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LEGISLATIVE ACTION

Senate	.	House
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Floor: AD/CR	.	
05/02/2014 03:27 PM	.	
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The Conference Committee on SB 2510 recommended the following:

1           **Senate Conference Committee Amendment (with title**  
2 **amendment)**

3  
4           Delete everything after the enacting clause  
5 and insert:

6           Section 1. Subsection (3) of section 27.40, Florida  
7 Statutes, is amended to read:

8           27.40 Court-appointed counsel; circuit registries; minimum  
9 requirements; appointment by court.—

10           (3) In using ~~utilizing~~ a registry:

11           (a) The chief judge of the circuit shall compile a list of



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12 attorneys in private practice, by county and by category of  
13 cases, and provide the list to the clerk of court in each  
14 county. The chief judge of the circuit may restrict the number  
15 of attorneys on the general registry list. To be included on a  
16 registry, an attorney must ~~attorneys shall~~ certify that he or  
17 she:

18 1. Meets ~~That they meet~~ any minimum requirements  
19 established by the chief judge and by general law for court  
20 appointment;

21 2. Is ~~That they are~~ available to represent indigent  
22 defendants in cases requiring court appointment of private  
23 counsel; and

24 3. Is ~~That they are~~ willing to abide by the terms of the  
25 contract for services; ~~and~~

26 4. ~~Whether they are willing to accept as full payment the~~  
27 ~~flat fees prescribed in s. 27.5304, notwithstanding the~~  
28 ~~provisions of s. 27.5304(12), except for cases brought under the~~  
29 ~~Racketeer Influenced and Corrupt Organizations Act and capital~~  
30 ~~cases as defined in s. 27.5304(5)(a)4.~~

31  
32 To be included on a registry, an attorney ~~also~~ must enter into a  
33 contract for services with the Justice Administrative  
34 Commission. Failure to comply with the terms of the contract for  
35 services may result in termination of the contract and removal  
36 from the registry. Each attorney on the registry is ~~shall be~~  
37 responsible for notifying the clerk of the court and the Justice  
38 Administrative Commission of any change in his or her status.  
39 Failure to comply with this requirement is ~~shall be~~ cause for  
40 termination of the contract for services and removal from the



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41 registry until the requirement is fulfilled. ~~In addition to~~  
42 ~~general registries, the chief judge may establish limited~~  
43 ~~registries that include only those attorneys willing to waive~~  
44 ~~compensation in excess of the flat fee prescribed in s. 27.5304,~~  
45 ~~notwithstanding the provisions of s. 27.5304(12).~~

46 (b) The court shall appoint attorneys in rotating order in  
47 the order in which names appear on the applicable registry,  
48 unless the court makes a finding of good cause on the record for  
49 appointing an attorney out of order. ~~If a chief judge~~  
50 ~~establishes a limited registry of attorneys willing to waive~~  
51 ~~compensation in excess of the flat fee, the court shall appoint~~  
52 ~~attorneys from that limited registry unless there are no~~  
53 ~~attorneys available to accept the appointment on the limited~~  
54 ~~registry.~~ The clerk of court shall maintain the registry and  
55 provide to the court the name of the attorney for appointment.  
56 An attorney not appointed in the order in which his or her name  
57 appears on the list shall remain next in order.

58 (c) If the number of attorneys on the registry in a county  
59 or circuit for a particular category of cases is inadequate, the  
60 chief judge of the particular circuit shall provide to the clerk  
61 of court the names of at least three private attorneys who have  
62 relevant experience. The clerk of court shall send an  
63 application to each of these attorneys to register for  
64 appointment.

65 (d) Quarterly, each chief judge shall provide a current  
66 copy of each registry to the Chief Justice of the Supreme Court,  
67 the state attorney and public defender in each judicial circuit,  
68 the office of criminal conflict and civil regional counsel, the  
69 clerk of court in each county, and the Justice Administrative



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70 Commission. The registry shall be provided to the Justice  
71 Administrative Commission in the form and manner provided by the  
72 commission Circuits utilizing a limited registry list as allowed  
73 by paragraph (a) shall include the race, gender, and national  
74 origin of all attorneys listed in and appointed under the  
75 limited registry.

76 Section 2. Section 27.401, Florida Statutes, is created to  
77 read:

78 27.401 Cross-Circuit Conflict Representation Pilot  
79 Program.-

80 (1) The Cross-Circuit Conflict Representation Pilot Program  
81 is established in the offices of the public defender in the  
82 Tenth and Thirteenth Judicial Circuits and the office of the  
83 criminal conflict and civil regional counsel in the Fifth  
84 Region.

85 (2) Notwithstanding ss. 27.40 and 27.5305:

86 (a) If the public defender in the Tenth Judicial Circuit is  
87 unable to provide representation to an indigent defendant  
88 charged with a crime under s. 782.04(2), (3), or (4) due to a  
89 conflict of interest and the criminal conflict and civil  
90 regional counsel of the Second Region is also unable to provide  
91 representation for the case due to a conflict of interest, the  
92 public defender in the Thirteenth Judicial Circuit shall be  
93 appointed. If the public defender in the Thirteenth Judicial  
94 Circuit is unable to provide representation for the case due to  
95 a conflict of interest, the criminal conflict and civil regional  
96 counsel in the Fifth Region shall be appointed. If the criminal  
97 conflict and civil regional counsel in the Fifth Region is  
98 unable to provide representation due to a conflict of interest,



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99 private counsel shall be appointed.

100 (b) If the public defender in the Thirteenth Judicial  
101 Circuit is unable to provide representation to an indigent  
102 defendant charged with a crime under s. 782.04(2), (3), or (4)  
103 due to a conflict of interest and the criminal conflict and  
104 civil regional counsel of the Second Region is also unable to  
105 provide representation for the case due to a conflict of  
106 interest, the public defender in the Tenth Judicial Circuit  
107 shall be appointed. If the public defender in the Tenth Judicial  
108 Circuit is unable to provide representation for the case due to  
109 a conflict of interest, the criminal conflict and civil regional  
110 counsel in the Fifth Region shall be appointed. If the criminal  
111 conflict and civil regional counsel in the Fifth Region is  
112 unable to provide representation due to a conflict of interest,  
113 private counsel shall be appointed.

114 (3) The offices of the public defender in the Tenth and  
115 Thirteenth Judicial Circuits and the office of the criminal  
116 conflict and civil regional counsel in the Fifth Region shall  
117 each provide a report on the implementation of the pilot program  
118 to the chairs of the legislative appropriations committees by  
119 March 1, 2015, and by March 1, 2016. At a minimum, the reports  
120 must include the number of cases transferred across circuits,  
121 the advantages and disadvantages of cross-circuit  
122 representation, the estimated cost savings of the pilot program,  
123 and recommendations to improve the pilot program. The Justice  
124 Administrative Commission shall provide data to assist with the  
125 estimated cost savings of the pilot program.

126 (4) The Cross-Circuit Conflict Representation Pilot Program  
127 shall expire on June 30, 2016, unless otherwise provided by law.



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128 However, appointments made pursuant to this section before June  
129 30, 2016, shall continue until completion of the case.

130 Section 3. Paragraph (a) of subsection (5) and paragraphs  
131 (f) through (h) of subsection (12) of section 27.5304, Florida  
132 Statutes, are amended to read:

133 27.5304 Private court-appointed counsel; compensation;  
134 notice.—

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

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

139 2. For noncapital, nonlife felonies represented at the  
140 trial level: \$6,000 ~~\$2,500~~.

141 3. For life felonies represented at the trial level: \$9,000  
142 ~~\$3,000~~.

143 4. For capital cases represented at the trial level:  
144 \$25,000 ~~\$15,000~~. For purposes of this subparagraph, a "capital  
145 case" is any offense for which the potential sentence is death  
146 and the state has not waived seeking the death penalty.

147 5. For representation on appeal: \$9,000 ~~\$2,000~~.

148 (12) The Legislature recognizes that on rare occasions an  
149 attorney may receive a case that requires extraordinary and  
150 unusual effort.

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

154 1. The flat fee shall be paid from funds appropriated to  
155 the Justice Administrative Commission in the General  
156 Appropriations Act.



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157           2. The amount ordered by the court in excess of the flat  
158 fee shall be paid by the Justice Administrative Commission in a  
159 special category designated for that purpose in the General  
160 Appropriations Act.

161           3. If, during the fiscal year, all funds designated in the  
162 special category for payment under subparagraph 2. of the amount  
163 ordered by the court in excess of the flat fee are spent, the  
164 amount of payments in excess of the flat fee shall be made from  
165 the due process contingency funds, or other funds as necessary,  
166 appropriated to the Justice Administrative Commission state  
167 ~~courts system~~ in the General Appropriations Act. ~~Funds from the~~  
168 ~~state courts system must be used in a manner approved by the~~  
169 ~~Chief Justice and administered by the Trial Court Budget~~  
170 ~~Commission.~~

171           ~~(g) The Justice Administrative Commission shall provide to~~  
172 ~~the Office of the State Courts Administrator monthly data by~~  
173 ~~statewide uniform case number, attorney, and defendant name~~  
174 ~~concerning:~~

- 175           ~~1. Private court appointed cases opened;~~  
176           ~~2. Cases paid and the amount of payment, including any~~  
177 ~~amount in excess of the flat fee; and~~  
178           ~~3. Cases for which compensation was waived.~~

179           (g) ~~(h)~~ The Justice Administrative Commission shall provide  
180 monthly to the Office of the State Courts Administrator data  
181 concerning the number of cases approved for compensation in  
182 excess of the flat fee and the amount of these awards by circuit  
183 and by judge. The Justice Administrative Commission shall report  
184 the data quarterly in an electronic format to the chairs of the  
185 legislative appropriations committees and the Office of the



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186 State Courts Administrator.

187 Section 4. This act shall take effect July 1, 2014.

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189 ===== T I T L E A M E N D M E N T =====

190 And the title is amended as follows:

191 Delete everything before the enacting clause  
192 and insert:

193 A bill to be entitled  
194 An act relating to court-appointed counsel; amending  
195 s. 27.40, F.S.; eliminating the limited registry for  
196 private counsel willing to accept a flat fee; creating  
197 s. 27.401, F.S.; establishing the Cross-Circuit  
198 Conflict Representation Pilot Program in specified  
199 offices of the public defender and criminal conflict  
200 and civil regional counsel; providing requirements for  
201 appointment of counsel in the circuits and region  
202 participating in the pilot program; requiring reports  
203 to be submitted by specified dates; requiring the  
204 Justice Administrative Commission to provide specified  
205 data; providing for future expiration of the pilot  
206 program; amending s. 27.5304, F.S.; increasing the  
207 statutory caps for certain flat fees in criminal  
208 cases; eliminating a requirement for the state courts  
209 system to pay certain excess fees to court-appointed  
210 counsel from court funds; providing for the Justice  
211 Administrative Commission to make such payments from  
212 specified funds appropriated to the commission;  
213 eliminating a requirement for the commission to  
214 provide certain data on cases involving court-





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appointed counsel and compensation of such counsel;  
providing an effective date.