

By the Committee on Budget

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1 A bill to be entitled

2 An act relating to the state judicial system; creating
3 the Judicial Caseload Incentive Plan; prescribing the
4 purpose of the plan; providing for performance goals
5 for each judicial circuit; authorizing financial
6 awards to certain judges based on the performance of
7 the circuit in meeting the goals; amending s. 27.511,
8 F.S.; authorizing each office of criminal conflict and
9 civil regional counsel to create a direct-support
10 organization; prescribing requirements related to the
11 creation and operation of the direct-support
12 organization; amending s. 27.5304, F.S.; authorizing
13 the Office of the State Courts Administrator to pay
14 private court-appointed counsel if a court orders
15 payment above specified flat-fee amounts; providing
16 for a portion of such payments to be paid from funds
17 appropriated to the office for that purpose; amending
18 s. 318.18, F.S.; requiring the clerk of court and the
19 Florida Clerks of Court Operations Corporation to
20 submit reports on local traffic assessments in an
21 electronic format; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Judicial Caseload Incentive Plan.—

26 (1) PURPOSE.—There is created the Judicial Caseload
27 Incentive Plan, the purpose of which is to resolve civil
28 disputes in a timely manner and reduce legal costs in the state
29 courts system by allowing certain judges within each judicial

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30 circuit meeting the established performance goals to earn a
31 nonrecurring award.

32 (2) PERFORMANCE GOALS.—The Legislature shall prescribe
33 annual performance goals in the General Appropriations Act for
34 specified case types in each judicial circuit. The Office of the
35 State Courts Administrator shall calculate the performance of a
36 circuit toward meeting its performance goal using data collected
37 from the clerks of court. The office shall divide the annual
38 performance goals into equal quarterly goals.

39 (3) AWARDS.—

40 (a) Based on data collected from the clerks of court, the
41 Office of the State Courts Administrator shall collect data to
42 determine if a circuit meets all of the performance goals for a
43 quarter. The office:

44 1. Shall evaluate performance relating to each goal
45 separately; and

46 2. May not consider performance data from prior quarters.

47 (b)1. If the office determines that a circuit meets all of
48 the performance goals for a quarter, each judge assigned the
49 types of cases specified in the General Appropriations Act as
50 part of the Judicial Caseload Incentive Plan shall receive an
51 award for that quarter equal to \$3,000. The office shall prorate
52 the award of a judge who takes office during the quarter for
53 which the circuit meets its quarterly goals or transfers into or
54 out of the relevant divisions handling the types of cases
55 specified in the Judicial Caseload Incentive Plan.

56 2. A judge may not receive more than one full award per
57 quarter.

58 3. An award under this section is contingent upon the

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59 appropriation of, and shall be paid from, funds in the General
60 Appropriations Act.

61 (4) REPORTS.—Within 30 days after the end of each quarter,
62 the Office of the State Courts Administrator shall report
63 electronically to the chairs of the appropriations committees of
64 the Senate and the House of Representatives the progress of each
65 circuit in meeting performance goals for the quarter and the
66 number and amount of awards provided.

67 Section 2. Subsection (10) is added to section 27.511,
68 Florida Statutes, to read:

69 27.511 Offices of criminal conflict and civil regional
70 counsel; legislative intent; qualifications; appointment;
71 duties.—

72 (10) Each office of criminal conflict and civil regional
73 counsel may create a direct-support organization.

74 (a) The direct-support organization must be registered in
75 this state as a nonprofit corporation under chapter 617. The
76 direct-support organization shall be exempt from the filing fees
77 under s. 617.0122.

78 (b) The direct-support organization shall be organized and
79 operated to conduct programs and activities; raise funds;
80 request and receive grants, gifts, and bequests of moneys;
81 acquire, receive, hold, invest, and administer, in its own name,
82 securities, funds, objects of value, or other property, real or
83 personal; and make expenditures to or for the direct or indirect
84 benefit of the office of criminal conflict and civil regional
85 counsel.

86 (c) The direct-support organization shall operate under a
87 written contract with the regional counsel. The written contract

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88 must, at a minimum, provide for:

89 1. Approval of the articles of incorporation and bylaws of
90 the direct-support organization by the regional counsel.

91 2. Submission of an annual budget for the approval by the
92 regional counsel.

93 3. The reversion without penalty to the office of criminal
94 conflict and civil regional counsel, or to the state if the
95 office ceases to exist, of all moneys and property held in trust
96 by the direct-support organization for the office if the direct-
97 support organization ceases to exist or if the contract is
98 terminated.

99 4. The fiscal year of the direct-support organization,
100 which must begin July 1 of each year and end June 30 of the
101 following year.

102 5. The disclosure of material provisions of the contract
103 and the distinction between the regional counsel and the direct-
104 support organization to donors of gifts, contributions, or
105 bequests, as well as on all promotional and fundraising
106 publications.

107 (d) If the regional counsel determines that the direct-
108 support organization is operating in a manner that is
109 inconsistent with the goals and purposes of the office of
110 criminal conflict and civil regional counsel or is not acting in
111 the best interest of the state, the regional counsel may
112 terminate the contract, and thereafter the organization may not
113 use the name of the office.

114 (e) The regional counsel shall appoint a board of directors
115 for the direct-support organization. The regional counsel may
116 designate employees of the office of criminal conflict and civil

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117 regional counsel to serve on the board of directors. Members of
118 the board shall serve at the pleasure of the regional counsel.

119 (f) The regional counsel:

120 1. May authorize the use of facilities and property other
121 than money which are owned by the office of criminal conflict
122 and civil regional counsel to be used by the direct-support
123 organization.

124 2. May authorize the use of personnel services provided by
125 employees of the office.

126 3. May prescribe the conditions by which the direct-support
127 organization may use property, facilities, or personnel services
128 of the office.

129 4. May not authorize the use of property, facilities, or
130 personnel services of the direct-support organization if the
131 organization does not provide equal employment opportunities to
132 all persons, regardless of race, color, religion, sex, age, or
133 national origin.

134
135 For the purposes of this paragraph, the term "personnel
136 services" includes full-time personnel and part-time personnel
137 as well as payroll processing.

138 (g) Moneys of the direct-support organization may be held
139 in a depository account in the name of the direct-support
140 organization which is separate from the accounts of the office,
141 but which is subject to the provisions of the contract with the
142 regional counsel.

143 (h) The direct-support organization shall provide for an
144 annual financial audit in accordance with s. 215.981.

145 (i) The direct-support organization may not exercise any

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146 power under s. 617.0302(12) or (16). A state employee may not
147 receive compensation from the direct-support organization for
148 service on the board of directors or for services rendered to
149 the direct-support organization.

150 Section 3. Subsections (1) and (12) of section 27.5304,
151 Florida Statutes, are amended to read:

152 27.5304 Private court-appointed counsel; compensation.—

153 (1) Private court-appointed counsel shall be compensated by
154 the Justice Administrative Commission and the Office of the
155 State Courts Administrator as provided in this section and the
156 General Appropriations Act. The flat fees prescribed in this
157 section are limitations on compensation. The specific flat fee
158 amounts for compensation shall be established annually in the
159 General Appropriations Act. The attorney also shall be
160 reimbursed for reasonable and necessary expenses in accordance
161 with s. 29.007. If the attorney is representing a defendant
162 charged with more than one offense in the same case, the
163 attorney shall be compensated at the rate provided for the most
164 serious offense for which he or she represented the defendant.
165 This section does not allow stacking of the fee limits
166 established by this section.

167 (12) The Legislature recognizes that on rare occasions an
168 attorney may receive a case that requires extraordinary and
169 unusual effort.

170 (a) If counsel seeks compensation that exceeds the limits
171 prescribed under this section and the General Appropriations
172 Act, he or she must file a motion with the chief judge for an
173 order approving payment of attorney's fees in excess of these
174 limits.

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175 1. Prior to filing the motion, the counsel shall deliver a
176 copy of the intended billing, together with supporting
177 affidavits and all other necessary documentation, to the Justice
178 Administrative Commission.

179 2. The Office of the State Courts Administrator ~~Justice~~
180 ~~Administrative Commission~~ shall review the billings, affidavit,
181 and documentation for completeness and compliance with
182 contractual and statutory requirements. If the State Courts
183 Administrator ~~Justice Administrative Commission~~ objects to any
184 portion of the proposed billing, the objection and reasons
185 therefor shall be communicated in writing to the private court-
186 appointed counsel. The counsel may thereafter file his or her
187 motion, which must specify whether the State Courts
188 Administrator ~~commission~~ objects to any portion of the billing
189 or the sufficiency of documentation, and shall attach the
190 ~~commission's~~ letter stating its objection.

191 (b) Following receipt of the motion to exceed the fee
192 limits, the chief judge or a designee shall hold an evidentiary
193 hearing.

194 1. At the hearing, the attorney seeking compensation must
195 prove by competent and substantial evidence that the case
196 required extraordinary and unusual efforts. The chief judge or
197 designee shall consider criteria such as the number of
198 witnesses, the complexity of the factual and legal issues, and
199 the length of trial. The fact that a trial was conducted in a
200 case does not, by itself, constitute competent substantial
201 evidence of an extraordinary and unusual effort. In a criminal
202 case, relief under this section may not be granted if the number
203 of work hours does not exceed 75 or the number of the state's

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204 witnesses deposed does not exceed 20.

205 2. The chief judge or designee shall enter a written order
206 detailing his or her findings and identifying the extraordinary
207 nature of the time and efforts of the attorney in the case which
208 warrant exceeding the flat fee established by this section and
209 the General Appropriations Act.

210 ~~(c) A copy of the motion and attachments shall be served on~~
211 ~~the Justice Administrative Commission at least 5 business days~~
212 ~~prior to the date of a hearing. The Justice Administrative~~
213 ~~Commission shall have standing to appear before the court,~~
214 ~~including at the hearing under paragraph (b), to contest any~~
215 ~~motion for an order approving payment of attorney's fees, costs,~~
216 ~~or related expenses and may participate in a hearing on the~~
217 ~~motion by use of telephonic or other communication equipment~~
218 ~~unless ordered otherwise. The Justice Administrative Commission~~
219 ~~may contract with other public or private entities or~~
220 ~~individuals to appear before the court for the purpose of~~
221 ~~contesting any motion for an order approving payment of~~
222 ~~attorney's fees, costs, or related expenses. The fact that the~~
223 ~~Justice Administrative Commission has not objected to any~~
224 ~~portion of the billing or to the sufficiency of the~~
225 ~~documentation is not binding on the court.~~

226 (c) ~~(d)~~ If the chief judge or designee finds that counsel
227 has proved by competent and substantial evidence that the case
228 required extraordinary and unusual efforts, the chief judge or
229 designee shall order the compensation to be paid to the attorney
230 at a percentage above the flat fee rate, depending on the extent
231 of the unusual and extraordinary effort required. The percentage
232 shall be only the rate necessary to ensure that the fees paid

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233 are not confiscatory under common law. The percentage may not
234 exceed 200 percent of the established flat fee, absent a
235 specific finding that 200 percent of the flat fee in the case
236 would be confiscatory. If the chief judge or designee determines
237 that 200 percent of the flat fee would be confiscatory, he or
238 she shall order the amount of compensation using an hourly rate
239 not to exceed \$75 per hour for a noncapital case and \$100 per
240 hour for a capital case. However, the compensation calculated by
241 using the hourly rate shall be only that amount necessary to
242 ensure that the total fees paid are not confiscatory.

243 (d) ~~(e)~~ Any order granting relief under this subsection must
244 be attached to the final request for a payment submitted to the
245 Office of the State Courts Administrator ~~Justice Administrative~~
246 ~~Commission~~.

247 (e) ~~(f)~~ ~~The Justice Administrative Commission shall provide~~
248 ~~to the Office of the State Courts Administrator data concerning~~
249 ~~the number of cases approved for compensation in excess of the~~
250 ~~limitation and the amount of these awards by circuit and by~~
251 ~~judge.~~ The Office of the State Courts Administrator shall report
252 the number of cases paid and the amount paid per case by circuit
253 ~~data~~ quarterly to the President of the Senate, the Speaker of
254 the House of Representatives, the Chief Justice of the Supreme
255 Court, and the chief judge of each circuit.

256 (f) The portion of compensation paid to private court-
257 appointed counsel under this subsection which exceeds the
258 compensation limits prescribed elsewhere under this section and
259 the General Appropriations Act shall be paid from funds
260 appropriated to the Office of the State Courts Administrator for
261 this purpose.

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262 Section 4. Paragraph (b) of subsection (13) of section
263 318.18, Florida Statutes, is amended to read:

264 318.18 Amount of penalties.—The penalties required for a
265 noncriminal disposition pursuant to s. 318.14 or a criminal
266 offense listed in s. 318.17 are as follows:

267 (13)

268 (b) A county may impose a surcharge under subparagraph
269 (a)1., subparagraph(a)2., or subparagraph(a)3., but may not
270 impose more than one surcharge under this subsection. A county
271 may elect to impose a different authorized surcharge but may not
272 impose more than one surcharge at a time. The clerk of court
273 shall report, no later than 30 days after the end of the
274 quarter, the amount of funds collected under this subsection
275 during each quarter of the fiscal year. The clerk shall submit
276 the report, in an electronic ~~a~~ format developed by the Florida
277 Clerks of Court Operations Corporation ~~Office of State Courts~~
278 ~~Administrator~~, to the chief judge of the circuit and the Florida
279 Clerks of Court Operations Corporation. The corporation shall
280 submit the report in an electronic format to,~~r~~ the Governor, the
281 President of the Senate, the Speaker of the House of
282 Representatives, and the board of county commissioners.

283 Section 5. This act shall take effect July 1, 2011.