

CS/HB 5401 — Clerks of the Court

by Full Appropriations Council on Education and Economic Development; Criminal and Civil Justice Appropriations; and Rep. Adams and others (SB 1994 by Senator Peaden)

The Conference Committee Amendment for CS/HB 5401, relating to state judicial system, changes laws related to the state courts system, the Justice Administrative Commission, the state attorneys, the regional conflict counsels, the guardian ad litem, the Department of Legal Affairs and the clerks of court. The amendment also redirects revenue into the Administrative Trust Fund within the state courts and the State Attorney Revenue Trust Fund within the Justice Administrative Commission. Specifically the amendment:

- Redirects \$50 of the Supreme Court filing fee from the Operating Trust Fund to the State Courts Revenue Trust Fund to fund court operations. In addition, the amendment renames the Operating Trust Fund in the state courts system as the Administrative Trust Fund.
- Requires court appointed counsel to maintain records and to ensure the redaction of privileged information so that the Justice Administrative Commission can inspect such records relating to the state's payment of legal services performed.
- Establishes rates to be set annually in the General Appropriations Act for court reporters, investigators, and Jimmy Ryce experts.
- Clarifies that the regional conflict counsels are to take 3.850 and 3.800 cases for certain indigent clients. These cases are related to post-conviction complaints against an person's attorney. Also, the regional conflict counsels can take termination of parental rights cases under chapter 63, Florida Statutes.
- Requires the clerk of court to make a search of property records and motor vehicle title records for a more accurate determination of indigency for the purposes of receiving the services of a public defender. Also, the amendment presumes that a person is not "indigent for costs" if the person's private attorney fees exceed a certain amount, with exceptions and provisions. Other changes are made to the definition of "indigent for costs" in order to control costs.
- Imposes additional penalties for court appointed counsel requesting payments after one and two years from the dispositions of cases. Also, requires a court appointed attorney paid by state funds to obtain approval from the court when requesting certain services for out of state due process providers.
- Requires due process providers paid from state funds by the Justice Administrative Commission to use electronic funds transfer beginning January 1, 2011.

- Provides criteria and conditions under which transcripts will be provided and specifies that the state will pay for only one original transcript when the state would provide transcripts to state paid court appointed attorneys.
- Clarifies that changes made in the 2009 session did not intend to assess filing fees for domestic violence cases.
- Requires the clerk of court to transmit moneys collected to the Department of Revenue within 10 working days after the end of the month instead of 20 days.
- Provides that the clerk of the court can release the initial application of an indigent client when using a collection agent to collect fees, service charges, fines and court costs.
- Revises the service units for clerk of court unit cost budgeting from four core services to ten case types. Also, provides a mechanism and timeframe for the release of funds to the clerks of court and the adjustment of approved unit costs.
- Deletes the reporting requirements of redundant budget expenditure reports submitted by the chief judge, state attorneys and public defenders.
- Clarifies that a new small claims fee created by the 2009 legislature for when a person files a small claims and a request for a replevin action to recover property at the same time shall only be required to pay one filing fee, not the combination of the two.
- Requires that a parent who qualifies and receives the services of regional conflict counsel or any other court appointed attorney under a child dependency case is responsible and liable for payment of the \$50 civil indigency application fee.
- Clarifies that the existing \$50 civil indigency application fee for dependency cases is mandatory. If the fee has not been paid within the seven days, the court is to enter an order requiring payment. Also, requires the court to order the payment of the application fee upon appointing counsel to the indigent party.
- Requires all guardian ad litem applicants certified on or after July, 1, 2010, to undergo a level 2 background screening, which searches the state and national criminal history information. Also, allows the guardian ad litem to pay the reduced fee of \$8 rather than the current fee of \$24 to the Department of Law Enforcement for background screening.
- Provides for deposits in the Operating Trust Fund instead of the Legal Affairs Revolving Trust Fund within the Department of Legal Affairs.
- Provides a one year extension for the redaction of confidential information of the court records. The clerks must comply with this requirement by January 1, 2012.
- Clarifies that counties may impose one of the statutory surcharges to fund court facilities through local ordinance, but not more than one surcharge at the same time.

- Provides that the alteration of a vehicle tag, unlawful use of a temporary tag, failure to surrender a commercial license and certain restrictions on driver's licenses are punished as a moving violations which are noncriminal traffic infractions.
- Redirects the collection of criminal fines from cases in which adjudication is withheld to the General Revenue Fund instead of the State Courts Revenue Trust Fund.
- Directs funds collected on behalf of the state attorneys for the worthless check program and costs of prosecution to be deposited into the State Attorney Revenue Trust Fund rather than the State Attorney Contracts and Grants Trust Fund.
- Clarifies that the \$20 court cost for crime stoppers is mandatory on all criminal convictions and criminal cases when adjudication is withheld.
- Provides that a judicial lien for attorney's fees or costs remains in force notwithstanding a child reaching the age of majority. Provides for imposition of a lien when a person receives state paid legal representation or due process costs in certain legal cases.
- Allows trial court administrators to appoint a court employee as a designee to approve certain expenditures.
- Clarifies that the \$65 additional court cost on criminal convictions that is used by counties to fund court improvement projects must be defined as court improvement projects by the chief judge.
- Requires the Department of Law Enforcement to modify the statewide uniform statute table used by local law enforcement and state attorney offices in charging persons accused of committing crimes.
- Provides for the transfer of balances to the State Courts Revenue Trust Fund and the State Attorneys Revenue Trust Fund.
- Appropriates \$3.6 million of nonrecurring funds from the Clerks of Court Trust Fund to assist the clerks of court with the backlog of foreclosure cases.
- Transfers \$18.6 million from the State Courts Revenue Trust Fund to the Clerks of Court Trust Fund for the purpose of paying the 2009-2010 general revenue service charge for the clerks of court.

If approved by the Governor, these provisions take effect July 1, 2010.

Vote: Senate 38-0; House 120-0