part of a law library.

2105 4. Twenty-five percent of the amount collected shall be
2106 used as determined by the board of county commissioners to
2107 support teen court programs, except as provided in s. 938.19(7),
2108 juvenile assessment centers, and other juvenile alternative
2109 programs.

2110
2111 Each county receiving funds under this section shall report the
2112 amount of funds collected pursuant to this section and an
2113 itemized list of expenditures for all authorized programs and
2114 activities. The report shall be submitted in a format developed
2115 by the Supreme Court to the Governor, the Chief Financial
2116 Officer, the President of the Senate, and the Speaker of the
2117 House of Representatives on a quarterly basis beginning with the

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2118 quarter ending September 30, 2004. Quarterly reports shall be
2119 submitted no later than 30 days after the end of the quarter.
2120 Any unspent funds at the close of the county fiscal year
2121 allocated under subparagraphs 2., 3., and 4., shall be
2122 transferred for use pursuant to subparagraph 1.

2123 Section 42. Subsection (15) is added to section 943.03,
2124 Florida Statutes, to read:

2125 943.03 Department of Law Enforcement.-

2126 (15) The Department of Law Enforcement, in consultation
2127 with the Criminal and Juvenile Justice Information Systems
2128 Council established in s. 943.06, shall modify the existing
2129 statewide uniform statute table in its criminal history system
2130 to meet the business requirements of state and local criminal
2131 justice and law enforcement agencies. In order to accomplish
2132 this objective, the department shall:

2133 (a) Define the minimum business requirements necessary for
2134 successful implementation;

2135 (b) Consider the charging and booking requirements of
2136 sheriffs' offices and police departments and the business
2137 requirements of state attorneys, public defenders, criminal
2138 conflict and civil regional counsel, clerks of court, judges,
2139 and state law enforcement agencies; and

2140 (c) Adopt rules establishing the necessary technical and
2141 business process standards required to implement, operate, and
2142 ensure uniform system use and compliance.

2143
2144 The required system modifications and adopted rules shall be
2145 implemented by December 31, 2011.

2146 Section 43. Paragraph (b) of subsection (3) of section

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2147 943.053, Florida Statutes, is amended to read:

2148 943.053 Dissemination of criminal justice information;
2149 fees.—

2150 (3)

2151 (b) The fee per record for criminal history information
2152 provided pursuant to this subsection and s. 943.0542 is \$24 per
2153 name submitted, except that the fee for the guardian ad litem
2154 program and vendors of the Department of Children and Family
2155 Services, the Department of Juvenile Justice, and the Department
2156 of Elderly Affairs shall be \$8 for each name submitted; the fee
2157 for a state criminal history provided for application processing
2158 as required by law to be performed by the Department of
2159 Agriculture and Consumer Services shall be \$15 for each name
2160 submitted; and the fee for requests under s. 943.0542, which
2161 implements the National Child Protection Act, shall be \$18 for
2162 each volunteer name submitted. The state offices of the Public
2163 Defender shall not be assessed a fee for Florida criminal
2164 history information or wanted person information.

2165 Section 44. Subsection (2) of section 943.0585, Florida
2166 Statutes, is amended to read:

2167 943.0585 Court-ordered expunction of criminal history
2168 records.—The courts of this state have jurisdiction over their
2169 own procedures, including the maintenance, expunction, and
2170 correction of judicial records containing criminal history
2171 information to the extent such procedures are not inconsistent
2172 with the conditions, responsibilities, and duties established by
2173 this section. Any court of competent jurisdiction may order a
2174 criminal justice agency to expunge the criminal history record
2175 of a minor or an adult who complies with the requirements of

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2176 this section. The court shall not order a criminal justice
2177 agency to expunge a criminal history record until the person
2178 seeking to expunge a criminal history record has applied for and
2179 received a certificate of eligibility for expunction pursuant to
2180 subsection (2). A criminal history record that relates to a
2181 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
2182 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
2183 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
2184 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
2185 any violation specified as a predicate offense for registration
2186 as a sexual predator pursuant to s. 775.21, without regard to
2187 whether that offense alone is sufficient to require such
2188 registration, or for registration as a sexual offender pursuant
2189 to s. 943.0435, may not be expunged, without regard to whether
2190 adjudication was withheld, if the defendant was found guilty of
2191 or pled guilty or nolo contendere to the offense, or if the
2192 defendant, as a minor, was found to have committed, or pled
2193 guilty or nolo contendere to committing, the offense as a
2194 delinquent act. The court may only order expunction of a
2195 criminal history record pertaining to one arrest or one incident
2196 of alleged criminal activity, except as provided in this
2197 section. The court may, at its sole discretion, order the
2198 expunction of a criminal history record pertaining to more than
2199 one arrest if the additional arrests directly relate to the
2200 original arrest. If the court intends to order the expunction of
2201 records pertaining to such additional arrests, such intent must
2202 be specified in the order. A criminal justice agency may not
2203 expunge any record pertaining to such additional arrests if the
2204 order to expunge does not articulate the intention of the court

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2205 to expunge a record pertaining to more than one arrest. This
2206 section does not prevent the court from ordering the expunction
2207 of only a portion of a criminal history record pertaining to one
2208 arrest or one incident of alleged criminal activity.

2209 Notwithstanding any law to the contrary, a criminal justice
2210 agency may comply with laws, court orders, and official requests
2211 of other jurisdictions relating to expunction, correction, or
2212 confidential handling of criminal history records or information
2213 derived therefrom. This section does not confer any right to the
2214 expunction of any criminal history record, and any request for
2215 expunction of a criminal history record may be denied at the
2216 sole discretion of the court.

2217 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to
2218 petitioning the court to expunge a criminal history record, a
2219 person seeking to expunge a criminal history record shall apply
2220 to the department for a certificate of eligibility for
2221 expunction. The department shall, by rule adopted pursuant to
2222 chapter 120, establish procedures pertaining to the application
2223 for and issuance of certificates of eligibility for expunction.
2224 A certificate of eligibility for expunction is valid for 12
2225 months after the date stamped on the certificate when issued by
2226 the department. After that time, the petitioner must reapply to
2227 the department for a new certificate of eligibility. Eligibility
2228 for a renewed certification of eligibility must be based on the
2229 status of the applicant and the law in effect at the time of the
2230 renewal application. The department shall issue a certificate of
2231 eligibility for expunction to a person who is the subject of a
2232 criminal history record if that person:

2233 (a) Provides a written, certified documentation of the

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2234 following ~~Has obtained, and submitted to the department, a~~
2235 ~~written, certified statement from the appropriate state attorney~~
2236 ~~or statewide prosecutor which indicates:~~

2237 1. That an indictment, information, or other charging
2238 document was not filed or issued in the case.

2239 2. That an indictment, information, or other charging
2240 document, if filed or issued in the case, was dismissed or nolle
2241 prosequi by the state attorney or statewide prosecutor, or was
2242 dismissed by a court of competent jurisdiction, and that none of
2243 the charges related to the arrest or alleged criminal activity
2244 to which the petition to expunge pertains resulted in a trial,
2245 without regard to whether the outcome of the trial was other
2246 than an adjudication of guilt.

2247 3. That the criminal history record does not relate to a
2248 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
2249 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
2250 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
2251 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
2252 any violation specified as a predicate offense for registration
2253 as a sexual predator pursuant to s. 775.21, without regard to
2254 whether that offense alone is sufficient to require such
2255 registration, or for registration as a sexual offender pursuant
2256 to s. 943.0435, where the defendant was found guilty of, or pled
2257 guilty or nolo contendere to any such offense, or that the
2258 defendant, as a minor, was found to have committed, or pled
2259 guilty or nolo contendere to committing, such an offense as a
2260 delinquent act, without regard to whether adjudication was
2261 withheld.

2262 (b) Remits a \$75 processing fee to the department for

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2263 placement in the Department of Law Enforcement Operating Trust
2264 Fund, unless such fee is waived by the executive director.

2265 (c) Has submitted to the department a certified copy of the
2266 disposition of the charge to which the petition to expunge
2267 pertains.

2268 (d) Has never, prior to the date on which the application
2269 for a certificate of eligibility is filed, been adjudicated
2270 guilty of a criminal offense or comparable ordinance violation,
2271 or been adjudicated delinquent for committing any felony or a
2272 misdemeanor specified in s. 943.051(3)(b).

2273 (e) Has not been adjudicated guilty of, or adjudicated
2274 delinquent for committing, any of the acts stemming from the
2275 arrest or alleged criminal activity to which the petition to
2276 expunge pertains.

2277 (f) Has never secured a prior sealing or expunction of a
2278 criminal history record under this section, former s. 893.14,
2279 former s. 901.33, or former s. 943.058, unless expunction is
2280 sought of a criminal history record previously sealed for 10
2281 years pursuant to paragraph (h) and the record is otherwise
2282 eligible for expunction.

2283 (g) Is no longer under court supervision applicable to the
2284 disposition of the arrest or alleged criminal activity to which
2285 the petition to expunge pertains.

2286 (h) Has previously obtained a court order sealing the
2287 record under this section, former s. 893.14, former s. 901.33,
2288 or former s. 943.058 for a minimum of 10 years because
2289 adjudication was withheld or because all charges related to the
2290 arrest or alleged criminal activity to which the petition to
2291 expunge pertains were not dismissed prior to trial, without

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2292 regard to whether the outcome of the trial was other than an
2293 adjudication of guilt. The requirement for the record to have
2294 previously been sealed for a minimum of 10 years does not apply
2295 when a plea was not entered or all charges related to the arrest
2296 or alleged criminal activity to which the petition to expunge
2297 pertains were dismissed prior to trial.

2298 Section 45. Subsection (4) of section 985.557, Florida
2299 Statutes, is repealed.

2300 Section 46. The unexpended funds in the Operating Trust
2301 Fund from revenues collected pursuant to ss. 25.241 and 35.22,
2302 Florida Statutes, are transferred to the State Courts Revenue
2303 Trust Fund. All other unexpended funds in the Operating Trust
2304 Fund are transferred to the Administrative Trust Fund within the
2305 state courts system.

2306 Section 47. Except as otherwise expressly provided in this
2307 act, this act shall take effect July 1, 2010.