



House Justice Appropriations Subcommittee / Senate Appropriations Conference Committee on Criminal and Civil Justice

Senate Offer #1 – Implementing Bill

**Saturday, March 7, 2020
7:30 p.m.
Mashburn Hall (306 HOB)**

FY 2020-2021 IMPLEMENTING BILL LANGUAGE
JUSTICE APPROPRIATIONS SUBCOMMITTEE

IMPLEMENTING BILL					
Line	HB 5003	Status	SB 2502	SENATE OFFER #1	Line
1	Section XX. In order to implement Specific Appropriations 582 through 673 and 685 through 720 of the 2020-2021 General Appropriations Act, subsection (4) of section 216.262, Florida Statutes, is amended to read:	Identical	Section XX. In order to implement Specific Appropriations 582 through 673 and 685 through 720 of the 2020-2021 General Appropriations Act, subsection (4) of section 216.262, Florida Statutes, is amended to read:		1
2	216.262 Authorized positions.—	Identical	216.262 Authorized positions.—		2
3	(4) Notwithstanding the provisions of this chapter relating to increasing the number of authorized positions, and for the 2020-2021 2019-2020 fiscal year only, if the actual inmate population of the Department of Corrections exceeds the inmate population projections of the December 17, February 22, 2019 , Criminal Justice Estimating Conference by 1 percent for 2 consecutive months or 2 percent for any month, the Executive Office of the Governor, with the approval of the Legislative Budget Commission, shall immediately notify the Criminal Justice Estimating Conference, which shall convene as soon as possible to revise the estimates. The Department of Corrections may then submit a budget amendment requesting the establishment of positions in excess of the number authorized by the Legislature and additional appropriations from unallocated general revenue sufficient to provide for essential staff, fixed capital improvements, and other resources to provide classification, security, food services, health services, and other variable expenses within the institutions to accommodate the estimated increase in the inmate population. All actions taken pursuant to this subsection are subject to review and approval by the Legislative Budget Commission. This subsection expires July 1, <u>2021</u> 2020 .	Different	(4) Notwithstanding the provisions of this chapter relating to increasing the number of authorized positions, and for the 2020-2021 2019-2020 fiscal year only, if the actual inmate population of the Department of Corrections exceeds the inmate population projections of the December 17, February 22, 2019 , Criminal Justice Estimating Conference by 1 percent for 2 consecutive months or 2 percent for any month, the Executive Office of the Governor, with the approval of the Legislative Budget Commission, shall immediately notify the Criminal Justice Estimating Conference, which shall convene as soon as possible to revise the estimates. The Department of Corrections may then submit a budget amendment requesting the establishment of positions in excess of the number authorized by the Legislature and additional appropriations from unallocated general revenue sufficient to provide for essential staff, fixed capital improvements, and other resources to provide classification, security, food services, health services, and other variable expenses within the institutions to accommodate the estimated increase in the inmate population. All actions taken pursuant to this subsection are subject to review and approval by the Legislative Budget Commission. This subsection expires July 1, <u>2021</u> 2020 .	House	3
4					4
5	Section XX. In order to implement Specific Appropriation 707 of the 2020-2021 General Appropriations Act, upon the expiration and reversion of the amendment made to section 1011.80, Florida Statutes, pursuant to section 53 of chapter 2019-116, Laws of Florida, paragraph (c) is added to subsection (8) of section 1011.80, Florida Statutes, to read:	Different	Section XX. In order to implement Specific Appropriation 707 of the 2020-2021 General Appropriations Act, and upon the expiration and reversion of the amendments made by section 52 of chapter 2019-116, Laws of Florida, paragraph (b) of subsection (8) of section 1011.80, Florida Statutes, is amended to read:	Senate	5
6	1011.80 Funds for operation of workforce education programs.—	Identical	1011.80 Funds for operation of workforce education programs.—		6
7	(8)(c) Notwithstanding paragraph (b), state funds provided for the operation of postsecondary workforce programs may be expended for the education of state inmates with more than 24 months of time remaining on their sentences or federal inmates if funds are specifically appropriated for such purpose in the 2020-2021 General Appropriations Act. This paragraph expires July 1, 2021.	Different	(8)(b) State funds provided for the operation of postsecondary workforce programs may not be expended for the education of state or federal inmates, except to the extent that such funds are specifically appropriated for such purpose in the 2020-2021 General Appropriations Act with more than 24 months of time remaining to serve on their sentences or federal inmates.	Senate	7
8					8
9	Section XX. In order to implement Specific Appropriations 3187 through 3253 of the 2020-2021 General Appropriations Act, subsection (2) of section 215.18, Florida Statutes, is amended to read:	Identical	Section XX. In order to implement Specific Appropriations 3187 through 3253 of the 2020-2021 General Appropriations Act, subsection (2) of section 215.18, Florida Statutes, is amended to read:		9

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10	215.18 Transfers between funds; limitation.—	Identical	215.18 Transfers between funds; limitation.—		10
11	(2) The Chief Justice of the Supreme Court may receive one or more trust fund loans to ensure that the state court system has funds sufficient to meet its appropriations in the 2020-2021 2019-2020 General Appropriations Act. If the Chief Justice accesses the loan, he or she must notify the Governor and the chairs of the legislative appropriations committees in writing. The loan must come from other funds in the State Treasury which are for the time being or otherwise in excess of the amounts necessary to meet the just requirements of such last-mentioned funds. The Governor shall order the transfer of funds within 5 days after the written notification from the Chief Justice. If the Governor does not order the transfer, the Chief Financial Officer shall transfer the requested funds. The loan of funds from which any money is temporarily transferred must be repaid by the end of the <u>2020-2021</u> 2019-2020 fiscal year. This subsection expires July 1, <u>2021</u> 2020 .	Identical	(2) The Chief Justice of the Supreme Court may receive one or more trust fund loans to ensure that the state court system has funds sufficient to meet its appropriations in the 2020-2021 2019-2020 General Appropriations Act. If the Chief Justice accesses the loan, he or she must notify the Governor and the chairs of the legislative appropriations committees in writing. The loan must come from other funds in the State Treasury which are for the time being or otherwise in excess of the amounts necessary to meet the just requirements of such last-mentioned funds. The Governor shall order the transfer of funds within 5 days after the written notification from the Chief Justice. If the Governor does not order the transfer, the Chief Financial Officer shall transfer the requested funds. The loan of funds from which any money is temporarily transferred must be repaid by the end of the <u>2020-2021</u> 2019-2020 fiscal year. This subsection expires July 1, <u>2021</u> 2020 .		11
12					12
13	<u>Section XX. (1) In order to implement Specific Appropriations 1120 through 1131 of the 2020-2021 General Appropriations Act, the Department of Juvenile Justice is required to review county juvenile detention payments to ensure that counties fulfill their financial responsibilities required in s. 985.6865, Florida Statutes. If the Department of Juvenile Justice determines that a county has not met its obligations, the department shall direct the Department of Revenue to deduct the amount owed to the Department of Juvenile Justice from the funds provided to the county under s. 218.23, Florida Statutes. The Department of Revenue shall transfer the funds withheld to the Shared County/State Juvenile Detention Trust Fund.</u>	Identical	<u>Section XX. (1) In order to implement Specific Appropriations 1120 through 1131 of the 2020-2021 General Appropriations Act, the Department of Juvenile Justice is required to review county juvenile detention payments to ensure that counties fulfill their financial responsibilities required in s. 985.6865, Florida Statutes. If the Department of Juvenile Justice determines that a county has not met its obligations, the department shall direct the Department of Revenue to deduct the amount owed to the Department of Juvenile Justice from the funds provided to the county under s. 218.23, Florida Statutes. The Department of Revenue shall transfer the funds withheld to the Shared County/State Juvenile Detention Trust Fund.</u>		13

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14	(2) As an assurance to holders of bonds issued by counties before July 1, 2020, for which distributions made pursuant to s. 218.23, Florida Statutes, are pledged, or bonds issued to refund such bonds which mature no later than the bonds they refunded and which result in a reduction of debt service payable in each fiscal year, the amount available for distribution to a county shall remain as provided by law and continue to be subject to any lien or claim on behalf of the bondholders. The Department of Revenue must ensure, based on information provided by an affected county, that any reduction in amounts distributed pursuant to subsection (1) does not reduce the amount of distribution to a county below the amount necessary for the timely payment of principal and interest when due on the bonds and the amount necessary to comply with any covenant under the bond resolution or other documents relating to the issuance of the bonds. If a reduction to a county's monthly distribution must be decreased in order to comply with this section, the Department of Revenue must notify the Department of Juvenile Justice of the amount of the decrease, and the Department of Juvenile Justice must send a bill for payment of such amount to the affected county.	Identical	(2) As an assurance to holders of bonds issued by counties before July 1, 2020, for which distributions made pursuant to s. 218.23, Florida Statutes, are pledged, or bonds issued to refund such bonds which mature no later than the bonds they refunded and which result in a reduction of debt service payable in each fiscal year, the amount available for distribution to a county shall remain as provided by law and continue to be subject to any lien or claim on behalf of the bondholders. The Department of Revenue must ensure, based on information provided by an affected county, that any reduction in amounts distributed pursuant to subsection (1) does not reduce the amount of distribution to a county below the amount necessary for the timely payment of principal and interest when due on the bonds and the amount necessary to comply with any covenant under the bond resolution or other documents relating to the issuance of the bonds. If a reduction to a county's monthly distribution must be decreased in order to comply with this section, the Department of Revenue must notify the Department of Juvenile Justice of the amount of the decrease, and the Department of Juvenile Justice must send a bill for payment of such amount to the affected county.		14
15	(3) This section expires July 1, 2021.	Identical	(3) This section expires July 1, 2021.		15
16					16
17	Section XX. In order to implement Specific Appropriations 731 through 752, 916 through 1062, and 1083 through 1119 of the 2020-2021 General Appropriations Act, upon the expiration and reversion of the amendments made to section 27.40, F.S. pursuant to section 57 of chapter 2019-116, Laws of Florida, subsection (1), paragraph (a) of subsection (2), paragraph (a) of subsection (3), and subsections (5), (6), and (7) of section 27.40, Florida Statutes, are amended to read:	Different	Section XX. In order to implement Specific Appropriations 731 through 752, 916 through 1062, and 1083 through 1119 of the 2020-2021 General Appropriations Act, and notwithstanding the expiration date in section 57 of chapter 2019-116, Laws of Florida, present subsection (11) of section 27.40, Florida Statutes is renumbered as subsection (12), a new subsection (11) is added to that section, and subsection (1), paragraph (a) of subsection (2), paragraph (a) of subsection (3), and subsections (5), (6), and (7) of that section are reenacted, to read:	Senate	17
18	27.40 Court-appointed counsel; circuit registries; minimum requirements; appointment by court.—	Identical	27.40 Court-appointed counsel; circuit registries; minimum requirements; appointment by court.—		18

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19	(1) Counsel shall be appointed to represent any individual in a criminal or civil proceeding entitled to court-appointed counsel under the Federal or State Constitution or as authorized by general law. The court shall appoint a public defender to represent indigent persons as authorized in s. 27.51. The office of criminal conflict and civil regional counsel shall be appointed to represent persons in those cases in which provision is made for court-appointed counsel, but <u>only after the public defender has certified to the court in writing that the public defender is unable to provide representation due to a conflict of interest or is not authorized to provide representation. The public defender shall report, in the aggregate, the specific basis of all conflicts of interest certified to the court. On a quarterly basis, the public defender shall submit this information to the Justice Administrative Commission.</u>	Identical	(1) Counsel shall be appointed to represent any individual in a criminal or civil proceeding entitled to court-appointed counsel under the Federal or State Constitution or as authorized by general law. The court shall appoint a public defender to represent indigent persons as authorized in s. 27.51. The office of criminal conflict and civil regional counsel shall be appointed to represent persons in those cases in which provision is made for court-appointed counsel, but only after the public defender has certified to the court in writing that the public defender is unable to provide representation due to a conflict of interest or is not authorized to provide representation. The public defender shall report, in the aggregate, the specific basis of all conflicts of interest certified to the court. On a quarterly basis, the public defender shall submit this information to the Justice Administrative Commission.	Senate	19
20	(2)(a) Private counsel shall be appointed to represent persons in those cases in which provision is made for court-appointed counsel but <u>only after the office of criminal conflict and civil regional counsel has been appointed and has certified to the court in writing that the criminal conflict and civil regional counsel is unable to provide representation due to a conflict of interest. The criminal conflict and civil regional counsel shall report, in the aggregate, the specific basis of all conflicts of interest certified to the court. On a quarterly basis, the criminal conflict and civil regional counsel shall submit this information to the Justice Administrative Commission.</u>	Identical	(2)(a) Private counsel shall be appointed to represent persons in those cases in which provision is made for court-appointed counsel but only after the office of criminal conflict and civil regional counsel has been appointed and has certified to the court in writing that the criminal conflict and civil regional counsel is unable to provide representation due to a conflict of interest. The criminal conflict and civil regional counsel shall report, in the aggregate, the specific basis of all conflicts of interest certified to the court. On a quarterly basis, the criminal conflict and civil regional counsel shall submit this information to the Justice Administrative Commission.	Senate	20
21	(3) In using a registry:	Identical	(3) In using a registry:		21
22	(a) The chief judge of the circuit shall compile a list of attorneys in private practice, by county and by category of cases, and provide the list to the clerk of court in each county. The chief judge of the circuit may restrict the number of attorneys on the general registry list. To be included on a registry, an attorney must certify that he or she:	Identical	(a) The chief judge of the circuit shall compile a list of attorneys in private practice, by county and by category of cases, and provide the list to the clerk of court in each county. The chief judge of the circuit may restrict the number of attorneys on the general registry list. To be included on a registry, an attorney must certify that he or she:		22
23	1. Meets any minimum requirements established by the chief judge and by general law for court appointment;	Identical	1. Meets any minimum requirements established by the chief judge and by general law for court appointment;		23
24	2. Is available to represent indigent defendants in cases requiring court appointment of private counsel; and	Identical	2. Is available to represent indigent defendants in cases requiring court appointment of private counsel; and		24
25	3. Is willing to abide by the terms of the contract for services, s. 27.5304, and this section.	Identical	3. Is willing to abide by the terms of the contract for services, s. 27.5304, and this section.	Senate	25

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26	To be included on a registry, an attorney must enter into a contract for services with the Justice Administrative Commission. Failure to comply with the terms of the contract for services may result in termination of the contract and removal from the registry. Each attorney on the registry is responsible for notifying the clerk of the court and the Justice Administrative Commission of any change in his or her status. Failure to comply with this requirement is cause for termination of the contract for services and removal from the registry until the requirement is fulfilled.	Identical	To be included on a registry, an attorney must enter into a contract for services with the Justice Administrative Commission. Failure to comply with the terms of the contract for services may result in termination of the contract and removal from the registry. Each attorney on the registry is responsible for notifying the clerk of the court and the Justice Administrative Commission of any change in his or her status. Failure to comply with this requirement is cause for termination of the contract for services and removal from the registry until the requirement is fulfilled.		26
27	(5) The Justice Administrative Commission shall approve uniform contract forms for use in procuring the services of private court-appointed counsel and uniform procedures and forms for use by a court-appointed attorney in support of billing for attorney's fees, costs, and related expenses to demonstrate the attorney's completion of specified duties. <u>Such uniform contracts and forms for use in billing must be consistent with s. 27.5304, s. 216.311, and the General Appropriations Act and must contain the following statement: "The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature."</u>	Identical	(5) The Justice Administrative Commission shall approve uniform contract forms for use in procuring the services of private court-appointed counsel and uniform procedures and forms for use by a court-appointed attorney in support of billing for attorney's fees, costs, and related expenses to demonstrate the attorney's completion of specified duties. Such uniform contracts and forms for use in billing must be consistent with s. 27.5304, s. 216.311, and the General Appropriations Act and must contain the following statement: "The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature."	Senate	27
28	(6) After court appointment, the attorney must immediately file a notice of appearance with the court indicating acceptance of the appointment to represent the defendant <u>and of the terms of the uniform contract as specified in subsection (5).</u>	Identical	(6) After court appointment, the attorney must immediately file a notice of appearance with the court indicating acceptance of the appointment to represent the defendant and of the terms of the uniform contract as specified in subsection (5).	Senate	28
29	(7)(a) A private attorney appointed by the court from the registry to represent a client is entitled to payment as provided in s. 27.5304 <u>so long as the requirements of subsection (1) and paragraph (2)(a) are met.</u> An attorney appointed by the court who is not on the registry list may be compensated under s. 27.5304 <u>only</u> if the court finds in the order of appointment that there were no registry attorneys available for representation for that case <u>and only if the requirements of subsection (1) and paragraph (2)(a) are met.</u>	Identical	(7)(a) A private attorney appointed by the court from the registry to represent a client is entitled to payment as provided in s. 27.5304 so long as the requirements of subsection (1) and paragraph (2)(a) are met. An attorney appointed by the court who is not on the registry list may be compensated under s. 27.5304 only if the court finds in the order of appointment that there were no registry attorneys available for representation for that case and only if the requirements of subsection (1) and paragraph (2)(a) are met.	Senate	29

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30	(b)1. The flat fee established in s. 27.5304 and the General Appropriations Act shall be presumed by the court to be sufficient compensation. The attorney shall maintain appropriate documentation, including contemporaneous and detailed hourly accounting of time spent representing the client. If the attorney fails to maintain such contemporaneous and detailed hourly records, the attorney waives the right to seek compensation in excess of the flat fee established in s. 27.5304 and the General Appropriations Act. These records and documents are subject to review by the Justice Administrative Commission and audit by the Auditor General, subject to the attorney-client privilege and work-product privilege. The attorney shall maintain the records and documents in a manner that enables the attorney to redact any information subject to a privilege in order to facilitate the commission's review of the records and documents and not to impede such review. The attorney may redact information from the records and documents only to the extent necessary to comply with the privilege. The Justice Administrative Commission shall review such records and shall contemporaneously document such review before authorizing payment to an attorney. Objections by or on behalf of the Justice Administrative Commission to records or documents or to claims for payment by the attorney shall be presumed correct by the court unless the court determines in writing competent and substantial evidence exists to justify overcoming the presumption.	Different	(b)1. The flat fee established in s. 27.5304 and the General Appropriations Act shall be presumed by the court to be sufficient compensation. The attorney shall maintain appropriate documentation, including contemporaneous and detailed hourly accounting of time spent representing the client. If the attorney fails to maintain such contemporaneous and detailed hourly records, the attorney waives the right to seek compensation in excess of the flat fee established in s. 27.5304 and the General Appropriations Act. These records and documents are subject to review by the Justice Administrative Commission and audit by the Auditor General, subject to the attorney-client privilege and work-product privilege. The attorney shall maintain the records and documents in a manner that enables the attorney to redact any information subject to a privilege in order to facilitate the commission's review of the records and documents and not to impede such review. The attorney may redact information from the records and documents only to the extent necessary to comply with the privilege. The Justice Administrative Commission shall review such records and shall contemporaneously document such review before authorizing payment to an attorney. Objections by or on behalf of the Justice Administrative Commission to records or documents or to claims for payment by the attorney shall be presumed correct by the court unless the court determines, in writing, that competent and substantial evidence exists to justify overcoming the presumption.	Senate	30
31	2. If an attorney fails, refuses, or declines to permit the commission or the Auditor General to review documentation for a case as provided in this paragraph, the attorney waives the right to seek, and the commission may not pay, compensation in excess of the flat fee established in s. 27.5304 and the General Appropriations Act for that case.	Identical	2. If an attorney fails, refuses, or declines to permit the commission or the Auditor General to review documentation for a case as provided in this paragraph, the attorney waives the right to seek, and the commission may not pay, compensation in excess of the flat fee established in s. 27.5304 and the General Appropriations Act for that case.	Senate	31
32	3. A finding by the commission that an attorney has waived the right to seek compensation in excess of the flat fee established in s. 27.5304 and the General Appropriations Act, as provided in this paragraph, shall be is presumed to be correct valid, unless the, as determined by a court determines, in writing, that competent and substantial evidence exists to justify overcoming the presumption, the commission's finding is not supported by competent and substantial evidence.	Different	3. A finding by the commission that an attorney has waived the right to seek compensation in excess of the flat fee established in s. 27.5304 and the General Appropriations Act, as provided in this paragraph, shall be presumed to be correct, unless the court determines, in writing, that competent and substantial evidence exists to justify overcoming the presumption.	Senate	32
33		Different	(11)(a) The Cross-Jurisdictional Death Penalty Pilot Program is established within the Office of Criminal Conflict and Civil Regional Counsel of the Second Appellate District.	Senate	33

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34		Different	<u>(b) If the public defender for the Fifth Judicial Circuit or the Ninth Judicial Circuit is unable to provide representation to an indigent defendant charged with a crime under s. 782.04(1) or s. 790.161(4) to which the provisions of s. 921.141 apply due to a conflict of interest and the Criminal Conflict and Civil Regional Counsel of the Fifth Appellate District is also unable to provide representation for an indigent defendant due to a conflict of interest, the Criminal Conflict and Civil Regional Counsel of the Second Appellate District shall be appointed. If the Criminal Conflict and Civil Regional Counsel of the Second Appellate District is unable to provide representation to an indigent defendant due to a conflict of interest, private counsel shall be appointed as provided pursuant to this chapter.</u>	Senate	34
35		Different	<u>(c) The Office of Criminal Conflict and Civil Regional Counsel of the Second Appellate District shall provide a report on the implementation of the Cross-Jurisdictional Death Penalty Pilot Program to the Governor and the chairs of the appropriations committees of the Senate and House of Representatives no later than 30 days after the end of each calendar quarter. The reports must include the number of cases retained, the number of cases conflicted, the estimated cost savings of the program, and any recommendations to improve the program. The Justice Administrative Commission shall provide data to assist with the program.</u>	Senate	35
36		Different	<u>(d) This subsection expires June 30, 2021. Notwithstanding the expiration of this subsection, appointments made pursuant to this section before June 30, 2021, shall continue until completion of the case.</u>	Senate	36
37					37
38	<u>Section XX. The amendments to s. 27.40(1), (2)(a), (3)(a), (5), (6), and (7), Florida Statutes, made by this act expire July 1, 2021, and the text of those subsections and paragraphs, as applicable, shall revert to that in existence on June 30, 2019, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text which expire pursuant to this section.</u>	Different		Senate	38
39					39
40	Section XX. In order to implement Specific Appropriations 731 through 752, 916 through 1062, and 1083 through 1119 of the 2020-2021 General Appropriations Act, upon the expiration and reversion of the amendments made to section 27.5304, Florida Statutes, pursuant to section 59 of chapter 2019-116, Laws of Florida, subsections (1), (3), (7), and (11), paragraphs (a) through (e) of subsection (12), and subsection (13) of section 27.5304, Florida Statutes, are amended to read:	Different	Section XX. In order to implement Specific Appropriations 731 through 752, 916 through 1062, and 1083 through 1119 of the 2020-2021 General Appropriations Act, and notwithstanding the expiration date in section 59 of chapter 2019-116, Laws of Florida, subsections (1), (3), (7), and (11), and paragraphs (a) through (e) of subsection (12) of section 27.5304, Florida Statutes, are reenacted, and subsection (13) of that section is amended, to read:	Senate	40

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41	27.5304 Private court-appointed counsel; compensation; notice.—	Identical	27.5304 Private court-appointed counsel; compensation; notice.—		41
42	(1) Private court-appointed counsel <u>appointed in the manner prescribed in s. 27.40(1) and (2)(a)</u> shall be compensated by the Justice Administrative Commission <u>only</u> as provided in this section and the General Appropriations Act. The flat fees prescribed in this section are limitations on compensation. The specific flat fee amounts for compensation shall be established annually in the General Appropriations Act. The attorney also shall be reimbursed for reasonable and necessary expenses in accordance with s. 29.007. If the attorney is representing a defendant charged with more than one offense in the same case, the attorney shall be compensated at the rate provided for the most serious offense for which he or she represented the defendant. This section does not allow stacking of the fee limits established by this section.	Identical	(1) Private court-appointed counsel appointed in the manner prescribed in s. 27.40(1) and (2)(a) shall be compensated by the Justice Administrative Commission only as provided in this section and the General Appropriations Act. The flat fees prescribed in this section are limitations on compensation. The specific flat fee amounts for compensation shall be established annually in the General Appropriations Act. The attorney also shall be reimbursed for reasonable and necessary expenses in accordance with s. 29.007. If the attorney is representing a defendant charged with more than one offense in the same case, the attorney shall be compensated at the rate provided for the most serious offense for which he or she represented the defendant. This section does not allow stacking of the fee limits established by this section.	Senate	42
43	(3) The court retains primary authority and responsibility for determining the reasonableness of all billings for attorney fees, costs, and related expenses, subject to statutory limitations <u>and the requirements of s. 27.40(7)</u> . Private court-appointed counsel is entitled to compensation upon final disposition of a case.	Identical	(3) The court retains primary authority and responsibility for determining the reasonableness of all billings for attorney fees, costs, and related expenses, subject to statutory limitations and the requirements of s. 27.40(7). Private court-appointed counsel is entitled to compensation upon final disposition of a case.	Senate	43
44	(7) Counsel <u>eligible</u> entitled to receive compensation from the state for representation pursuant to court appointment <u>made in accordance with the requirements of s. 27.40(1) and (2)(a)</u> in a proceeding under chapter 384, chapter 390, chapter 392, chapter 393, chapter 394, chapter 397, chapter 415, chapter 743, chapter 744, or chapter 984 shall receive compensation not to exceed the limits prescribed in the General Appropriations Act. <u>Any such compensation must be determined as provided in s. 27.40(7).</u>	Different	(7) Counsel eligible to receive compensation from the state for representation pursuant to court appointment made in accordance with the requirements of s. 27.40(1) and (2)(a) in a proceeding under chapter 384, chapter 390, chapter 392, chapter 393, chapter 394, chapter 397, chapter 415, chapter 743, chapter 744, or chapter 984 shall receive compensation not to exceed the limits prescribed in the General Appropriations Act. Any such compensation must be determined as provided in s. 27.40(7).	Senate	44
45	(11) It is the intent of the Legislature that the flat fees prescribed under this section and the General Appropriations Act comprise the full and complete compensation for private court-appointed counsel. It is further the intent of the Legislature that the fees in this section are prescribed for the purpose of providing counsel with notice of the limit on the amount of compensation for representation in particular proceedings and the sole procedure and requirements for obtaining payment for the <u>same</u> .	Identical	(11) It is the intent of the Legislature that the flat fees prescribed under this section and the General Appropriations Act comprise the full and complete compensation for private court-appointed counsel. It is further the intent of the Legislature that the fees in this section are prescribed for the purpose of providing counsel with notice of the limit on the amount of compensation for representation in particular proceedings and the sole procedure and requirements for obtaining payment for the same.	Senate	45
46	(a) If court-appointed counsel moves to withdraw prior to the full performance of his or her duties through the completion of the case, the court shall presume that the attorney is not entitled to the payment of the full flat fee established under this section and the General Appropriations Act.	Identical	(a) If court-appointed counsel moves to withdraw prior to the full performance of his or her duties through the completion of the case, the court shall presume that the attorney is not entitled to the payment of the full flat fee established under this section and the General Appropriations Act.		46

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47	(b) If court-appointed counsel is allowed to withdraw from representation prior to the full performance of his or her duties through the completion of the case and the court appoints a subsequent attorney, the total compensation for the initial and any and all subsequent attorneys may not exceed the flat fee established under this section and the General Appropriations Act, except as provided in subsection (12).	Identical	(b) If court-appointed counsel is allowed to withdraw from representation prior to the full performance of his or her duties through the completion of the case and the court appoints a subsequent attorney, the total compensation for the initial and any and all subsequent attorneys may not exceed the flat fee established under this section and the General Appropriations Act, except as provided in subsection (12).		47
48	This subsection constitutes notice to any subsequently appointed attorney that he or she will not be compensated the full flat fee.	Identical	This subsection constitutes notice to any subsequently appointed attorney that he or she will not be compensated the full flat fee.		48
49	(12) The Legislature recognizes that on rare occasions an attorney may receive a case that requires extraordinary and unusual effort.	Identical	(12) The Legislature recognizes that on rare occasions an attorney may receive a case that requires extraordinary and unusual effort.		49
50	(a) If counsel seeks compensation that exceeds the limits prescribed by law, he or she must file a motion with the chief judge for an order approving payment of attorney fees in excess of these limits.	Identical	(a) If counsel seeks compensation that exceeds the limits prescribed by law, he or she must file a motion with the chief judge for an order approving payment of attorney fees in excess of these limits.		50
51	1. Before filing the motion, the counsel shall deliver a copy of the intended billing, together with supporting affidavits and all other necessary documentation, to the Justice Administrative Commission.	Identical	1. Before filing the motion, the counsel shall deliver a copy of the intended billing, together with supporting affidavits and all other necessary documentation, to the Justice Administrative Commission.		51
52	2. The Justice Administrative Commission shall review the billings, affidavit, and documentation for completeness and compliance with contractual and statutory requirements and shall contemporaneously document such review before authorizing payment to an attorney. If the Justice Administrative Commission objects to any portion of the proposed billing, the objection and supporting reasons must be communicated in writing to the private court-appointed counsel. The counsel may thereafter file his or her motion, which must specify whether the commission objects to any portion of the billing or the sufficiency of documentation, and shall attach the commission's letter stating its objection.	Identical	2. The Justice Administrative Commission shall review the billings, affidavit, and documentation for completeness and compliance with contractual and statutory requirements and shall contemporaneously document such review before authorizing payment to an attorney. If the Justice Administrative Commission objects to any portion of the proposed billing, the objection and supporting reasons must be communicated in writing to the private court-appointed counsel. The counsel may thereafter file his or her motion, which must specify whether the commission objects to any portion of the billing or the sufficiency of documentation, and shall attach the commission's letter stating its objection.	Senate	52
53	(b) Following receipt of the motion to exceed the fee limits, the chief judge or a single designee shall hold an evidentiary hearing. The chief judge may select only one judge per circuit to hear and determine motions pursuant to this subsection, except multicounty circuits and the eleventh circuit may have up to two designees.	Identical	(b) Following receipt of the motion to exceed the fee limits, the chief judge or a single designee shall hold an evidentiary hearing. The chief judge may select only one judge per circuit to hear and determine motions pursuant to this subsection, except multicounty circuits and the eleventh circuit may have up to two designees.		53

FY 2020-2021 IMPLEMENTING BILL LANGUAGE
JUSTICE APPROPRIATIONS SUBCOMMITTEE

Line	HB 5003	Status	SB 2502	SENATE OFFER #1	Line
54	1. At the hearing, the attorney seeking compensation must prove by competent and substantial evidence that the case required extraordinary and unusual efforts. The chief judge or single designee shall consider criteria such as the number of witnesses, the complexity of the factual and legal issues, and the length of trial. The fact that a trial was conducted in a case does not, by itself, constitute competent substantial evidence of an extraordinary and unusual effort. In a criminal case, relief under this section may not be granted if the number of work hours does not exceed 75 or the number of the state's witnesses deposed does not exceed 20.	Identical	1. At the hearing, the attorney seeking compensation must prove by competent and substantial evidence that the case required extraordinary and unusual efforts. The chief judge or single designee shall consider criteria such as the number of witnesses, the complexity of the factual and legal issues, and the length of trial. The fact that a trial was conducted in a case does not, by itself, constitute competent substantial evidence of an extraordinary and unusual effort. In a criminal case, relief under this section may not be granted if the number of work hours does not exceed 75 or the number of the state's witnesses deposed does not exceed 20.		54
55	2. <u>Objections by or on behalf of the Justice Administrative Commission to records or documents or to claims for payment by the attorney shall be presumed correct by the court unless the court determines, in writing, that competent and substantial evidence exists to justify overcoming the presumption.</u> The chief judge or single designee shall enter a written order detailing his or her findings and identifying the extraordinary nature of the time and efforts of the attorney in the case which warrant exceeding the flat fee established by this section and the General Appropriations Act.	Identical	2. Objections by or on behalf of the Justice Administrative Commission to records or documents or to claims for payment by the attorney shall be presumed correct by the court unless the court determines, in writing, that competent and substantial evidence exists to justify overcoming the presumption. The chief judge or single designee shall enter a written order detailing his or her findings and identifying the extraordinary nature of the time and efforts of the attorney in the case which warrant exceeding the flat fee established by this section and the General Appropriations Act.	Senate	55
56	(c) A copy of the motion and attachments shall be served on the Justice Administrative Commission at least <u>20</u> 5 business days before the date of a hearing. The Justice Administrative Commission has standing to appear before the court, <u>and may appear in person or telephonically</u> , including at the hearing under paragraph (b), to contest any motion for an order approving payment of attorney fees, costs, or related expenses and may participate in a hearing on the motion by use of telephonic or other communication equipment. The Justice Administrative Commission may contract with other public or private entities or individuals to appear before the court for the purpose of contesting any motion for an order approving payment of attorney fees, costs, or related expenses. The fact that the Justice Administrative Commission has not objected to any portion of the billing or to the sufficiency of the documentation is not binding on the court.	Different	(c) A copy of the motion and attachments shall be served on the Justice Administrative Commission at least 20 business days before the date of a hearing. The Justice Administrative Commission has standing to appear before the court, and may appear in person or telephonically, including at the hearing under paragraph (b), to contest any motion for an order approving payment of attorney fees, costs, or related expenses and may participate in a hearing on the motion by use of telephonic or other communication equipment. The Justice Administrative Commission may contract with other public or private entities or individuals to appear before the court for the purpose of contesting any motion for an order approving payment of attorney fees, costs, or related expenses. The fact that the Justice Administrative Commission has not objected to any portion of the billing or to the sufficiency of the documentation is not binding on the court.	Senate	56

FY 2020-2021 IMPLEMENTING BILL LANGUAGE
JUSTICE APPROPRIATIONS SUBCOMMITTEE

Line	HB 5003	Status	SB 2502	SENATE OFFER #1	Line
57	(d) If the chief judge or a single designee finds that counsel has proved by competent and substantial evidence that the case required extraordinary and unusual efforts, the chief judge or single designee shall order the compensation to be paid to the attorney at a percentage above the flat fee rate, depending on the extent of the unusual and extraordinary effort required. The percentage must be only the rate necessary to ensure that the fees paid are not confiscatory under common law. The percentage may not exceed 200 percent of the established flat fee, absent a specific finding that 200 percent of the flat fee in the case would be confiscatory. If the chief judge or single designee determines that 200 percent of the flat fee would be confiscatory, he or she shall order the amount of compensation using an hourly rate not to exceed \$75 per hour for a noncapital case and \$100 per hour for a capital case. However, the compensation calculated by using the hourly rate shall be only that amount necessary to ensure that the total fees paid are not confiscatory, <u>subject to the requirements of s. 27.40(7).</u>	Identical	(d) If the chief judge or a single designee finds that counsel has proved by competent and substantial evidence that the case required extraordinary and unusual efforts, the chief judge or single designee shall order the compensation to be paid to the attorney at a percentage above the flat fee rate, depending on the extent of the unusual and extraordinary effort required. The percentage must be only the rate necessary to ensure that the fees paid are not confiscatory under common law. The percentage may not exceed 200 percent of the established flat fee, absent a specific finding that 200 percent of the flat fee in the case would be confiscatory. If the chief judge or single designee determines that 200 percent of the flat fee would be confiscatory, he or she shall order the amount of compensation using an hourly rate not to exceed \$75 per hour for a noncapital case and \$100 per hour for a capital case. However, the compensation calculated by using the hourly rate shall be only that amount necessary to ensure that the total fees paid are not confiscatory, subject to the requirements of s. 27.40(7).		57
58	(e) Any order granting relief under this subsection must be attached to the final request for a payment submitted to the Justice Administrative Commission <u>and must satisfy the requirements of subparagraph (b)2.</u>	Identical	(e) Any order granting relief under this subsection must be attached to the final request for a payment submitted to the Justice Administrative Commission and must satisfy the requirements of subparagraph (b)2.	Senate	58
59	(13) Notwithstanding the limitation set forth in subsection (5) and for the <u>2020-2021</u> 2018-2019 fiscal year only, the compensation for representation in a criminal proceeding may not exceed the following:	Different	(13) Notwithstanding the limitation set forth in subsection (5) and for the <u>2020-2021</u> 2019-2020 fiscal year only, the compensation for representation in a criminal proceeding may not exceed the following:	Senate	59
60	(a) For misdemeanors and juveniles represented at the trial level: \$1,000.	Identical	(a) For misdemeanors and juveniles represented at the trial level: \$1,000.		60
61	(b) For noncapital, nonlife felonies represented at the trial level: \$15,000.	Identical	(b) For noncapital, nonlife felonies represented at the trial level: \$15,000.		61
62	(c) For life felonies represented at the trial level: \$15,000.	Identical	(c) For life felonies represented at the trial level: \$15,000.		62
63	(d) For capital cases represented at the trial level: \$25,000. For purposes of this paragraph, a "capital case" is any offense for which the potential sentence is death and the state has not waived seeking the death penalty.	Identical	(d) For capital cases represented at the trial level: \$25,000. For purposes of this paragraph, a "capital case" is any offense for which the potential sentence is death and the state has not waived seeking the death penalty.		63
64	(e) For representation on appeal: \$9,000.	Identical	(e) For representation on appeal: \$9,000.		64
65	(f) This subsection expires July 1, <u>2021</u> 2019 .	Different	(f) This subsection expires July 1, <u>2021</u> 2020 .	Senate	65
66					66
67					67

**FY 2020-2021 IMPLEMENTING BILL LANGUAGE
JUSTICE APPROPRIATIONS SUBCOMMITTEE**

Line	HB 5003	Status	SB 2502	SENATE OFFER #1	Line
68	<u>Section XX. The amendments to s. 27.5304(1), (3), (7), (11), and (12)(a)-(e), Florida Statutes, made by this act expire July 1, 2021, and the text of those subsections and paragraphs, as applicable, shall revert to that in existence on June 30, 2019, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text which expire pursuant to this section.</u>	Different	<u>Section XX. The amendments to s. 27.40(1), (2)(a), (3)(a), (5), (6), and (7), Florida Statutes, and 27.5304(1), (3), (7), (11), and (12)(a)-(e), Florida Statutes, as carried forward from chapter 2019-116, Laws of Florida, by this act, expire July 1, 2021, and the text of those subsections and paragraphs, as applicable, shall revert to that in existence on June 30, 2019, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text which expire pursuant to this section.</u>	Senate	68
69					69
70	<u>Section XX. In order to implement Specific Appropriation 736 of the 2020-2021 General Appropriations Act, and notwithstanding s. 28.35, Florida Statutes, the clerks of the circuit court are responsible for any costs of compensation to jurors, for meals or lodging provided to jurors, and for jury-related personnel costs that exceed the funding provided in the General Appropriations Act for these purposes. This section expires July 1, 2021.</u>	Identical	<u>Section XX. In order to implement Specific Appropriation 736 of the 2020-2021 General Appropriations Act, and notwithstanding s. 28.35, Florida Statutes, the clerks of the circuit court are responsible for any costs of compensation to jurors, for meals or lodging provided to jurors, and for jury-related personnel costs that exceed the funding provided in the General Appropriations Act for these purposes. This section expires July 1, 2021.</u>		70
71					71
72	<u>Section XX. In order to implement Specific Appropriations 916 through 1062 of the 2020-2021 General Appropriations Act, and notwithstanding the expiration date in section 63 of chapter 2019-116, Laws of Florida, paragraph (c) of subsection (19) of section 318.18, Florida Statutes, is reenacted to read:</u>	Identical	<u>Section XX. In order to implement Specific Appropriations 916 through 1062 of the 2020-2021 General Appropriations Act, and notwithstanding the expiration date in section 63 of chapter 2019-116, Laws of Florida, paragraph (c) of subsection (19) of section 318.18, Florida Statutes, is reenacted to read:</u>		72
73	318.18 Amount of penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14 or a criminal offense listed in s. 318.17 are as follows:	Identical	318.18 Amount of penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14 or a criminal offense listed in s. 318.17 are as follows:		73
74	(19) In addition to any penalties imposed, an Article V assessment of \$10 must be paid for all noncriminal moving and nonmoving violations under chapters 316, 320, and 322. The assessment is not revenue for purposes of s. 28.36 and may not be used in establishing the budget of the clerk of the court under that section or s. 28.35. Of the funds collected under this subsection:	Identical	(19) In addition to any penalties imposed, an Article V assessment of \$10 must be paid for all noncriminal moving and nonmoving violations under chapters 316, 320, and 322. The assessment is not revenue for purposes of s. 28.36 and may not be used in establishing the budget of the clerk of the court under that section or s. 28.35. Of the funds collected under this subsection:		74
75	(c) The sum of \$1.67 shall be deposited in the Indigent Criminal Defense Trust Fund for use by the public defenders.	Identical	(c) The sum of \$1.67 shall be deposited in the Indigent Criminal Defense Trust Fund for use by the public defenders.		75
76					76
77	<u>Section XX. In order to implement Specific Appropriations 916 through 1062 of the 2020-2021 General Appropriations Act, and notwithstanding the expiration date in section 63 of chapter 2019-116, Laws of Florida, paragraph (b) of subsection (12) of section 817.568, Florida Statutes, is reenacted to read:</u>	Identical	<u>Section XX. In order to implement Specific Appropriations 916 through 1062 of the 2020-2021 General Appropriations Act, and notwithstanding the expiration date in section 63 of chapter 2019-116, Laws of Florida, paragraph (b) of subsection (12) of section 817.568, Florida Statutes, is reenacted to read:</u>		77
78	817.568 Criminal use of personal identification information.—	Identical	817.568 Criminal use of personal identification information.—		78
79	(12) In addition to any sanction imposed when a person pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, a violation of this section, the court shall impose a surcharge of \$1,001.	Identical	(12) In addition to any sanction imposed when a person pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, a violation of this section, the court shall impose a surcharge of \$1,001.		79

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JUSTICE APPROPRIATIONS SUBCOMMITTEE

Line	HB 5003	Status	SB 2502	SENATE OFFER #1	Line
80	(b) The sum of \$250 of the surcharge shall be deposited into the State Attorneys Revenue Trust Fund for the purpose of funding prosecutions of offenses relating to the criminal use of personal identification information. The sum of \$250 of the surcharge shall be deposited into the Indigent Criminal Defense Trust Fund for the purposes of indigent criminal defense related to the criminal use of personal identification information.	Identical	(b) The sum of \$250 of the surcharge shall be deposited into the State Attorneys Revenue Trust Fund for the purpose of funding prosecutions of offenses relating to the criminal use of personal identification information. The sum of \$250 of the surcharge shall be deposited into the Indigent Criminal Defense Trust Fund for the purposes of indigent criminal defense related to the criminal use of personal identification information.		80
81					81
82	<u>Section XX. The text of ss. 318.18(19)(c) and 817.568(12)(b), Florida Statutes, as carried forward from chapter 2019-116, Laws of Florida, by this act, expires July 1, 2021, and the text of those paragraphs shall revert to that in existence on June 30, 2018, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text which expire pursuant to this section.</u>	Different	<u>Section XX. The text of ss. 318.18(19)(c) and 817.568(12)(b), Florida Statutes, as carried forward from chapter 2018-10, Laws of Florida, by this act, expires July 1, 2021, and the text of those paragraphs shall revert to that in existence on June 30, 2018, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text which expire pursuant to this section.</u>	House	82
83					83
84		New	Section XX. The text of ss. (2) of s. 20.316, Florida Statutes, is amended to read: 20.316 Department of Juvenile Justice.—There is created a Department of Juvenile Justice. (2) DEPARTMENT PROGRAMS.—The following programs are established within the Department of Juvenile Justice: (a) <u>Accountability and Program Support.</u> (d){a} Prevention and Victim Services. (c){b} Intake and Detention. (f){e} Residential and Correctional Facilities. (e){d} Probation and Community Corrections. (b){e} Administration. The secretary may establish assistant secretary positions and a chief of staff position as necessary to administer the requirements of this section.		84