

By the Committee on Appropriations

576-03314-14

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1                   A bill to be entitled  
2       An act relating to court-appointed counsel; amending  
3       s. 27.40, F.S.; eliminating the limited registry for  
4       private counsel willing to accept a flat fee; creating  
5       s. 27.401, F.S.; establishing the Cross-Circuit  
6       Conflict Representation Pilot Program in specified  
7       offices of the public defender and offices of criminal  
8       conflict and civil regional counsel; providing  
9       requirements for appointment of counsel in circuits  
10      and regions participating in the pilot program;  
11      requiring reports to be submitted by specified dates;  
12      requiring the Justice Administrative Commission to  
13      provide specified data; providing for future  
14      expiration of the pilot program; amending s. 27.5304,  
15      F.S.; increasing the statutory caps for certain flat  
16      fees in criminal cases; providing an effective date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

19  
20       Section 1. Subsection (3) of section 27.40, Florida  
21       Statutes, is amended to read:

22       27.40 Court-appointed counsel; circuit registries; minimum  
23       requirements; appointment by court.—

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

25       (a) The chief judge of the circuit shall compile a list of  
26       attorneys in private practice, by county and by category of  
27       cases, and provide the list to the clerk of court in each  
28       county. The chief judge of the circuit may restrict the number  
29       of attorneys on the general registry list. To be included on a

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30 registry, an attorney must ~~attorneys shall~~ certify that he or  
31 she:

32 1. Meets ~~That they meet~~ any minimum requirements  
33 established by the chief judge and by general law for court  
34 appointment;

35 2. Is ~~That they are~~ available to represent indigent  
36 defendants in cases requiring court appointment of private  
37 counsel; and

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

40 4. ~~Whether they are willing to accept as full payment the~~  
41 ~~flat fees prescribed in s. 27.5304, notwithstanding the~~  
42 ~~provisions of s. 27.5304(12), except for cases brought under the~~  
43 ~~Racketeer Influenced and Corrupt Organizations Act and capital~~  
44 ~~eases as defined in s. 27.5304(5)(a)4.~~

45  
46 To be included on a registry, an attorney ~~also~~ must enter into a  
47 contract for services with the Justice Administrative  
48 Commission. Failure to comply with the terms of the contract for  
49 services may result in termination of the contract and removal  
50 from the registry. Each attorney on the registry is ~~shall be~~  
51 responsible for notifying the clerk of the court and the Justice  
52 Administrative Commission of any change in his or her status.  
53 Failure to comply with this requirement is ~~shall be~~ cause for  
54 termination of the contract for services and removal from the  
55 registry until the requirement is fulfilled. ~~In addition to~~  
56 ~~general registries, the chief judge may establish limited~~  
57 ~~registries that include only those attorneys willing to waive~~  
58 ~~compensation in excess of the flat fee prescribed in s. 27.5304,~~

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59 ~~notwithstanding the provisions of s. 27.5304(12).~~

60 (b) The court shall appoint attorneys in rotating order in  
61 the order in which names appear on the applicable registry,  
62 unless the court makes a finding of good cause on the record for  
63 appointing an attorney out of order. ~~If a chief judge~~  
64 ~~establishes a limited registry of attorneys willing to waive~~  
65 ~~compensation in excess of the flat fee, the court shall appoint~~  
66 ~~attorneys from that limited registry unless there are no~~  
67 ~~attorneys available to accept the appointment on the limited~~  
68 ~~registry.~~ The clerk of court shall maintain the registry and  
69 provide to the court the name of the attorney for appointment.  
70 An attorney not appointed in the order in which his or her name  
71 appears on the list shall remain next in order.

72 (c) If the number of attorneys on the registry in a county  
73 or circuit for a particular category of cases is inadequate, the  
74 chief judge of the particular circuit shall provide to the clerk  
75 of court the names of at least three private attorneys who have  
76 relevant experience. The clerk of court shall send an  
77 application to each of these attorneys to register for  
78 appointment.

79 (d) Quarterly, each chief judge shall provide a current  
80 copy of each registry to the Chief Justice of the Supreme Court,  
81 the state attorney and public defender in each judicial circuit,  
82 the office of criminal conflict and civil regional counsel, the  
83 clerk of court in each county, and the Justice Administrative  
84 Commission. ~~Circuits utilizing a limited registry list as~~  
85 ~~allowed by paragraph (a) shall include the race, gender, and~~  
86 ~~national origin of all attorneys listed in and appointed under~~  
87 ~~the limited registry.~~

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88 Section 2. Section 27.401, Florida Statutes, is created to  
89 read:

90 27.401 Cross-Circuit Conflict Representation Pilot  
91 Program.—

92 (1) The Cross-Circuit Conflict Representation Pilot Program  
93 is established in the offices of the public defender in the  
94 Sixth, Ninth, Tenth, and Thirteenth Judicial Circuits and in the  
95 offices of criminal conflict and civil regional counsel in the  
96 Second and Fifth Regions.

97 (2) Notwithstanding ss. 27.40 and 27.5303:

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

112 (b) If the public defender in the Sixth Judicial Circuit is  
113 unable to provide representation to an indigent defendant  
114 charged with a crime under s. 782.04(2), (3), or (4) due to a  
115 conflict of interest and the criminal conflict and civil  
116 regional counsel of the Second Region is also unable to provide

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117 representation for the case due to a conflict of interest, the  
118 public defender in the Thirteenth Judicial Circuit shall be  
119 appointed. If the public defender in the Thirteenth Judicial  
120 Circuit is unable to provide representation for the case due to  
121 a conflict of interest, the criminal conflict and civil regional  
122 counsel of the Fifth Region shall be appointed. If the criminal  
123 conflict and civil regional counsel of the Fifth Region is  
124 unable to provide representation for the case due to a conflict  
125 of interest, private counsel shall be appointed.

126 (c) If the public defender in the Ninth Judicial Circuit is  
127 unable to provide representation to an indigent defendant  
128 charged with a crime under s. 782.04(2), (3), or (4) due to a  
129 conflict of interest and the criminal conflict and civil  
130 regional counsel of the Fifth Region is also unable to provide  
131 representation for the case due to a conflict of interest, the  
132 public defender in the Tenth Judicial Circuit shall be  
133 appointed. If the public defender in the Tenth Judicial Circuit  
134 is unable to provide representation for the case due to a  
135 conflict of interest, the criminal conflict and civil regional  
136 counsel of the Second Region shall be appointed. If the criminal  
137 conflict and civil regional counsel of the Second Region is  
138 unable to provide representation for the case due to a conflict  
139 of interest, private counsel shall be appointed.

140 (d) If the public defender in the Tenth Judicial Circuit is  
141 unable to provide representation to an indigent defendant  
142 charged with a crime under s. 782.04(2), (3), or (4) due to a  
143 conflict of interest and the criminal conflict and civil  
144 regional counsel of the Second Region is also unable to provide  
145 representation for the case due to a conflict of interest, the

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146 public defender in the Ninth Judicial Circuit shall be  
147 appointed. If the public defender in the Ninth Judicial Circuit  
148 is unable to provide representation for the case due to a  
149 conflict of interest, the criminal conflict and civil regional  
150 counsel of the Fifth Region shall be appointed. If the criminal  
151 conflict and civil regional counsel of the Fifth Region is  
152 unable to provide representation for the case due to a conflict  
153 of interest, private counsel shall be appointed.

154 (3) The offices of the public defender in the Sixth, Ninth,  
155 Tenth, and Thirteenth Circuits and the offices of criminal  
156 conflict and civil regional counsel in the Second and Fifth  
157 Regions shall each provide a report on the implementation of the  
158 pilot program to the chairs of the legislative appropriations  
159 committees by March 1, 2015, and by March 1, 2016. At a minimum,  
160 the reports must include the number of cases transferred across  
161 circuits, the advantages and disadvantages of cross-circuit  
162 representation, the estimated cost savings of the pilot program,  
163 and recommendations to improve the pilot program. The Justice  
164 Administrative Commission shall provide data to assist with the  
165 estimated cost savings of the pilot program.

166 (4) The Cross-Circuit Conflict Representation Pilot Program  
167 shall expire on June 30, 2016, unless otherwise provided by law.  
168 However, appointments made pursuant to this section before June  
169 30, 2016, shall continue until completion of the case.

170 Section 3. Paragraph (a) of subsection (5) of section  
171 27.5304, Florida Statutes, is amended to read:

172 27.5304 Private court-appointed counsel; compensation;  
173 notice.—

174 (5) The compensation for representation in a criminal

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175 proceeding shall not exceed the following:

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

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

180 3. For life felonies represented at the trial level: \$9,000  
181 ~~\$3,000~~.

182 4. For capital cases represented at the trial level:  
183 \$25,000 ~~\$15,000~~. For purposes of this subparagraph, a "capital  
184 case" is any offense for which the potential sentence is death  
185 and the state has not waived seeking the death penalty.

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

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