

20121960er

1  
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

20121960er

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

20121960er

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

20121960er

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.

20121960er

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

20121960er

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:

20121960er

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

20121960er

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



20121960er

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:

20121960er

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:

20121960er

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

20121960er

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

20121960er

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.

20121960er

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.

20121960er

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

20121960er

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



20121960er

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

20121960er

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

20121960er

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

20121960er

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

20121960er

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),

20121960er

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

20121960er

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.