

1                                   A bill to be entitled  
 2       An act relating to court-appointed counsel; amending s.  
 3       938.29, F.S.; specifying that a lien for the cost of  
 4       court-appointed counsel against a parent for services  
 5       provided to a child does not expire upon the emancipation  
 6       of the child or upon the child reaching the age of  
 7       majority; amending s. 57.082, F.S.; clarifying proceedings  
 8       in which a party may qualify for court-appointed counsel;  
 9       revising provisions relating to the payment of an  
 10      application fee by a person eligible for court-appointed  
 11      counsel; amending s. 39.0134, F.S.; revising a cross-  
 12      reference relating to enforcement of liens for court-  
 13      ordered payment of attorney's fees and costs; specifying  
 14      circumstances under which a parent receiving assistance of  
 15      appointed counsel shall be liable for payment of an  
 16      application fee and attorney's fees and costs; providing  
 17      for payment of such fees and costs; providing for deposit  
 18      and disposition of fee proceeds; providing an effective  
 19      date.

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

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 23           Section 1. Paragraph (b) of subsection (2) of section  
 24       938.29, Florida Statutes, is amended to read:

25           938.29 Legal assistance; lien for payment of attorney's  
 26       fees or costs.—

27           (2)

28           (b) A judgment showing the name and residence of the

29 defendant-recipient or parent shall be recorded in the public  
 30 record, without cost, by the clerk of the circuit court in the  
 31 county where the defendant-recipient or parent resides and in  
 32 each county in which such defendant-recipient or parent then  
 33 owns or later acquires any property. Such judgments shall be  
 34 enforced on behalf of the state by the clerk of the circuit  
 35 court of the county in which assistance was rendered. The lien  
 36 against a parent shall remain in force notwithstanding the child  
 37 becoming emancipated or the child reaching the age of majority.

38 Section 2. Paragraph (d) of subsection (1) and subsection  
 39 (5) of section 57.082, Florida Statutes, are amended to read:

40 57.082 Determination of civil indigent status.—

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

49 (d) A person who seeks appointment of an attorney in a  
 50 ~~ease under~~ chapter 39 proceeding, at shelter or during the  
 51 adjudicatory process, during the judicial review process, upon  
 52 the filing of a termination of parental rights petition, or upon  
 53 the filing of any appeal, or if an appointed attorney is  
 54 requested in a reopened proceeding, at the trial or appellate  
 55 ~~level,~~ for which an indigent person is eligible for court-  
 56 appointed representation, shall pay a \$50 application fee to the

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57 clerk for each application filed. The applicant shall pay the  
58 fee within 7 days after submitting the application. If the fee  
59 is not paid within 7 days, the court shall enter an order  
60 requiring payment and the clerk shall pursue collection under s.  
61 28.246. The clerk shall transfer monthly all application fees  
62 collected under this paragraph to the Department of Revenue for  
63 deposit into the Indigent Civil Defense Trust Fund, to be used  
64 as appropriated by the Legislature. The clerk may retain 10  
65 percent of application fees collected monthly for administrative  
66 costs prior to remitting the remainder to the Department of  
67 Revenue. A person found to be indigent may not be refused  
68 counsel. If the person cannot pay the application fee, the clerk  
69 shall enroll the person in a payment plan pursuant to s. 28.246.

70 (5) APPOINTMENT OF COUNSEL.—In appointing counsel after a  
71 determination that a person is indigent under this section, the  
72 court shall order that any applicable application fee be paid by  
73 each person requesting appointment of counsel and first appoint  
74 the office of criminal conflict and civil regional counsel, as  
75 provided in s. 27.511, unless specific provision is made in law  
76 for the appointment of the public defender in the particular  
77 civil proceeding.

78 Section 3. Section 39.0134, Florida Statutes, is amended  
79 to read:

80 39.0134 Appointed counsel; compensation.—If counsel is  
81 entitled to receive compensation for representation pursuant to  
82 a court appointment in a dependency proceeding or a termination  
83 of parental rights proceeding pursuant to this chapter,  
84 compensation shall be paid in accordance with s. 27.5304. The

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85 state may acquire and enforce a lien upon court-ordered payment  
86 of attorney's fees and costs in accordance with s. 938.29(2)  
87 ~~984.08~~.

88 (1) A parent whose child is dependent, whether or not  
89 adjudication was withheld, or whose parental rights are  
90 terminated, and who has received the assistance of the office of  
91 criminal conflict and civil regional counsel or any other court-  
92 appointed counsel or has received due process services after  
93 being found indigent for costs under s. 57.082 shall be liable  
94 for payment of the assessed application fee under s. 57.082,  
95 together with reasonable attorney's fees and costs as determined  
96 by the court.

97 (2) If reasonable attorney's fees or costs are assessed,  
98 payment of the fees or costs may be made part of any case plan  
99 in dependency proceedings at the court's discretion; however, no  
100 case plan may remain open for the sole issue of payment of  
101 attorney's fees or costs. At the court's discretion, a lien upon  
102 court-ordered payment of attorney's fees and costs may be  
103 ordered by the court in accordance with s. 938.29(2).

104 (3) The clerk of the court shall transfer all attorney's  
105 fees and costs collected under this section monthly to the  
106 Department of Revenue for deposit in the Indigent Civil Defense  
107 Trust Fund, subject to legislative appropriations and consistent  
108 with s. 27.5111.

109 Section 4. This act shall take effect July 1, 2010.