

20121960e1

1 A bill to be entitled
2 An act relating to the state judicial system; amending
3 s. 27.40, F.S.; authorizing the chief judge of the
4 circuit to limit the number of attorneys on the
5 circuit registry list; providing criteria in order to
6 qualify for inclusion on a registry; authorizing the
7 chief judge to establish a limited registry that
8 includes only those attorneys willing to waive
9 compensation in excess of a flat fee; requiring the
10 court to appoint attorneys from the flat-fee limited
11 registry unless there are no attorneys available to
12 accept the appointment on the limited registry;
13 amending s. 27.511, F.S.; revising the procedures by
14 which a regional conflict counsel is appointed by the
15 Governor; providing that, if a regional counsel is
16 unable to complete a full term in office, the Governor
17 may immediately appoint an interim regional counsel to
18 serve as regional counsel for that district until a
19 new regional counsel is appointed; requiring the
20 Florida Supreme Court Judicial Nominating Commission
21 to provide the Governor with a list of nominees for
22 appointment within 6 months after the date of a
23 vacancy; amending s. 27.52, F.S.; authorizing the
24 clerk to conduct a review of the county's property
25 records to confirm that an applicant seeking
26 appointment of a public defender is indigent; amending
27 s. 27.5304, F.S.; revising procedures for court-
28 appointed counsel who apply for compensation for
29 casework when the attorney fees exceed the limits of

20121960e1

30 compensation prescribed by law; providing procedures
31 to be applied in criminal cases if the court orders
32 payment in excess of the flat fee established by law;
33 providing procedures for payment of fees when payments
34 due exceed the available funding designated by the
35 court; amending s. 39.8296, F.S.; authorizing court-
36 appointed volunteers to transport children who are
37 abused, abandoned, or neglected; prohibiting a
38 guardian ad litem program or the court from requiring
39 that volunteers transport children; creating s.
40 39.8297, F.S.; authorizing a county and the Statewide
41 Guardian Ad Litem Office to enter into an agreement
42 whereby the county provides funding to the office in
43 order to employ additional guardian ad litem personnel
44 to serve in the county; requiring an agreement between
45 the county and the Statewide Guardian Ad Litem Office;
46 specifying the duties and responsibilities of the
47 county and the participating guardian ad litem office;
48 requiring the statewide office to indemnify the county
49 from liability resulting from the acts or omissions of
50 the guardian ad litem office; prohibiting the
51 Statewide Guardian Ad Litem Office from using county-
52 paid positions in a formula to measure the county's
53 need for additional guardian ad litem personnel;
54 providing that an agreement between the county and the
55 office does not obligate the state to provide
56 additional funds to the county; amending s. 318.18,
57 F.S.; requiring the clerk of court and the Florida
58 Clerks of Court Operations Corporation to submit

20121960e1

59 reports on local traffic assessments in an electronic
60 format; providing an effective date.

61
62 Be It Enacted by the Legislature of the State of Florida:

63
64 Section 1. Subsections (3) and (4) of section 27.40,
65 Florida Statutes, are amended to read:

66 27.40 Court-appointed counsel; circuit registries; minimum
67 requirements; appointment by court.—

68 (3) In utilizing a registry:

69 (a) The chief judge of the circuit shall compile a list of
70 attorneys in private practice, by county and by category of
71 cases, and provide the list to the clerk of court in each
72 county. The chief judge of the circuit may restrict the number
73 of attorneys on the general registry list. ~~From October 1, 2005,~~
74 ~~through September 30, 2007, the list of attorneys compiled by~~
75 ~~the Eleventh Judicial Circuit shall provide the race, gender,~~
76 ~~and national origin of assigned attorneys.~~ To be included on a
77 registry, attorneys shall certify:

78 1. That they meet any minimum requirements established by
79 the chief judge and by established in general law for court
80 appointment;

81 2. That they are available to represent indigent defendants
82 in cases requiring court appointment of private counsel; ~~and~~

83 3. That they are willing to abide by the terms of the
84 contract for services; and

85 4. Whether they are willing to accept as full payment the
86 flat fees prescribed in s. 27.5304, notwithstanding the
87 provisions of s. 27.5304(12), except for cases brought under the

20121960e1

88 Racketeer Influenced and Corrupt Organizations Act and capital
89 cases as defined in s. 27.5304(5)(a)4.

90
91 To be included on a registry, an attorney also must enter into a
92 contract for services with the Justice Administrative
93 Commission. Failure to comply with the terms of the contract for
94 services may result in termination of the contract and removal
95 from the registry. Each attorney on the registry shall be
96 responsible for notifying the clerk of the court and the Justice
97 Administrative Commission of any change in his or her status.
98 Failure to comply with this requirement shall be cause for
99 termination of the contract for services and removal from the
100 registry until the requirement is fulfilled. In addition to
101 general registries, the chief judge may establish limited
102 registries that include only those attorneys willing to waive
103 compensation in excess of the flat fee prescribed in s. 27.5304,
104 notwithstanding the provisions of s. 27.5304(12).

105 (b) The court shall appoint attorneys in rotating order in
106 the order in which names appear on the applicable registry,
107 unless the court makes a finding of good cause on the record for
108 appointing an attorney out of order. If a chief judge
109 establishes a limited registry of attorneys willing to waive
110 compensation in excess of the flat fee, the court shall appoint
111 attorneys from that limited registry unless there are no
112 attorneys available to accept the appointment on the limited
113 registry. The clerk of court shall maintain the registry and
114 provide to the court the name of the attorney for appointment.
115 An attorney not appointed in the order in which his or her name
116 appears on the list shall remain next in order.

20121960e1

117 (c) If the number of attorneys on the registry in a county
118 or circuit for a particular category of cases is inadequate, the
119 chief judge of the particular circuit shall provide to the clerk
120 of court the names of at least three private attorneys who have
121 relevant experience. The clerk of court shall send an
122 application to each of these attorneys to register for
123 appointment.

124 (d) Quarterly, each chief judge shall provide a current
125 copy of each registry to the Chief Justice of the Supreme Court,
126 the state attorney and public defender in each judicial circuit,
127 the office of criminal conflict and civil regional counsel, the
128 clerk of court in each county, and the Justice Administrative
129 Commission. ~~From October 1, 2005, through September 30, 2007,~~
130 Circuits utilizing a limited registry list as allowed by
131 paragraph (a) the report submitted by the Eleventh Judicial
132 ~~Circuit~~ shall include the race, gender, and national origin of
133 all attorneys listed in and appointed under the limited
134 registry.

135 (4) To be eligible for court appointment, an attorney must
136 be a member in good standing of The Florida Bar in addition to
137 any other qualifications specified by general law and any
138 requirements set by the chief judge of the circuit.

139 Section 2. Subsection (3) of section 27.511, Florida
140 Statutes, is amended to read:

141 27.511 Offices of criminal conflict and civil regional
142 counsel; legislative intent; qualifications; appointment;
143 duties.—

144 (3) (a) Each regional counsel must be, and must have been
145 for the preceding 5 years, a member in good standing of The

20121960e1

146 Florida Bar ~~or a similar organization in another state~~. Each
147 regional counsel shall be appointed by the Governor and is
148 subject to confirmation by the Senate. The Supreme Court
149 Judicial Nominating Commission, in addition to the current
150 regional counsel, shall recommend to the Governor not fewer than
151 two or more than five additional ~~three~~ qualified candidates for
152 appointment to each of the five regional counsel positions. The
153 Governor shall appoint the regional counsel for the five regions
154 from among the recommendations, or, if it is in the best
155 interest of the fair administration of justice, the Governor may
156 reject the nominations and request that the Supreme Court
157 Judicial Nominating Commission submit three new nominees. The
158 regional counsel shall be appointed to a term of 4 years, the
159 ~~first~~ term beginning on October 1, 2015 ~~July 1, 2007~~. Vacancies
160 shall be filled in the ~~same~~ manner provided in paragraph (b) as
161 appointments.

162 (b) If for any reason a regional counsel is unable to
163 complete a full term in office, the Governor may immediately
164 appoint an interim regional counsel who meets the qualifications
165 to be a regional counsel to serve as regional counsel for that
166 district until a new regional counsel is appointed in the manner
167 provided in paragraph (a). The Florida Supreme Court Judicial
168 Nominating Commission shall provide the Governor with a list of
169 nominees for appointment within 6 months after the date of the
170 vacancy. A temporary vacancy in office does not affect the
171 validity of any matters or activities of the office of regional
172 counsel.

173 Section 3. Paragraph (a) of subsection (2) of section
174 27.52, Florida Statutes, is amended to read:

20121960e1

175 27.52 Determination of indigent status.—

176 (2) DETERMINATION BY THE CLERK.—The clerk of the court
177 shall determine whether an applicant seeking appointment of a
178 public defender is indigent based upon the information provided
179 in the application and the criteria prescribed in this
180 subsection.

181 (a)~~1.~~ An applicant, including an applicant who is a minor
182 or an adult tax-dependent person, is indigent if the applicant's
183 income is equal to or below 200 percent of the then-current
184 federal poverty guidelines prescribed for the size of the
185 household of the applicant by the United States Department of
186 Health and Human Services or if the person is receiving
187 Temporary Assistance for Needy Families-Cash Assistance,
188 poverty-related veterans' benefits, or Supplemental Security
189 Income (SSI).

190 ~~1.2.a.~~ There is a presumption that the applicant is not
191 indigent if the applicant owns, or has equity in, any intangible
192 or tangible personal property or real property or the expectancy
193 of an interest in any such property having a net equity value of
194 \$2,500 or more, excluding the value of the person's homestead
195 and one vehicle having a net value not exceeding \$5,000.

196 ~~2.b.~~ Notwithstanding the information that the applicant
197 provides, the clerk may ~~shall~~ conduct a review of the property
198 records for the county in which the applicant resides and the
199 motor vehicle title records of the state to identify any
200 property interests of the applicant under this paragraph
201 ~~subparagraph~~. The clerk may ~~shall~~ evaluate and consider the
202 results of the review in making a determination under this
203 subsection. If the review is conducted, the clerk shall maintain

20121960e1

204 the results of the review in a file with the application and
205 provide the file to the court if the applicant seeks review
206 under subsection (4) of the clerk's determination of indigent
207 status.

208 Section 4. Section 27.5304, Florida Statutes, is amended to
209 read:

210 27.5304 Private court-appointed counsel; compensation;
211 notice.—

212 (1) Private court-appointed counsel shall be compensated by
213 the Justice Administrative Commission as provided in this
214 section and the General Appropriations Act. The flat fees
215 prescribed in this section are limitations on compensation. The
216 specific flat fee amounts for compensation shall be established
217 annually in the General Appropriations Act. The attorney also
218 shall be reimbursed for reasonable and necessary expenses in
219 accordance with s. 29.007. If the attorney is representing a
220 defendant charged with more than one offense in the same case,
221 the attorney shall be compensated at the rate provided for the
222 most serious offense for which he or she represented the
223 defendant. This section does not allow stacking of the fee
224 limits established by this section.

225 (2) The Justice Administrative Commission shall review an
226 intended billing by private court-appointed counsel for attorney
227 ~~attorney's~~ fees based on a flat fee per case for completeness
228 and compliance with contractual and statutory requirements. The
229 commission may approve the intended bill for a flat fee per case
230 for payment without approval by the court if the intended
231 billing is correct. An intended billing that seeks compensation
232 for any amount exceeding the flat fee established for a

20121960e1

233 particular type of representation, as prescribed in the General
234 Appropriations Act, shall comply with subsections (11) and (12).

235 (3) The court retains primary authority and responsibility
236 for determining the reasonableness of all billings for attorney
237 ~~attorney's~~ fees, costs, and related expenses, subject to
238 statutory limitations. Private court-appointed counsel is
239 entitled to compensation upon final disposition of a case.

240 (4) (a) The attorney shall submit a bill for attorney
241 ~~attorney's~~ fees, costs, and related expenses within 90 days
242 after the disposition of the case at the lower court level,
243 notwithstanding any appeals. The Justice Administrative
244 Commission shall provide by contract with the attorney for
245 imposition of a penalty of:

246 1. Fifteen percent of the allowable attorney ~~attorney's~~
247 fees, costs, and related expenses for a bill that is submitted
248 more than 90 days after the disposition of the case at the lower
249 court level, notwithstanding any appeals;

250 2. For cases for which disposition occurs on or after July
251 1, 2010, 50 percent of the allowable attorney ~~attorney's~~ fees,
252 costs, and related expenses for a bill that is submitted more
253 than 1 year after the disposition of the case at the lower court
254 level, notwithstanding any appeals; or

255 3. For cases for which disposition occurs on or after July
256 1, 2010, 75 percent of the allowable attorney ~~attorney's~~ fees,
257 costs, and related expenses for a bill that is submitted more
258 than 2 years after the disposition of the case at the lower
259 court level, notwithstanding any appeals.

260 (b) For purposes of this subsection, the term "disposition"
261 means:

20121960e1

262 1. At the trial court level, that the court has entered a
263 final appealable judgment, unless rendition of judgment is
264 stayed by the filing of a timely motion for rehearing. The
265 filing of a notice of appeal does not stay the time for
266 submission of an intended billing; and

267 2. At the appellate court level, that the court has issued
268 its mandate.

269 (5) The compensation for representation in a criminal
270 proceeding shall not exceed the following:

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

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

275 3. For life felonies represented at the trial level:
276 \$3,000.

277 4. For capital cases represented at the trial level:
278 \$15,000. For purposes of this subparagraph, a "capital case" is
279 any offense for which the potential sentence is death and the
280 state has not waived seeking the death penalty.

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

282 (b) If a death sentence is imposed and affirmed on appeal
283 to the Supreme Court, the appointed attorney shall be allowed
284 compensation, not to exceed \$1,000, for attorney ~~attorney's~~ fees
285 and costs incurred in representing the defendant as to an
286 application for executive clemency, with compensation to be paid
287 out of general revenue from funds budgeted to the Department of
288 Corrections.

289 (6) For compensation for representation pursuant to a court
290 appointment in a proceeding under chapter 39:

20121960e1

291 (a) At the trial level, compensation for representation for
292 dependency proceedings shall not exceed \$1,000 for the first
293 year following the date of appointment and shall not exceed \$200
294 each year thereafter. Compensation shall be paid based upon
295 representation of a parent irrespective of the number of case
296 numbers that may be assigned or the number of children involved,
297 including any children born during the pendency of the
298 proceeding. Any appeal, except for an appeal from an
299 adjudication of dependency, shall be completed by the trial
300 attorney and is considered compensated by the flat fee for
301 dependency proceedings.

302 1. Counsel may bill the flat fee not exceeding \$1,000
303 following disposition or upon dismissal of the petition.

304 2. Counsel may bill the annual flat fee not exceeding \$200
305 following the first judicial review in the second year following
306 the date of appointment and each year thereafter as long as the
307 case remains under protective supervision.

308 3. If the court grants a motion to reactivate protective
309 supervision, the attorney shall receive the annual flat fee not
310 exceeding \$200 following the first judicial review and up to an
311 additional \$200 each year thereafter.

312 4. If, during the course of dependency proceedings, a
313 proceeding to terminate parental rights is initiated,
314 compensation shall be as set forth in paragraph (b). If counsel
315 handling the dependency proceeding is not authorized to handle
316 proceedings to terminate parental rights, the counsel must
317 withdraw and new counsel must be appointed.

318 (b) At the trial level, compensation for representation in
319 termination of parental rights proceedings shall not exceed

20121960e1

320 \$1,000 for the first year following the date of appointment and
321 shall not exceed \$200 each year thereafter. Compensation shall
322 be paid based upon representation of a parent irrespective of
323 the number of case numbers that may be assigned or the number of
324 children involved, including any children born during the
325 pendency of the proceeding. Any appeal, except for an appeal
326 from an order granting or denying termination of parental
327 rights, shall be completed by trial counsel and is considered
328 compensated by the flat fee for termination of parental rights
329 proceedings. If the individual has dependency proceedings
330 ongoing as to other children, those proceedings are considered
331 part of the termination of parental rights proceedings as long
332 as that termination of parental rights proceeding is ongoing.

333 1. Counsel may bill the flat fee not exceeding \$1,000 30
334 days after rendition of the final order. Each request for
335 payment submitted to the Justice Administrative Commission must
336 include the trial counsel's certification that:

337 a. Counsel discussed grounds for appeal with the parent or
338 that counsel attempted and was unable to contact the parent; and

339 b. No appeal will be filed or that a notice of appeal and a
340 motion for appointment of appellate counsel, containing the
341 signature of the parent, have been filed.

342 2. Counsel may bill the annual flat fee not exceeding \$200
343 following the first judicial review in the second year after the
344 date of appointment and each year thereafter as long as the
345 termination of parental rights proceedings are still ongoing.

346 (c) For appeals from an adjudication of dependency,
347 compensation may not exceed \$1,000.

348 1. Counsel may bill a flat fee not exceeding \$750 upon

20121960e1

349 filing the initial brief or the granting of a motion to
350 withdraw.

351 2. If a brief is filed, counsel may bill an additional flat
352 fee not exceeding \$250 upon rendition of the mandate.

353 (d) For an appeal from an adjudication of termination of
354 parental rights, compensation may not exceed \$2,000.

355 1. Counsel may bill a flat fee not exceeding \$1,000 upon
356 filing the initial brief or the granting of a motion to
357 withdraw.

358 2. If a brief is filed, counsel may bill an additional flat
359 fee not exceeding \$1,000 upon rendition of the mandate.

360 (7) Counsel entitled to receive compensation from the state
361 for representation pursuant to court appointment in a proceeding
362 under chapter 384, chapter 390, chapter 392, chapter 393,
363 chapter 394, chapter 397, chapter 415, chapter 743, chapter 744,
364 or chapter 984 shall receive compensation not to exceed the
365 limits prescribed in the General Appropriations Act.

366 (8) A private attorney appointed in lieu of the public
367 defender or the criminal conflict and civil regional counsel to
368 represent an indigent defendant may not reassign or subcontract
369 the case to another attorney or allow another attorney to appear
370 at a critical stage of a case who is not on the registry
371 developed under s. 27.40.

372 (9) Private court-appointed counsel representing an
373 individual in an appeal to a district court of appeal or the
374 Supreme Court may submit a request for payment to the Justice
375 Administrative Commission at the following intervals:

376 (a) Upon the filing of an appellate brief, including, but
377 not limited to, a reply brief.

20121960e1

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

379 (10) Private court-appointed counsel may not bill for
380 preparation of invoices.

381 (11) It is the intent of the Legislature that the flat fees
382 prescribed under this section and the General Appropriations Act
383 comprise the full and complete compensation for private court-
384 appointed counsel. It is further the intent of the Legislature
385 that the fees in this section are prescribed for the purpose of
386 providing counsel with notice of the limit on the amount of
387 compensation for representation in particular proceedings.

388 (a) If court-appointed counsel moves to withdraw prior to
389 the full performance of his or her duties through the completion
390 of the case, the court shall presume that the attorney is not
391 entitled to the payment of the full flat fee established under
392 this section and the General Appropriations Act.

393 (b) If court-appointed counsel is allowed to withdraw from
394 representation prior to the full performance of his or her
395 duties through the completion of the case and the court appoints
396 a subsequent attorney, the total compensation for the initial
397 and any and all subsequent attorneys may not exceed the flat fee
398 established under this section and the General Appropriations
399 Act, except as provided in subsection (12).

400
401 This subsection constitutes notice to any subsequently appointed
402 attorney that he or she will not be compensated the full flat
403 fee.

404 (12) The Legislature recognizes that on rare occasions an
405 attorney may receive a case that requires extraordinary and
406 unusual effort.

20121960e1

407 (a) If counsel seeks compensation that exceeds the limits
408 prescribed by law ~~under this section and the General~~
409 ~~Appropriations Act~~, he or she must file a motion with the chief
410 judge for an order approving payment of attorney ~~attorney's~~ fees
411 in excess of these limits.

412 1. Before ~~Prior to~~ filing the motion, the counsel shall
413 deliver a copy of the intended billing, together with supporting
414 affidavits and all other necessary documentation, to the Justice
415 Administrative Commission.

416 2. The Justice Administrative Commission shall review the
417 billings, affidavit, and documentation for completeness and
418 compliance with contractual and statutory requirements. If the
419 Justice Administrative Commission objects to any portion of the
420 proposed billing, the objection and supporting reasons must
421 ~~therefor shall~~ be communicated in writing to the private court-
422 appointed counsel. The counsel may thereafter file his or her
423 motion, which must specify whether the commission objects to any
424 portion of the billing or the sufficiency of documentation, and
425 shall attach the commission's letter stating its objection.

426 (b) Following receipt of the motion to exceed the fee
427 limits, the chief judge or a single designee shall hold an
428 evidentiary hearing. The chief judge may select only one judge
429 per circuit to hear and determine motions pursuant to this
430 subsection, except multicounty circuits and the eleventh circuit
431 may have up to two designees.

432 1. At the hearing, the attorney seeking compensation must
433 prove by competent and substantial evidence that the case
434 required extraordinary and unusual efforts. The chief judge or
435 single designee shall consider criteria such as the number of

20121960e1

436 witnesses, the complexity of the factual and legal issues, and
437 the length of trial. The fact that a trial was conducted in a
438 case does not, by itself, constitute competent substantial
439 evidence of an extraordinary and unusual effort. In a criminal
440 case, relief under this section may not be granted if the number
441 of work hours does not exceed 75 or the number of the state's
442 witnesses deposed does not exceed 20.

443 2. The chief judge or single designee shall enter a written
444 order detailing his or her findings and identifying the
445 extraordinary nature of the time and efforts of the attorney in
446 the case which warrant exceeding the flat fee established by
447 this section and the General Appropriations Act.

448 (c) A copy of the motion and attachments shall be served on
449 the Justice Administrative Commission at least 5 business days
450 before ~~prior to~~ the date of a hearing. The Justice
451 Administrative Commission has ~~shall have~~ standing to appear
452 before the court, including at the hearing under paragraph (b),
453 to contest any motion for an order approving payment of attorney
454 ~~attorney's~~ fees, costs, or related expenses and may participate
455 in a hearing on the motion by use of telephonic or other
456 communication equipment ~~unless ordered otherwise~~. The Justice
457 Administrative Commission may contract with other public or
458 private entities or individuals to appear before the court for
459 the purpose of contesting any motion for an order approving
460 payment of attorney ~~attorney's~~ fees, costs, or related expenses.
461 The fact that the Justice Administrative Commission has not
462 objected to any portion of the billing or to the sufficiency of
463 the documentation is not binding on the court.

464 (d) If the chief judge or a single designee finds that

20121960e1

465 counsel has proved by competent and substantial evidence that
466 the case required extraordinary and unusual efforts, the chief
467 judge or single designee shall order the compensation to be paid
468 to the attorney at a percentage above the flat fee rate,
469 depending on the extent of the unusual and extraordinary effort
470 required. The percentage must ~~shall~~ be only the rate necessary
471 to ensure that the fees paid are not confiscatory under common
472 law. The percentage may not exceed 200 percent of the
473 established flat fee, absent a specific finding that 200 percent
474 of the flat fee in the case would be confiscatory. If the chief
475 judge or single designee determines that 200 percent of the flat
476 fee would be confiscatory, he or she shall order the amount of
477 compensation using an hourly rate not to exceed \$75 per hour for
478 a noncapital case and \$100 per hour for a capital case. However,
479 the compensation calculated by using the hourly rate shall be
480 only that amount necessary to ensure that the total fees paid
481 are not confiscatory.

482 (e) Any order granting relief under this subsection must be
483 attached to the final request for a payment submitted to the
484 Justice Administrative Commission.

485 (f) For criminal cases only, if the court orders payment in
486 excess of the flat fee established by law, fees shall be paid as
487 follows:

488 1. The flat fee shall be paid from funds appropriated to
489 the Justice Administrative Commission in the General
490 Appropriations Act.

491 2. The amount ordered by the court in excess of the flat
492 fee shall be paid by the Justice Administrative Commission in a
493 special category designated for that purpose in the General

20121960e1

494 Appropriations Act.

495 3. If, during the fiscal year, all funds designated for
496 payment of the amount ordered by the court in excess of the flat
497 fee are spent, the amount of payments in excess of the flat fee
498 shall be made from the due process funds, or other funds as
499 necessary, appropriated to the state courts system in the
500 General Appropriations Act. Funds from the state courts system
501 must be used in a manner approved by the Chief Justice and
502 administered by the Trial Court Budget Commission.

503 (g) The Justice Administrative Commission shall provide to
504 the Office of the State Courts Administrator monthly data by
505 statewide uniform case number, attorney, and defendant name
506 concerning:

507 1. Private court-appointed cases opened;

508 2. Cases paid and the amount of payment, including any
509 amount in excess of the flat fee; and

510 3. Cases for which compensation was waived.

511 (h) ~~(f)~~ The Justice Administrative Commission shall provide
512 monthly to the Office of the State Courts Administrator data
513 concerning the number of cases approved for compensation in
514 excess of the flat fee limitation and the amount of these awards
515 by circuit and by judge. The Justice Administrative Commission
516 ~~Office of the State Courts Administrator~~ shall report the data
517 quarterly in an electronic format to the chairs of the
518 legislative appropriations committees and the Office of the
519 State Courts Administrator ~~President of the Senate, the Speaker~~
520 ~~of the House of Representatives, the Chief Justice of the~~
521 ~~Supreme Court, and the chief judge of each circuit.~~

522 Section 5. Paragraph (b) of subsection (2) of section

20121960e1

523 39.8296, Florida Statutes, is amended to read:

524 39.8296 Statewide Guardian Ad Litem Office; legislative
525 findings and intent; creation; appointment of executive
526 director; duties of office.—

527 (2) STATEWIDE GUARDIAN AD LITEM OFFICE.—There is created a
528 Statewide Guardian Ad Litem Office within the Justice
529 Administrative Commission. The Justice Administrative Commission
530 shall provide administrative support and service to the office
531 to the extent requested by the executive director within the
532 available resources of the commission. The Statewide Guardian Ad
533 Litem Office shall not be subject to control, supervision, or
534 direction by the Justice Administrative Commission in the
535 performance of its duties, but the employees of the office shall
536 be governed by the classification plan and salary and benefits
537 plan approved by the Justice Administrative Commission.

538 (b) The Statewide Guardian Ad Litem Office shall, within
539 available resources, have oversight responsibilities for and
540 provide technical assistance to all guardian ad litem and
541 attorney ad litem programs located within the judicial circuits.

542 1. The office shall identify the resources required to
543 implement methods of collecting, reporting, and tracking
544 reliable and consistent case data.

545 2. The office shall review the current guardian ad litem
546 programs in Florida and other states.

547 3. The office, in consultation with local guardian ad litem
548 offices, shall develop statewide performance measures and
549 standards.

550 4. The office shall develop a guardian ad litem training
551 program. The office shall establish a curriculum committee to

20121960e1

552 develop the training program specified in this subparagraph. The
553 curriculum committee shall include, but not be limited to,
554 dependency judges, directors of circuit guardian ad litem
555 programs, active certified guardians ad litem, a mental health
556 professional who specializes in the treatment of children, a
557 member of a child advocacy group, a representative of the
558 Florida Coalition Against Domestic Violence, and a social worker
559 experienced in working with victims and perpetrators of child
560 abuse.

561 5. The office shall review the various methods of funding
562 guardian ad litem programs, shall maximize the use of those
563 funding sources to the extent possible, and shall review the
564 kinds of services being provided by circuit guardian ad litem
565 programs.

566 6. The office shall determine the feasibility or
567 desirability of new concepts of organization, administration,
568 financing, or service delivery designed to preserve the civil
569 and constitutional rights and fulfill other needs of dependent
570 children.

571 7. In an effort to promote normalcy and establish trust
572 between a court-appointed volunteer guardian ad litem and a
573 child alleged to be abused, abandoned, or neglected under this
574 chapter, a guardian ad litem may transport a child. However, a
575 guardian ad litem volunteer may not be required or directed by
576 the program or a court to transport a child.

577 ~~8.7. No later than October 1, 2004,~~ The office shall submit
578 to the Governor, the President of the Senate, the Speaker of the
579 House of Representatives, and the Chief Justice of the Supreme
580 Court an interim report describing the progress of the office in

20121960e1

581 meeting the goals as described in this section. ~~No later than~~
582 ~~October 1, 2004,~~ The office shall submit to the Governor, the
583 President of the Senate, the Speaker of the House of
584 Representatives, and the Chief Justice of the Supreme Court a
585 proposed plan including alternatives for meeting the state's
586 guardian ad litem and attorney ad litem needs. This plan may
587 include recommendations for less than the entire state, may
588 include a phase-in system, and shall include estimates of the
589 cost of each of the alternatives. Each year ~~thereafter,~~ the
590 office shall provide a status report and provide further
591 recommendations to address the need for guardian ad litem
592 services and related issues.

593 Section 6. Section 39.8297, Florida Statutes, is created to
594 read:

595 39.8297 County funding for guardian ad litem employees.-

596 (1) A county and the executive director of the Statewide
597 Guardian Ad Litem Office may enter into an agreement by which
598 the county agrees to provide funds to the local guardian ad
599 litem office in order to employ persons who will assist in the
600 operation of the guardian ad litem program in the county.

601 (2) The agreement, at a minimum, must provide that:

602 (a) Funding for the persons who are employed will be
603 provided on at least a fiscal-year basis.

604 (b) The persons who are employed will be hired, supervised,
605 managed, and terminated by the executive director of the
606 Statewide Guardian Ad Litem Office. The statewide office is
607 responsible for compliance with all requirements of federal and
608 state employment laws, and shall fully indemnify the county from
609 any liability under such laws, as authorized by s. 768.28(19),

20121960e1

610 to the extent such liability is the result of the acts or
611 omissions of the Statewide Guardian Ad Litem Office or its
612 agents or employees.

613 (c) The county is the employer for purposes of s. 440.10
614 and chapter 443.

615 (d) Employees funded by the county under this section and
616 other county employees may be aggregated for purposes of a
617 flexible benefits plan pursuant to s. 125 of the Internal
618 Revenue Code of 1986.

619 (e) Persons employed under this section may be terminated
620 after a substantial breach of the agreement or because funding
621 to the program has expired.

622 (3) Persons employed under this section may not be counted
623 in a formula or similar process used by the Statewide Guardian
624 Ad Litem Office to measure personnel needs of a judicial
625 circuit's guardian ad litem program.

626 (4) Agreements created pursuant to this section do not
627 obligate the state to allocate funds to a county to employ
628 persons in the guardian ad litem program.

629 Section 7. Paragraph (b) of subsection (13) of section
630 318.18, Florida Statutes, is amended to read:

631 318.18 Amount of penalties.—The penalties required for a
632 noncriminal disposition pursuant to s. 318.14 or a criminal
633 offense listed in s. 318.17 are as follows:

634 (13)

635 (b) A county may impose a surcharge under subparagraph
636 (a)1., subparagraph(a)2., or subparagraph(a)3., but may not
637 impose more than one surcharge under this subsection. A county
638 may elect to impose a different authorized surcharge but may not

20121960e1

639 impose more than one surcharge at a time. The clerk of court
640 shall report, no later than 30 days after the end of the
641 quarter, the amount of funds collected under this subsection
642 during each quarter of the fiscal year. The clerk shall submit
643 the report, in an electronic ~~a~~ format developed by the Florida
644 Clerks of Court Operations Corporation ~~Office of State Courts~~
645 ~~Administrator~~, to the chief judge of the circuit and to, the
646 Florida Clerks of Court Operations Corporation. The corporation
647 shall submit the report in an electronic format to the Governor,
648 the President of the Senate, the Speaker of the House of
649 Representatives, and the board of county commissioners.

650 Section 8. This act shall take effect July 1, 2012.