

HB 7161

2010

1 A bill to be entitled  
2 An act relating to court-appointed counsel in civil cases;  
3 amending s. 57.082, F.S.; clarifying proceedings in which  
4 a party may qualify for court-appointed counsel; revising  
5 provisions relating to the payment of an application fee  
6 by a person eligible for court-appointed counsel; amending  
7 s. 39.0134, F.S.; revising a cross-reference relating to  
8 enforcement of liens for court-ordered payment of  
9 attorney's fees and costs; specifying circumstances under  
10 which a parent receiving assistance of appointed counsel  
11 shall be liable for payment of an application fee and  
12 attorney's fees and costs; providing for payment of such  
13 fees and costs; providing for deposit and disposition of  
14 fee proceeds; providing an effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18 Section 1. Paragraph (d) of subsection (1) and subsection  
19 (5) of section 57.082, Florida Statutes, are amended to read:

20 57.082 Determination of civil indigent status.—

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

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29 (d) A person who seeks appointment of an attorney in a  
30 ~~ease under~~ chapter 39 proceeding, at shelter or during the  
31 adjudicatory process, during the judicial review process, upon  
32 the filing of a termination of parental rights petition, or upon  
33 the filing of any appeal, or if an appointed attorney is  
34 requested in a reopened proceeding, at the trial or appellate  
35 level, for which an indigent person is eligible for court-  
36 appointed representation, shall pay a \$50 application fee to the  
37 clerk for each application filed. The applicant shall pay the  
38 fee within 7 days after submitting the application. If the fee  
39 is not paid within 7 days, the court shall enter an order  
40 requiring payment and the clerk shall pursue collection under s.  
41 28.246. The clerk shall transfer monthly all application fees  
42 collected under this paragraph to the Department of Revenue for  
43 deposit into the Indigent Civil Defense Trust Fund, to be used  
44 as appropriated by the Legislature. The clerk may retain 10  
45 percent of application fees collected monthly for administrative  
46 costs prior to remitting the remainder to the Department of  
47 Revenue. A person found to be indigent may not be refused  
48 counsel. If the person cannot pay the application fee, the clerk  
49 shall enroll the person in a payment plan pursuant to s. 28.246.

50 (5) APPOINTMENT OF COUNSEL.—In appointing counsel after a  
51 determination that a person is indigent under this section, the  
52 court shall order that any applicable application fee be paid by  
53 each person requesting appointment of counsel and first appoint  
54 the office of criminal conflict and civil regional counsel, as  
55 provided in s. 27.511, unless specific provision is made in law  
56 for the appointment of the public defender in the particular

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57 civil proceeding.

58 Section 2. Section 39.0134, Florida Statutes, is amended  
59 to read:

60 39.0134 Appointed counsel; compensation.—If counsel is  
61 entitled to receive compensation for representation pursuant to  
62 a court appointment in a dependency proceeding or a termination  
63 of parental rights proceeding pursuant to this chapter,  
64 compensation shall be paid in accordance with s. 27.5304. The  
65 state may acquire and enforce a lien upon court-ordered payment  
66 of attorney's fees and costs in accordance with s. 938.29(2)  
67 ~~984.08~~.

68 (1) A parent whose child is dependent, whether or not  
69 adjudication was withheld, or whose parental rights are  
70 terminated, and who has received the assistance of the office of  
71 criminal conflict and civil regional counsel or any other court-  
72 appointed counsel or has received due process services after  
73 being found indigent for costs under s. 57.082 shall be liable  
74 for payment of the assessed application fee under s. 57.082,  
75 together with reasonable attorney's fees and costs as determined  
76 by the court.

77 (2) If reasonable attorney's fees or costs are assessed,  
78 payment of the fees or costs may be made part of any case plan  
79 in dependency proceedings at the court's discretion; however, no  
80 case plan may remain open for the sole issue of payment of  
81 attorney's fees or costs. At the court's discretion, a lien upon  
82 court-ordered payment of attorney's fees and costs may be  
83 ordered by the court in accordance with s. 938.29(2).

84 (3) The clerk of the court shall transfer all attorney's

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85 | fees and costs collected under this section monthly to the  
86 | Department of Revenue for deposit in the Indigent Civil Defense  
87 | Trust Fund, subject to legislative appropriations and consistent  
88 | with s. 27.5111.

89 | Section 3. This act shall take effect July 1, 2010.