

By Senator Campbell

32-199-04

1 A bill to be entitled
2 An act relating to magistrates and masters;
3 amending ss. 26.012, 27.06, 34.01, 48.20,
4 142.09, 316.635, 373.603, 381.0012, 450.121,
5 560.306, 633.14, 648.44, 817.482, 832.05,
6 876.42, 893.12, 901.01, 901.02, 901.07, 901.08,
7 901.09, 901.11, 901.12, 901.25, 902.15, 902.17,
8 902.20, 902.21, 903.03, 903.32, 903.34, 914.22,
9 923.01, 933.01, 933.06, 933.07, 933.10,
10 933.101, 933.13, 933.14, 939.02, 939.14,
11 941.13, 941.14, 941.15, 941.17, 941.18,
12 947.141, 948.06, 985.05, F.S., relating to
13 various court procedures; redesignating
14 "magistrates" as "trial court judges"; amending
15 ss. 56.071, 56.29, 61.1826, 64.061, 65.061,
16 69.051, 70.51, 92.142, 112.41, 112.43, 112.47,
17 162.03, 162.06, 162.09, 173.09, 173.10, 173.11,
18 173.12, 194.013, 194.034, 194.035, 206.16,
19 207.016, 320.411, 393.11, 394.467, 397.311,
20 397.681, 447.207, 447.403, 447.405, 447.407,
21 447.409, 475.011, 489.127, 489.531, 496.420,
22 501.207, 501.618, 559.936, 582.23, 631.182,
23 631.331, 633.052, 744.369, 760.11, 837.011,
24 838.014, 839.17, 916.107, 938.30, 945.43, F.S.,
25 relating to various administrative and judicial
26 proceedings; redesignating "masters" and
27 "general or special masters" as "general or
28 special magistrates"; providing an effective
29 date.

30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Subsection (5) is added to section 26.012,
2 Florida Statutes, to read:

3 26.012 Jurisdiction of circuit court.--

4 (5) A circuit court is a trial court.

5 Section 2. Section 27.06, Florida Statutes, is amended
6 to read:

7 27.06 Habeas corpus and preliminary trials.--The
8 several state attorneys of this state shall represent the
9 state in all cases of habeas corpus arising in their
10 respective circuits, and shall also represent the state,
11 either in person or by assistant, in cases of preliminary
12 trials of persons charged with capital offenses in all cases
13 where the committing trial court judge ~~magistrate~~ shall have
14 given due and timely notice of the time and place of such
15 trial. Notice of the application for the writ of habeas
16 corpus shall be given to the prosecuting officer of the court
17 wherein the statute under attack is being applied, the
18 criminal law proceeding is being maintained, or the conviction
19 has occurred.

20 Section 3. Subsections (2) and (3) of section 34.01,
21 Florida Statutes, are amended, and subsection (5) is added to
22 that section, to read:

23 34.01 Jurisdiction of county court.--

24 (2) The county courts shall have jurisdiction
25 previously exercised by county judges' courts other than that
26 vested in the circuit court by s. 26.012, except that county
27 court judges may hear matters involving dissolution of
28 marriage under the simplified dissolution procedure pursuant
29 to ~~Rule 1.611(c)~~, Florida Family Law Rules of ~~Civil~~ Procedure
30 or may issue a final order for dissolution in cases where the
31 matter is uncontested, and the jurisdiction previously

1 exercised by county courts, the claims court, small claims
2 courts, small claims magistrates courts, magistrates courts,
3 justice of the peace courts, municipal courts, and courts of
4 chartered counties, including but not limited to the counties
5 referred to in ss. 9, 10, 11, and 24, Art. VIII of the State
6 Constitution of 1968 ~~1885~~.

7 (3) Judges of county courts shall also be committing
8 trial court judges ~~magistrates~~. Judges of county courts shall
9 be coroners unless otherwise provided by law or by rule of the
10 Supreme Court.

11 (4) Judges of county courts may hear all matters in
12 equity involved in any case within the jurisdictional amount
13 of the county court, except as otherwise restricted by the
14 State Constitution or the laws of Florida.

15 (5) A county court is a trial court.

16 Section 4. Section 48.20, Florida Statutes, is amended
17 to read:

18 48.20 Service of process on Sunday.--Service or
19 execution on Sunday of any writ, process, warrant, order, or
20 judgment is void and the person serving or executing, or
21 causing it to be served or executed, is liable to the party
22 aggrieved for damages for so doing as if he or she had done it
23 without any process, writ, warrant, order, or judgment. If
24 affidavit is made by the person requesting service or
25 execution that he or she has good reason to believe that any
26 person liable to have any such writ, process, warrant, order,
27 or judgment served on him or her intends to escape from this
28 state under protection of Sunday, any officer furnished with
29 an order authorizing service or execution by the trial court
30 ~~judge or magistrate of any incorporated town~~ may serve or
31 execute such writ, process, warrant, order, or judgment on

1 Sunday, and it is as valid as if it had been done on any other
2 day.

3 Section 5. Section 142.09, Florida Statutes, is
4 amended to read:

5 142.09 If defendant is not convicted or dies.--If the
6 defendant is not convicted, or the prosecution is abated by
7 the death of the defendant, or if the costs are imposed on the
8 defendant and execution against him or her is returned no
9 property found, or if a nolle prosequere be entered, in each of
10 these cases the fees of witnesses and officers arising from
11 criminal causes shall be paid by the county in the manner
12 specified in ss. 142.10-142.12; provided, that when a
13 committing trial court judge ~~magistrate~~ holds to bail or
14 commits a person to answer to a criminal charge and an
15 information is not filed or an indictment found against such
16 person, the costs and fees of such committing trial shall not
17 be paid by the county, except the costs of executing the
18 warrants.

19 Section 6. Subsection (3) of section 316.635, Florida
20 Statutes, is amended to read:

21 316.635 Courts having jurisdiction over traffic
22 violations; powers relating to custody and detention of
23 minors.--

24 (3) If a minor is taken into custody for a criminal
25 traffic offense or a violation of chapter 322 and the minor
26 does not demand to be taken before a trial court judge, or a
27 Civil Traffic Infraction Hearing Officer, who has jurisdiction
28 over the offense or violation ~~magistrate~~, the arresting
29 officer or booking officer shall immediately notify, or cause
30 to be notified, the minor's parents, guardian, or responsible
31 adult relative of the action taken. After making every

1 reasonable effort to give notice, the arresting officer or
2 booking officer may:

3 (a) Issue a notice to appear pursuant to chapter 901
4 and release the minor to a parent, guardian, responsible adult
5 relative, or other responsible adult;

6 (b) Issue a notice to appear pursuant to chapter 901
7 and release the minor pursuant to s. 903.06;

8 (c) Issue a notice to appear pursuant to chapter 901
9 and deliver the minor to an appropriate substance abuse
10 treatment or rehabilitation facility or refer the minor to an
11 appropriate medical facility as provided in s. 901.29. If the
12 minor cannot be delivered to an appropriate substance abuse
13 treatment or rehabilitation facility or medical facility, the
14 arresting officer may deliver the minor to an appropriate
15 intake office of the Department of Juvenile Justice, which
16 shall take custody of the minor and make any appropriate
17 referrals; or

18 (d) If the violation constitutes a felony and the
19 minor cannot be released pursuant to s. 903.03, transport and
20 deliver the minor to an appropriate Department of Juvenile
21 Justice intake office. Upon delivery of the minor to the
22 intake office, the department shall assume custody and proceed
23 pursuant to chapter 984 or chapter 985.

24
25 If action is not taken pursuant to paragraphs (a)-(d), the
26 minor shall be delivered to the Department of Juvenile
27 Justice, and the department shall make every reasonable effort
28 to contact the parents, guardian, or responsible adult
29 relative to take custody of the minor. If there is no parent,
30 guardian, or responsible adult relative available, the
31 department may retain custody of the minor for up to 24 hours.

1 Section 7. Section 373.603, Florida Statutes, is
2 amended to read:

3 373.603 Power to enforce.--The Department of
4 Environmental Protection or the governing board of any water
5 management district and any officer or agent thereof may
6 enforce any provision of this law or any rule or regulation
7 adopted and promulgated or order issued thereunder to the same
8 extent as any peace officer is authorized to enforce the law.
9 Any officer or agent of any such board may appear before any
10 trial court judge ~~magistrate~~ empowered to issue warrants in
11 criminal cases and make an affidavit and apply for the
12 issuance of a warrant in the manner provided by law. ~~and said~~
13 ~~magistrate~~, If such affidavit alleges ~~shall allege~~ the
14 commission of an offense, the trial court judge shall issue a
15 warrant directed to any sheriff or deputy for the arrest of
16 any offender. The provisions of this section shall apply to
17 the Florida Water Resources Act of 1972 in its entirety.

18 Section 8. Subsection (4) of section 381.0012, Florida
19 Statutes, is amended to read:

20 381.0012 Enforcement authority.--

21 (4) The department may appear before any trial court
22 judge ~~magistrate~~ empowered to issue warrants in criminal cases
23 and request the issuance of a warrant. The trial court judge
24 ~~magistrate~~ shall issue a warrant directed to any sheriff,
25 deputy, or police officer to assist in any way to carry out
26 the purpose and intent of this chapter.

27 Section 9. Subsections (3) and (4) of section 450.121,
28 Florida Statutes, are amended to read:

29 450.121 Enforcement of Child Labor Law.--

30 (3) It is the duty of any trial court judge ~~magistrate~~
31 of any court in the state to issue warrants and try cases made

1 within the limit of any municipality ~~city~~ over which such
2 magistrate has jurisdiction in connection with the violation
3 of this law.

4 (4) Grand juries shall have inquisitorial powers to
5 investigate violations of this chapter; also, trial ~~county~~
6 court judges ~~and judges of the circuit courts~~ shall specially
7 charge the grand jury, at the beginning of each term of the
8 court, to investigate violations of this chapter.

9 Section 10. Subsection (2) of section 560.306, Florida
10 Statutes, is amended to read:

11 560.306 Standards.--

12 (2) The office may deny registration if it finds that
13 the applicant, or any money transmitter-affiliated party of
14 the applicant, has been convicted of a crime involving moral
15 turpitude in any jurisdiction or of a crime which, if
16 committed in this state, would constitute a crime involving
17 moral turpitude under the laws of this state. For the purposes
18 of this part, a person shall be deemed to have been convicted
19 of a crime if such person has either pleaded guilty to or been
20 found guilty of a charge before a court or a federal
21 magistrate, or by the verdict of a jury, irrespective of the
22 pronouncement of sentence or the suspension thereof. The
23 office may take into consideration the fact that such plea of
24 guilty, or such decision, judgment, or verdict, has been set
25 aside, reversed, or otherwise abrogated by lawful judicial
26 process or that the person convicted of the crime received a
27 pardon from the jurisdiction where the conviction was entered
28 or received a certificate pursuant to any provision of law
29 which removes the disability under this part because of such
30 conviction.

31

1 Section 11. Section 633.14, Florida Statutes, is
2 amended to read:

3 633.14 Agents; powers to make arrests, conduct
4 searches and seizures, serve summonses, and carry
5 firearms.--Agents of the State Fire Marshal shall have the
6 same authority to serve summonses, make arrests, carry
7 firearms, and make searches and seizures, as the sheriff or
8 her or his deputies, in the respective counties where such
9 investigations, hearings, or inspections may be held; and
10 affidavits necessary to authorize any such arrests, searches,
11 or seizures may be made before any trial court judge
12 ~~magistrate~~ having authority under the law to issue appropriate
13 processes.

14 Section 12. Paragraph (e) of subsection (1) and
15 paragraph (c) of subsection (2) of section 648.44, Florida
16 Statutes, are amended to read:

17 648.44 Prohibitions; penalty.--

18 (1) A bail bond agent or temporary bail bond agent may
19 not:

20 (e) Pay a fee or rebate or give or promise anything of
21 value to a jailer, police officer, peace officer, or
22 committing trial court judge ~~magistrate~~ or any other person
23 who has power to arrest or to hold in custody or to any public
24 official or public employee in order to secure a settlement,
25 compromise, remission, or reduction of the amount of any bail
26 bond or estreatment thereof.

27 (2) The following persons or classes shall not be bail
28 bond agents, temporary bail bond agents, or employees of a
29 bail bond agent or a bail bond business and shall not directly
30 or indirectly receive any benefits from the execution of any
31 bail bond:

1 (c) Committing trial court judges ~~magistrates~~,
2 employees of a court, or employees of the clerk of any court.

3 Section 13. Subsection (3) of section 817.482, Florida
4 Statutes, is amended to read:

5 817.482 Possessing or transferring device for theft of
6 telecommunications service; concealment of destination of
7 telecommunications service.--

8 (3) Any such instrument, apparatus, equipment, or
9 device, or plans or instructions therefor, referred to in
10 subsections (1) and (2), may be seized by court order or under
11 a search warrant of a judge ~~or magistrate~~ or incident to a
12 lawful arrest; and upon the conviction of any person for a
13 violation of any provision of this act, or s. 817.481, such
14 instrument, apparatus, equipment, device, plans, or
15 instructions either shall be destroyed as contraband by the
16 sheriff of the county in which such person was convicted or
17 turned over to the telephone company in whose territory such
18 instrument, apparatus, equipment, device, plans, or
19 instructions were seized.

20 Section 14. Subsection (8) of section 832.05, Florida
21 Statutes, is amended to read:

22 832.05 Giving worthless checks, drafts, and debit card
23 orders; penalty; duty of drawee; evidence; costs; complaint
24 form.--

25 (8) COSTS.--When a prosecution is initiated under this
26 section before any committing trial court judge ~~magistrate~~,
27 the party applying for the warrant shall be held liable for
28 costs accruing in the event the case is dismissed for want of
29 prosecution. No costs shall be charged to the county in such
30 dismissed cases.

31

1 Section 15. Section 876.42, Florida Statutes, is
2 amended to read:

3 876.42 Witnesses' privileges.--No person shall be
4 excused from attending and testifying, or producing any books,
5 papers, or other documents before any court, ~~magistrate,~~
6 referee, or grand jury upon any investigation, proceeding, or
7 trial, for or relating to or concerned with a violation of any
8 section of this law or attempt to commit such violation, upon
9 the ground or for the reason that the testimony or evidence,
10 documentary or otherwise, required by the state may tend to
11 convict the person of a crime or to subject him or her to a
12 penalty or forfeiture; but no person shall be prosecuted or
13 subjected to any penalty or forfeiture for or on account of
14 any transaction, matter, or thing concerning which the person
15 may so testify or produce evidence, documentary or otherwise,
16 and no testimony so given or produced shall be received
17 against the person, upon any criminal investigation,
18 proceeding, or trial, except upon a prosecution for perjury or
19 contempt of court, based upon the giving or producing of such
20 testimony.

21 Section 16. Paragraph (a) of subsection (1) of section
22 893.12, Florida Statutes, is amended to read:

23 893.12 Contraband; seizure, forfeiture, sale.--

24 (1) All substances controlled by this chapter and all
25 listed chemicals, which substances or chemicals are handled,
26 delivered, possessed, or distributed contrary to any
27 provisions of this chapter, and all such controlled substances
28 or listed chemicals the lawful possession of which is not
29 established or the title to which cannot be ascertained, are
30 declared to be contraband, are subject to seizure and
31 confiscation by any person whose duty it is to enforce the

1 provisions of the chapter, and shall be disposed of as
2 follows:

3 (a) Except as in this section otherwise provided, the
4 court having jurisdiction shall order such controlled
5 substances or listed chemicals forfeited and destroyed. A
6 record of the place where said controlled substances or listed
7 chemicals were seized, of the kinds and quantities of
8 controlled substances or listed chemicals destroyed, and of
9 the time, place, and manner of destruction shall be kept, and
10 a return under oath reporting said destruction shall be made
11 to the court ~~or magistrate~~ by the officer who destroys them.

12 Section 17. Section 901.01, Florida Statutes, is
13 amended to read:

14 901.01 Judicial officers have ~~to be~~ committing
15 authority ~~magistrates~~.--Each state judicial officer is a
16 conservator of the peace and has ~~a~~ committing ~~magistrate~~ with
17 authority to issue warrants of arrest, commit offenders to
18 jail, and recognize them to appear to answer the charge. He
19 or she may require sureties of the peace when the peace has
20 been substantially threatened or disturbed.

21 Section 18. Subsection (1) of section 901.02, Florida
22 Statutes, is amended to read:

23 901.02 When warrant of arrest to be issued.--

24 (1) A warrant may be issued for the arrest of the
25 person complained against if the trial court judge ~~magistrate~~,
26 from the examination of the complainant and other witnesses,
27 reasonably believes that the person complained against has
28 committed an offense within the trial court judge's
29 ~~magistrate's~~ jurisdiction. A warrant is issued at the time it
30 is signed by the trial court judge ~~magistrate~~.

31

1 Section 19. Section 901.07, Florida Statutes, is
2 amended to read:

3 901.07 Admission to bail when arrest occurs in another
4 county.--

5 (1) When an arrest by a warrant occurs in a county
6 other than the one in which the alleged offense was committed
7 and the warrant issued, if the person arrested has a right to
8 bail, the arresting officer shall inform the person of his or
9 her right and, upon request, shall take the person before a
10 trial court judge ~~magistrate~~ or other official of the same
11 county having authority to admit to bail. The official shall
12 admit the person arrested to bail for his or her appearance
13 before the trial court judge ~~magistrate~~ who issued the
14 warrant.

15 (2) If the person arrested does not have a right to
16 bail or, when informed of his or her right to bail, does not
17 furnish bail immediately, the officer who made the arrest or
18 the officer having the warrant shall take the person before
19 the trial court judge ~~magistrate~~ who issued the warrant.

20 Section 20. Section 901.08, Florida Statutes, is
21 amended to read:

22 901.08 Issue of warrant when offense triable in
23 another county.--

24 (1) When a complaint before a trial court judge
25 ~~magistrate~~ charges the commission of an offense that is
26 punishable by death or life imprisonment and is triable in
27 another county of the state, but it appears that the person
28 against whom the complaint is made is in the county where the
29 complaint is made, the same proceedings for issuing a warrant
30 shall be used as prescribed in this chapter, except that the
31 warrant shall require the person against whom the complaint is

1 made to be taken before a designated trial court judge
2 ~~magistrate~~ of the county in which the offense is triable.

3 (2) If the person arrested has a right to bail, the
4 officer making the arrest shall inform the person of his or
5 her right to bail and, on request, shall take the person
6 before a trial court judge ~~magistrate~~ or other official having
7 authority to admit to bail in the county in which the arrest
8 is made. The official shall admit the person to bail for his
9 or her appearance before the trial court judge ~~magistrate~~
10 designated in the warrant.

11 (3) If the person arrested does not have a right to
12 bail or, when informed of his or her right to bail, does not
13 furnish bail immediately, he or she shall be taken before the
14 trial court judge ~~magistrate~~ designated in the warrant.

15 Section 21. Section 901.09, Florida Statutes, is
16 amended to read:

17 901.09 When summons shall be issued.--

18 (1) When the complaint is for an offense that the
19 trial court judge ~~magistrate~~ is empowered to try summarily,
20 the trial court judge ~~magistrate~~ shall issue a summons instead
21 of a warrant, unless she or he reasonably believes that the
22 person against whom the complaint was made will not appear
23 upon a summons, in which event the trial court judge
24 ~~magistrate~~ shall issue a warrant.

25 (2) When the complaint is for a misdemeanor that the
26 trial court judge ~~magistrate~~ is not empowered to try
27 summarily, the trial court judge ~~magistrate~~ shall issue a
28 summons instead of a warrant if she or he reasonably believes
29 that the person against whom the complaint was made will
30 appear upon a summons.

31

1 (3) The summons shall set forth substantially the
2 nature of the offense and shall command the person against
3 whom the complaint was made to appear before the trial court
4 judge ~~magistrate~~ at a stated time and place.

5 Section 22. Section 901.11, Florida Statutes, is
6 amended to read:

7 901.11 Effect of not answering summons.--Failure to
8 appear as commanded by a summons without good cause is an
9 indirect criminal contempt of court and may be punished by a
10 fine of not more than \$100. When a person fails to appear as
11 commanded by a summons, the trial court judge ~~magistrate~~ shall
12 issue a warrant. If the trial court judge ~~magistrate~~ acquires
13 reason to believe that the person summoned will not appear as
14 commanded after issuing a summons, the trial court judge
15 ~~magistrate~~ may issue a warrant.

16 Section 23. Section 901.12, Florida Statutes, is
17 amended to read:

18 901.12 Summons against corporation.--When a complaint
19 of an offense is made against a corporation, the trial court
20 judge ~~magistrate~~ shall issue a summons that shall set forth
21 substantially the nature of the offense and command the
22 corporation to appear before the trial court judge ~~magistrate~~
23 at a stated time and place.

24 Section 24. Subsection (3) of section 901.25, Florida
25 Statutes, is amended to read:

26 901.25 Fresh pursuit; arrest outside jurisdiction.--

27 (3) If an arrest is made in this state by an officer
28 outside the county within which his or her jurisdiction lies,
29 the officer shall immediately notify the officer in charge of
30 the jurisdiction in which the arrest is made. Such officer in
31 charge of the jurisdiction shall, along with the officer

1 making the arrest, take the person so arrested before a trial
2 county court judge ~~or other committing magistrate~~ of the
3 county in which the arrest was made without unnecessary delay.

4 Section 25. Section 902.15, Florida Statutes, is
5 amended to read:

6 902.15 Undertaking by witness.--When a defendant is
7 held to answer on a charge for a crime punishable by death or
8 life imprisonment, the trial court judge ~~magistrate~~ at the
9 preliminary hearing may require each material witness to enter
10 into a written recognizance to appear at the trial or forfeit
11 a sum fixed by the trial court judge ~~magistrate~~. Additional
12 security may be required in the discretion of the trial court
13 judge ~~magistrate~~.

14 Section 26. Subsections (1), (2), and (3) of section
15 902.17, Florida Statutes, are amended to read:

16 902.17 Procedure when witness does not give
17 security.--

18 (1) If a witness required to enter into a recognizance
19 to appear refuses to comply with the order, the trial court
20 judge ~~magistrate~~ shall commit the witness to custody until she
21 or he complies or she or he is legally discharged.

22 (2) If the trial court judge ~~magistrate~~ requires a
23 witness to give security for her or his appearance and the
24 witness is unable to give the security, the witness may apply
25 to the court having jurisdiction to try the defendant for a
26 reduction of the security.

27 (3) If it appears from examination on oath of the
28 witness or any other person that the witness is unable to give
29 security, the trial court judge ~~magistrate~~ or the court having
30 jurisdiction to try the defendant shall make an order finding
31 that fact, and the witness shall be detained pending

1 application for her or his conditional examination. Within 3
2 days after ~~from~~ the entry of the order, the witness shall be
3 conditionally examined on application of the state or the
4 defendant. The examination shall be by question and answer in
5 the presence of the other party and counsel, and shall be
6 transcribed by a court reporter or stenographer selected by
7 the parties. At the completion of the examination the witness
8 shall be discharged. The deposition of the witness may be
9 introduced in evidence at the trial by the defendant, or, if
10 the prosecuting attorney and the defendant and the defendant's
11 counsel agree, it may be admitted in evidence by stipulation.
12 The deposition shall not be admitted on behalf of the state
13 without the consent of the defendant.

14 Section 27. Section 902.20, Florida Statutes, is
15 amended to read:

16 902.20 Contempts before committing trial court judge
17 ~~magistrate~~.--A committing trial court judge ~~magistrate~~ holding
18 a preliminary hearing shall have the same power to punish for
19 contempts that she or he has while presiding at the trial of
20 criminal cases.

21 Section 28. Section 902.21, Florida Statutes, is
22 amended to read:

23 902.21 Commitment to jail in another county.--If a
24 person is committed in a county where there is no jail, the
25 committing trial court judge ~~magistrate~~ shall direct the
26 sheriff to deliver the accused to a jail in another county.

27 Section 29. Subsection (1) of section 903.03, Florida
28 Statutes, is amended to read:

29 903.03 Jurisdiction of trial court to admit to bail;
30 duties and responsibilities of Department of Corrections.--

31

1 (1) After a person is held to answer by a trial court
2 judge ~~magistrate~~, the court having jurisdiction to try the
3 defendant shall, before indictment, affidavit, or information
4 is filed, have jurisdiction to hear and decide all preliminary
5 motions regarding bail and production or impounding of all
6 articles, writings, moneys, or other exhibits expected to be
7 used at the trial by either the state or the defendant.

8 Section 30. Subsection (2) of section 903.32, Florida
9 Statutes, is amended to read:

10 903.32 Defects in bond.--

11 (2) If no day, or an impossible day, is stated in a
12 bond for the defendant's appearance before a trial court judge
13 ~~magistrate~~ for a hearing, the defendant shall be bound to
14 appear 10 days after receipt of notice to appear by the
15 defendant, the defendant's counsel, or any surety on the
16 undertaking. If no day, or an impossible day, is stated in a
17 bond for the defendant's appearance for trial, the defendant
18 shall be bound to appear on the first day of the next term of
19 court that will commence more than 3 days after the
20 undertaking is given.

21 Section 31. Section 903.34, Florida Statutes, is
22 amended to read:

23 903.34 Who may admit to bail.--In criminal actions
24 instituted or pending in any state court, bonds given by
25 defendants before trial until appeal shall be approved by a
26 committing trial court judge ~~magistrate~~ or the sheriff. Appeal
27 bonds shall be approved as provided in s. 924.15.

28 Section 32. Subsection (4) of section 914.22, Florida
29 Statutes, is amended to read:

30 914.22 Tampering with a witness, victim, or
31 informant.--

1 (4) In a prosecution for an offense under this
2 section, no state of mind need be proved with respect to the
3 circumstance:

4 (a) That the official proceeding before a judge,
5 court, ~~magistrate~~, grand jury, or government agency is before
6 a judge or court of the state, a state or local grand jury, or
7 a state agency; or

8 (b) That the judge is a judge of the state or that the
9 law enforcement officer is an officer or employee of the state
10 or a person authorized to act for or on behalf of the state or
11 serving the state as an adviser or consultant.

12 Section 33. Section 923.01, Florida Statutes, is
13 amended to read:

14 923.01 Criminal report.--Each committing trial court
15 judge ~~magistrate~~ at the time commitment papers are sent by her
16 or him to the proper trial court, and the sheriff when an
17 arrest is made, other than on a *capias*, shall transmit to the
18 prosecuting attorney of the trial court having jurisdiction, a
19 report in the following form:

20
21 CRIMINAL REPORT

22 Date: Name and address of defendant: Age: If
23 under 18, give name and address of parent, next friend, or
24 guardian: Name of offense, such as murder, assault,
25 robbery, etc.: Date and place where committed: Value
26 of property stolen: Kind of property stolen: Kind of
27 building robbed: Name and address of owner of property
28 stolen or building robbed: Name and address of occupant
29 of building robbed: Name of party assaulted or murdered:
30 Weapon used in assault or murder: Exhibits taken at
31 scene of crime or from defendant: Name of custodian of

1 such exhibits: Location of building or place where
2 offense committed: Previous prison record of defendant:
3 Has defendant been arrested: Does defendant desire
4 to plead guilty: Names and addresses of state witnesses:
5 Name of defendant's lawyer: If defendant is released
6 on bond, names and addresses of sureties: Brief statement
7 of facts: Name of committing trial court judge
8 ~~magistrate~~: If additional space required, use reverse
9 side of this sheet.

10(Signature of party making this report.)...

11 Section 34. Section 933.01, Florida Statutes, is
12 amended to read:

13 933.01 Persons competent to issue search warrant.--A
14 search warrant authorized by law may be issued by any judge,
15 including the ~~judge of any circuit court of this state or~~
16 ~~county court judge, or committing judge of the trial court~~
17 ~~magistrate~~ having jurisdiction where the place, vehicle, or
18 thing to be searched may be.

19 Section 35. Section 933.06, Florida Statutes, is
20 amended to read:

21 933.06 Sworn application required before
22 issuance.--The judge ~~or magistrate~~ must, before issuing the
23 warrant, have the application of some person for said warrant
24 duly sworn to and subscribed, and may receive further
25 testimony from witnesses or supporting affidavits, or
26 depositions in writing, to support the application. The
27 affidavit and further proof, if same be had or required, must
28 set forth the facts tending to establish the grounds of the
29 application or probable cause for believing that they exist.

30 Section 36. Subsection (1) of section 933.07, Florida
31 Statutes, is amended to read:

1 933.07 Issuance of search warrants.--

2 (1) The judge, upon examination of the application and
3 proofs submitted, if satisfied that probable cause exists for
4 the issuing of the search warrant, shall thereupon issue a
5 search warrant signed by him or her with his or her name of
6 office, to any sheriff and the sheriff's deputies or any
7 police officer or other person authorized by law to execute
8 process, commanding the officer or person forthwith to search
9 the property described in the warrant or the person named, for
10 the property specified, and to bring the property and any
11 person arrested in connection therewith before the judge
12 ~~magistrate~~ or some other court having jurisdiction of the
13 offense.

14 Section 37. Section 933.10, Florida Statutes, is
15 amended to read:

16 933.10 Execution of search warrant during day or
17 night.--A search warrant issued under ~~the provisions of this~~
18 chapter may, if expressly authorized in such warrant by the
19 judge ~~or magistrate issuing the same~~, be executed by being
20 served either in the daytime or in the nighttime, as the
21 exigencies of the occasion may demand or require.

22 Section 38. Section 933.101, Florida Statutes, is
23 amended to read:

24 933.101 Service on Sunday.--A search warrant may be
25 executed by being served on Sunday, if expressly authorized in
26 such warrant by the judge ~~or magistrate issuing the same~~.

27 Section 39. Section 933.13, Florida Statutes, is
28 amended to read:

29 933.13 Copy of inventory shall be delivered upon
30 request.--The judge ~~or magistrate~~ to whom the warrant is
31 returned, upon the request of any claimant or any person from

1 | whom said property is taken, or the officer who executed the
2 | search warrant, shall deliver to said applicant a true copy of
3 | the inventory of the property mentioned in the return on said
4 | warrant.

5 | Section 40. Subsections (1), (3), and (4) of section
6 | 933.14, Florida Statutes, are amended to read:

7 | 933.14 Return of property taken under search
8 | warrant.--

9 | (1) If it appears to the ~~magistrate~~ or judge before
10 | whom the warrant is returned that the property or papers taken
11 | are not the same as that described in the warrant, or that
12 | there is no probable cause for believing the existence of the
13 | grounds upon which the warrant was issued, or if it appears to
14 | the judge ~~magistrate~~ before whom any property is returned that
15 | the property was secured by an "unreasonable" search, the
16 | judge ~~or magistrate~~ may order a return of the property taken;
17 | provided, however, that in no instance shall contraband such
18 | as slot machines, gambling tables, lottery tickets, tally
19 | sheets, rundown sheets, or other gambling devices,
20 | paraphernalia and equipment, or narcotic drugs, obscene prints
21 | and literature be returned to anyone claiming an interest
22 | therein, it being the specific intent of the Legislature that
23 | no one has any property rights subject to be protected by any
24 | constitutional provision in such contraband; provided,
25 | further, that the claimant of said contraband may upon sworn
26 | petition and proof submitted by him or her in the circuit
27 | court of the county where seized, show that said contraband
28 | articles so seized were held, used or possessed in a lawful
29 | manner, for a lawful purpose, and in a lawful place, the
30 | burden of proof in all cases being upon the claimant. The
31 | sworn affidavit or complaint upon which the search warrant was

1 issued or the testimony of the officers showing probable cause
2 to search without a warrant or incident to a legal arrest, and
3 the finding of such slot machines, gambling tables, lottery
4 tickets, tally sheets, rundown sheets, scratch sheets, or
5 other gambling devices, paraphernalia, and equipment,
6 including money used in gambling or in furtherance of
7 gambling, or narcotic drugs, obscene prints and literature, or
8 any of them, shall constitute prima facie evidence of the
9 illegal possession of such contraband and the burden shall be
10 upon the claimant for the return thereof, to show that such
11 contraband was lawfully acquired, possessed, held, and used.

12 (3) No pistol or firearm taken by any officer with a
13 search warrant or without a search warrant upon a view by the
14 officer of a breach of the peace shall be returned except
15 pursuant to an order of a trial ~~circuit judge or a county~~
16 court judge.

17 (4) If no cause is shown for the return of any
18 property seized or taken under a search warrant, the judge ~~or~~
19 ~~magistrate~~ shall order that the same be impounded for use as
20 evidence at any trial of any criminal or penal cause growing
21 out of the having or possession of said property, but
22 perishable property held or possessed in violation of law may
23 be sold where the same is not prohibited, as may be directed
24 by the court, or returned to the person from whom taken. The
25 judge ~~or magistrate~~ to whom said search warrant is returned
26 shall file the same with the inventory and sworn return in the
27 proper office, and if the original affidavit and proofs upon
28 which the warrant was issued are in his or her possession, he
29 or she shall apply to the officer having the same and the
30 officer shall transmit and deliver all of the papers, proofs,
31

1 and certificates to the proper office where the proceedings
2 are lodged.

3 Section 41. Section 939.02, Florida Statutes, is
4 amended to read:

5 939.02 Costs before committing trial court judge
6 ~~magistrate~~.--All costs accruing before a committing trial
7 court judge ~~magistrate~~ shall be taxed against the defendant on
8 conviction or estreat of recognizance.

9 Section 42. Section 939.14, Florida Statutes, is
10 amended to read:

11 939.14 County not to pay costs in cases where
12 information is not filed or indictment found.--When a
13 committing trial court judge ~~magistrate~~ holds to bail or
14 commits any person to answer a criminal charge in a county
15 court or a circuit court, and an information is not filed nor
16 an indictment found against such person, the costs of such
17 committing trial shall not be paid by the county, except the
18 costs for executing the warrant.

19 Section 43. Section 941.13, Florida Statutes, is
20 amended to read:

21 941.13 Arrest prior to requisition.--Whenever any
22 person within this state shall be charged on the oath of any
23 credible person before any judge ~~or magistrate~~ of this state
24 with the commission of any crime in any other state, and,
25 except in cases arising under s. 941.06, with having fled from
26 justice or with having been convicted of a crime in that state
27 and having escaped from confinement, or having broken the
28 terms of his or her bail, probation, or parole, or whenever
29 complaint shall have been made before any judge ~~or magistrate~~
30 in this state setting forth on the affidavit of any credible
31 person in another state that a crime has been committed in

1 such other state and that the accused has been charged in such
2 state with the commission of the crime, and, except in cases
3 arising under s. 941.06, has fled from justice, or with having
4 been convicted of a crime in that state and having escaped
5 from confinement, or having broken the terms of his or her
6 bail, probation, or parole, and is believed to be in this
7 state, the judge ~~or magistrate~~ shall issue a warrant directed
8 to any peace officer commanding him or her to apprehend the
9 person named therein, wherever the person may be found in this
10 state, and to bring the person before the same or any other
11 judge, ~~magistrate~~, or court who or which may be available in,
12 or convenient of, access to the place where the arrest may be
13 made, to answer the charge or complaint and affidavit, and a
14 certified copy of the sworn charge or complaint and affidavit
15 upon which the warrant is issued shall be attached to the
16 warrant.

17 Section 44. Section 941.14, Florida Statutes, is
18 amended to read:

19 941.14 Arrest without a warrant.--The arrest of a
20 person may be lawfully made also by any peace officer or a
21 private person, without a warrant upon reasonable information
22 that the accused stands charged in the courts of a state with
23 a crime punishable by death or imprisonment for a term
24 exceeding 1 year, but when so arrested the accused must be
25 taken before a judge ~~or magistrate~~ with all practicable speed
26 and complaint must be made against the accused under oath
27 setting forth the ground for the arrest as in the preceding
28 section; and thereafter his or her answer shall be heard as if
29 the accused had been arrested on a warrant.

30 Section 45. Section 941.15, Florida Statutes, is
31 amended to read:

1 941.15 Commitment to await requisition; bail.--If from
2 the examination before the judge ~~or magistrate~~ it appears that
3 the person held is the person charged with having committed
4 the crime alleged and, except in cases arising under s.
5 941.06, that the person has fled from justice, the judge ~~or~~
6 ~~magistrate~~ must, by a warrant reciting the accusation, commit
7 the person to the county jail for such a time not exceeding 30
8 days and specified in the warrant, as will enable the arrest
9 of the accused to be made under a warrant of the Governor on a
10 requisition of the executive authority of the state having
11 jurisdiction of the offense, unless the accused gives ~~give~~
12 bail as provided in s. 941.16 ~~the next section~~, or until the
13 accused shall be legally discharged.

14 Section 46. Section 941.17, Florida Statutes, is
15 amended to read:

16 941.17 Extension of time of commitment,
17 adjournment.--If the accused is not arrested under warrant of
18 the Governor by the expiration of the time specified in the
19 warrant or bond, a judge ~~or magistrate~~ may discharge the
20 accused or may recommit him or her for a further period not to
21 exceed 60 days, or a judge ~~or magistrate~~ ~~judge~~ may again take
22 bail for his or her appearance and surrender, as provided in
23 s. 941.16, but within a period not to exceed 60 days after the
24 date of such new bond.

25 Section 47. Section 941.18, Florida Statutes, is
26 amended to read:

27 941.18 Forfeiture of bail.--If the prisoner is
28 admitted to bail, and fails to appear and surrender himself or
29 herself according to the conditions of his or her bond, the
30 judge, ~~or magistrate by proper order~~, shall declare the bond
31 forfeited and order his or her immediate arrest without

1 warrant if he or she is ~~be~~ within this state. Recovery may be
2 had on such bond in the name of the state as in the case of
3 other bonds given by the accused in criminal proceedings
4 within this state.

5 Section 48. Subsection (2) of section 947.141, Florida
6 Statutes, is amended to read:

7 947.141 Violations of conditional release, control
8 release, or conditional medical release or addiction-recovery
9 supervision.--

10 (2) Upon the arrest on a felony charge of an offender
11 who is on release supervision under s. 947.1405, s. 947.146,
12 s. 947.149, or s. 944.4731, the offender must be detained
13 without bond until the initial appearance of the offender at
14 which a judicial determination of probable cause is made. If
15 the trial court judge ~~magistrate~~ determines that there was no
16 probable cause for the arrest, the offender may be released.
17 If the trial court judge ~~magistrate~~ determines that there was
18 probable cause for the arrest, such determination also
19 constitutes reasonable grounds to believe that the offender
20 violated the conditions of the release. Within 24 hours after
21 the trial court judge's ~~magistrate's~~ finding of probable
22 cause, the detention facility administrator or designee shall
23 notify the commission and the department of the finding and
24 transmit to each a facsimile copy of the probable cause
25 affidavit or the sworn offense report upon which the trial
26 court judge's ~~magistrate's~~ probable cause determination is
27 based. The offender must continue to be detained without bond
28 for a period not exceeding 72 hours excluding weekends and
29 holidays after the date of the probable cause determination,
30 pending a decision by the commission whether to issue a
31 warrant charging the offender with violation of the conditions

1 of release. Upon the issuance of the commission's warrant, the
2 offender must continue to be held in custody pending a
3 revocation hearing held in accordance with this section.

4 Section 49. Subsection (1) of section 948.06, Florida
5 Statutes, is amended to read:

6 948.06 Violation of probation or community control;
7 revocation; modification; continuance; failure to pay
8 restitution or cost of supervision.--

9 (1) Whenever within the period of probation or
10 community control there are reasonable grounds to believe that
11 a probationer or offender in community control has violated
12 his or her probation or community control in a material
13 respect, any law enforcement officer who is aware of the
14 probationary or community control status of the probationer or
15 offender in community control or any parole or probation
16 supervisor may arrest or request any county or municipal law
17 enforcement officer to arrest such probationer or offender
18 without warrant wherever found and forthwith return him or her
19 to the court granting such probation or community control. Any
20 committing trial court judge ~~magistrate~~ may issue a warrant,
21 upon the facts being made known to him or her by affidavit of
22 one having knowledge of such facts, for the arrest of the
23 probationer or offender, returnable forthwith before the court
24 granting such probation or community control. Any parole or
25 probation supervisor, any officer authorized to serve criminal
26 process, or any peace officer of this state is authorized to
27 serve and execute such warrant. Upon the filing of an
28 affidavit alleging a violation of probation or community
29 control and following issuance of a warrant under s. 901.02,
30 the probationary period is tolled until the court enters a
31 ruling on the violation. Notwithstanding the tolling of

1 probation as provided in this subsection, the court shall
2 retain jurisdiction over the offender for any violation of the
3 conditions of probation or community control that is alleged
4 to have occurred during the tolling period. The probation
5 officer is permitted to continue to supervise any offender who
6 remains available to the officer for supervision until the
7 supervision expires pursuant to the order of probation or
8 community control or until the court revokes or terminates the
9 probation or community control, whichever comes first. The
10 court, upon the probationer or offender being brought before
11 it, shall advise him or her of such charge of violation and,
12 if such charge is admitted to be true, may forthwith revoke,
13 modify, or continue the probation or community control or
14 place the probationer into a community control program. If
15 probation or community control is revoked, the court shall
16 adjudge the probationer or offender guilty of the offense
17 charged and proven or admitted, unless he or she has
18 previously been adjudged guilty, and impose any sentence which
19 it might have originally imposed before placing the
20 probationer on probation or the offender into community
21 control. If such violation of probation or community control
22 is not admitted by the probationer or offender, the court may
23 commit him or her or release him or her with or without bail
24 to await further hearing, or it may dismiss the charge of
25 probation or community control violation. If such charge is
26 not at that time admitted by the probationer or offender and
27 if it is not dismissed, the court, as soon as may be
28 practicable, shall give the probationer or offender an
29 opportunity to be fully heard on his or her behalf in person
30 or by counsel. After such hearing, the court may revoke,
31 modify, or continue the probation or community control or

1 place the probationer into community control. If such
2 probation or community control is revoked, the court shall
3 adjudge the probationer or offender guilty of the offense
4 charged and proven or admitted, unless he or she has
5 previously been adjudged guilty, and impose any sentence which
6 it might have originally imposed before placing the
7 probationer or offender on probation or into community
8 control. Notwithstanding s. 775.082, when a period of
9 probation or community control has been tolled, upon
10 revocation or modification of the probation or community
11 control, the court may impose a sanction with a term that when
12 combined with the amount of supervision served and tolled,
13 exceeds the term permissible pursuant to s. 775.082 for a term
14 up to the amount of the tolled period supervision. If the
15 court dismisses an affidavit alleging a violation of probation
16 or community control, the offender's probation or community
17 control shall continue as previously imposed, and the offender
18 shall receive credit for all tolled time against his or her
19 term of probation or community control.

20 Section 50. Paragraph (b) of subsection (4) of section
21 985.05, Florida Statutes, is amended to read:

22 985.05 Court records.--

23 (4) A court record of proceedings under this part is
24 not admissible in evidence in any other civil or criminal
25 proceeding, except that:

26 (b) Orders binding an adult over for trial on a
27 criminal charge, made by the committing trial judge ~~as a~~
28 ~~committing magistrate~~, are admissible in evidence in the court
29 to which the adult is bound over.

30 Section 51. Section 56.071, Florida Statutes, is
31 amended to read:

1 56.071 Executions on equities of redemption; discovery
2 of value.--On motion made by the party causing a levy to be
3 made on an equity of redemption, the court from which the
4 execution issued shall order the mortgagor, mortgagee, and all
5 other persons interested in the mortgaged property levied on
6 to appear and be examined about the amount remaining due on
7 the mortgage, the amount that has been paid, the party to whom
8 that amount has been paid, and the date when that amount was
9 paid to whom and when paid so that the value of the equity of
10 redemption may be ascertained before the property ~~it~~ is sold.
11 The court may appoint a general or special magistrate ~~master~~
12 to conduct the examination. This section shall also apply to
13 the interest of and personal property in possession of a
14 vendee under a retained title contract or conditional sales
15 contract.

16 Section 52. Subsections (2), (7), and (10) of section
17 56.29, Florida Statutes, are amended to read:

18 56.29 Proceedings supplementary.--

19 (2) On such plaintiff's motion the court shall require
20 the defendant in execution to appear before it or a general or
21 special magistrate ~~master~~ at a time and place specified by the
22 order in the county of the defendant's residence to be
23 examined concerning his or her property.

24 (7) At any time the court may refer the proceeding to
25 a general or special magistrate ~~master~~ who may be directed to
26 report findings of law or fact, or both. The master has all
27 the powers thereof, including the power to issue subpoena, and
28 shall be paid the fees provided by law.

29 (10) Any person failing to obey any order issued under
30 this section by a judge or general or special magistrate

31

1 ~~master~~ or failing to attend in response to a subpoena served
2 on him or her may be held in contempt.

3 Section 53. Subsection (4) of section 61.1826, Florida
4 Statutes, is amended to read:

5 61.1826 Procurement of services for State Disbursement
6 Unit and the non-Title IV-D component of the State Case
7 Registry; contracts and cooperative agreements; penalties;
8 withholding payment.--

9 (4) COOPERATIVE AGREEMENT AND CONTRACT TERMS.--The
10 contract between the Florida Association of Court Clerks and
11 the department, and cooperative agreements entered into by the
12 depositories and the department, must contain, but are not
13 limited to, the following terms:

14 (a) The initial term of the contract and cooperative
15 agreements is for 5 years. The subsequent term of the contract
16 and cooperative agreements is for 3 years, with the option of
17 two 1-year renewal periods, at the sole discretion of the
18 department.

19 (b) The duties and responsibilities of the Florida
20 Association of Court Clerks, the depositories, and the
21 department.

22 (c) Under s. 287.058(1)(a), all providers and
23 subcontractors shall submit to the department directly, or
24 through the Florida Association of Court Clerks, a report of
25 monthly expenditures in a format prescribed by the department
26 and in sufficient detail for a proper preaudit and postaudit
27 thereof.

28 (d) All providers and subcontractors shall submit to
29 the department directly, or through the Florida Association of
30 Court Clerks, management reports in a format prescribed by the
31 department.

1 (e) All subcontractors shall comply with chapter 280,
2 as may be required.

3 (f) Federal financial participation for eligible Title
4 IV-D expenditures incurred by the Florida Association of Court
5 Clerks and the depositories shall be at the maximum level
6 permitted by federal law for expenditures incurred for the
7 provision of services in support of child support enforcement
8 in accordance with 45 C.F.R. part 74 and Federal Office of
9 Management and Budget Circulars A-87 and A-122 and based on an
10 annual cost allocation study of each depository. The
11 depositories shall submit directly, or through the Florida
12 Association of Court Clerks, claims for Title IV-D
13 expenditures monthly to the department in a standardized
14 format as prescribed by the department. The Florida
15 Association of Court Clerks shall contract with a certified
16 public accounting firm, selected by the Florida Association of
17 Court Clerks and the department, to audit and certify
18 quarterly to the department all claims for expenditures
19 submitted by the depositories for Title IV-D reimbursement.

20 (g) Upon termination of the contracts between the
21 department and the Florida Association of Court Clerks or the
22 depositories, the Florida Association of Court Clerks, its
23 agents, and the depositories shall assist the department in
24 making an orderly transition to a private vendor.

25 (h) Interest on late payment by the department shall
26 be in accordance with s. 215.422.

27
28 If either the department or the Florida Association of Court
29 Clerks objects to a term of the standard cooperative agreement
30 or contract specified in subsections (2) and (3), the disputed
31 term or terms shall be presented jointly by the parties to the

1 Attorney General or the Attorney General's designee, who shall
2 act as special magistrate ~~master~~. The special magistrate
3 ~~master~~ shall resolve the dispute in writing within 10 days.
4 The resolution of a dispute by the special magistrate ~~master~~
5 is binding on the department and the Florida Association of
6 Court Clerks.

7 Section 54. Section 64.061, Florida Statutes, is
8 amended to read:

9 64.061 Partition of property; commissioners; special
10 magistrate ~~master~~.--

11 (1) APPOINTMENT AND REMOVAL.--When a judgment of
12 partition is made, the court shall appoint three suitable
13 persons as commissioners to make the partition. They shall be
14 selected by the court unless agreed on by the parties. They
15 may be removed by the court for good cause and others
16 appointed in their places.

17 (2) POWERS, DUTIES, COMPENSATION AND REPORT OF
18 COMMISSIONERS.--The commissioners shall be sworn to execute
19 the trust imposed in them faithfully and impartially before
20 entering on their duties; have power to employ a surveyor, if
21 necessary, for the purpose of making partition; be allowed
22 such sum as is reasonable for their services; to make
23 partition of the lands in question according to the court's
24 order and report it in writing to the court without delay.

25 (3) EXCEPTIONS TO REPORT AND FINAL JUDGMENT.--Any
26 party may file objections to the report of the commissioners
27 within 10 days after it is served. If no objections are filed
28 or if the court is satisfied on hearing any such objections
29 that they are not well-founded, the report shall be confirmed,
30 and a final judgment entered vesting in the parties the title
31 to the parcels of the lands allotted to them respectively, and

1 giving each of them the possession of and quieting title to
2 their respective shares as against the other parties to the
3 action or those claiming through or under them.

4 (4) APPOINTMENT OF SPECIAL MAGISTRATE ~~MASTER~~ WHERE
5 PROPERTY NOT SUBJECT TO PARTITION.--On an uncontested
6 allegation in a pleading that the property sought to be
7 partitioned is indivisible and is not subject to partition
8 without prejudice to the owners of it or if a judgment of
9 partition is entered and the court is satisfied that the
10 allegation is correct, on motion of any party and notice to
11 the others the court may appoint a special magistrate ~~master~~
12 or the clerk to make sale of the property either at private
13 sale or as provided by s. 64.071.

14 Section 55. Subsection (5) of section 65.061, Florida
15 Statutes, is amended to read:

16 65.061 Quieting title; additional remedy.--

17 (5) RECORDING FINAL JUDGMENTS.--All final judgments
18 may be recorded in the county or counties in which the land is
19 situated and operate to vest title in like manner as though a
20 conveyance were executed by a special magistrate ~~master~~ or
21 commissioner.

22 Section 56. Section 69.051, Florida Statutes, is
23 amended to read:

24 69.051 General and special magistrates ~~Masters in~~
25 ~~chancery~~; compensation.--General and special magistrates
26 appointed by the court ~~Masters in chancery~~ shall be allowed
27 such compensation for any services as the court deems
28 reasonable, including time consumed in legal research required
29 in preparing and summarizing their findings of fact and law.

30 Section 57. Section 70.51, Florida Statutes, is
31 amended to read:

1 70.51 Land use and environmental dispute resolution.--

2 (1) This section may be cited as the "Florida Land Use
3 and Environmental Dispute Resolution Act."

4 (2) As used in this section, the term:

5 (a) "Development order" means any order, or notice of
6 proposed state or regional governmental agency action, which
7 is or will have the effect of granting, denying, or granting
8 with conditions an application for a development permit, and
9 includes the rezoning of a specific parcel. Actions by the
10 state or a local government on comprehensive plan amendments
11 are not development orders.

12 (b) "Development permit" means any building permit,
13 zoning permit, subdivision approval, certification, special
14 exception, variance, or any other similar action of local
15 government, as well as any permit authorized to be issued
16 under state law by state, regional, or local government which
17 has the effect of authorizing the development of real property
18 including, but not limited to, programs implementing chapters
19 125, 161, 163, 166, 187, 258, 372, 373, 378, 380, and 403.

20 (c) "Special magistrate ~~master~~" means a person
21 selected by the parties to perform the duties prescribed in
22 this section. The special magistrate ~~master~~ must be a
23 resident of the state and possess experience and expertise in
24 mediation and at least one of the following disciplines and a
25 working familiarity with the others: land use and
26 environmental permitting, land planning, land economics, local
27 and state government organization and powers, and the law
28 governing the same.

29 (d) "Owner" means a person with a legal or equitable
30 interest in real property who filed an application for a
31 development permit for the property at the state, regional, or

1 local level and who received a development order, or who holds
2 legal title to real property that is subject to an enforcement
3 action of a governmental entity.

4 (e) "Proposed use of the property" means the proposal
5 filed by the owner to develop his or her real property.

6 (f) "Governmental entity" includes an agency of the
7 state, a regional or a local government created by the State
8 Constitution or by general or special act, any county or
9 municipality, or any other entity that independently exercises
10 governmental authority. The term does not include the United
11 States or any of its agencies.

12 (g) "Land" or "real property" means land and includes
13 any appurtenances and improvements to the land, including any
14 other relevant real property in which the owner had a relevant
15 interest.

16 (3) Any owner who believes that a development order,
17 either separately or in conjunction with other development
18 orders, or an enforcement action of a governmental entity, is
19 unreasonable or unfairly burdens the use of the owner's real
20 property, may apply within 30 days after receipt of the order
21 or notice of the governmental action for relief under this
22 section.

23 (4) To initiate a proceeding under this section, an
24 owner must file a request for relief with the elected or
25 appointed head of the governmental entity that issued the
26 development order or orders, or that initiated the enforcement
27 action. The head of the governmental entity may not charge
28 the owner for the request for relief and must forward the
29 request for relief to the special magistrate ~~master~~ who is
30 mutually agreed upon by the owner and the governmental entity
31 within 10 days after receipt of the request.

1 (5) The governmental entity with whom a request has
2 been filed shall also serve a copy of the request for relief
3 by United States mail or by hand delivery to:

4 (a) Owners of real property contiguous to the owner's
5 property at the address on the latest county tax roll.

6 (b) Any substantially affected party who submitted
7 oral or written testimony, sworn or unsworn, of a substantive
8 nature which stated with particularity objections to or
9 support for any development order at issue or enforcement
10 action at issue. Notice under this paragraph is required only
11 if that party indicated a desire to receive notice of any
12 subsequent special magistrate ~~master~~ proceedings occurring on
13 the development order or enforcement action. Each governmental
14 entity must maintain in its files relating to particular
15 development orders a mailing list of persons who have
16 presented oral or written testimony and who have requested
17 notice.

18 (6) The request for relief must contain:

19 (a) A brief statement of the owner's proposed use of
20 the property.

21 (b) A summary of the development order or description
22 of the enforcement action. A copy of the development order or
23 the documentation of an enforcement action at issue must be
24 attached to the request.

25 (c) A brief statement of the impact of the development
26 order or enforcement action on the ability of the owner to
27 achieve the proposed use of the property.

28 (d) A certificate of service showing the parties,
29 including the governmental entity, served.

30
31

1 (7) The special magistrate ~~master~~ may require other
2 information in the interest of gaining a complete
3 understanding of the request for relief.

4 (8) The special magistrate ~~master~~ may conduct a
5 hearing on whether the request for relief should be dismissed
6 for failing to include the information required in subsection
7 (6). If the special magistrate ~~master~~ dismisses the case, the
8 special magistrate ~~master~~ shall allow the owner to amend the
9 request and refile. Failure to file an adequate amended
10 request within the time specified shall result in a dismissal
11 with prejudice as to this proceeding.

12 (9) By requesting relief under this section, the owner
13 consents to grant the special magistrate ~~master~~ and the
14 parties reasonable access to the real property with advance
15 notice at a time and in a manner acceptable to the owner of
16 the real property.

17 (10)(a) Before initiating a special magistrate ~~master~~
18 proceeding to review a local development order or local
19 enforcement action, the owner must exhaust all nonjudicial
20 local government administrative appeals if the appeals take no
21 longer than 4 months. Once nonjudicial local administrative
22 appeals are exhausted and the development order or enforcement
23 action is final, or within 4 months after issuance of the
24 development order or notice of the enforcement action if the
25 owner has pursued local administrative appeals even if the
26 appeals have not been concluded, the owner may initiate a
27 proceeding under this section. Initiation of a proceeding
28 tolls the time for seeking judicial review of a local
29 government development order or enforcement action until the
30 special magistrate's ~~master's~~ recommendation is acted upon by
31 the local government. Election by the owner to file for

1 judicial review of a local government development order or
2 enforcement action prior to initiating a proceeding under this
3 section waives any right to a special magistrate ~~master~~
4 proceeding.

5 (b) If an owner requests ~~special master~~ relief under
6 this section from a development order or enforcement action
7 issued by a state or regional agency, the time for challenging
8 agency action under ss. 120.569 and 120.57 is tolled. If an
9 owner chooses to bring a proceeding under ss. 120.569 and
10 120.57 before initiating a ~~special master~~ proceeding under
11 this section, then the owner waives any right to a special
12 magistrate ~~master~~ proceeding unless all parties consent to
13 proceeding to mediation.

14 (11) The initial party to the proceeding is the
15 governmental entity that issues the development order to the
16 owner or that is taking the enforcement action. In those
17 instances when the development order or enforcement action is
18 the culmination of a process involving more than one
19 governmental entity or when a complete resolution of all
20 relevant issues would require the active participation of more
21 than one governmental entity, the special magistrate ~~master~~
22 may, upon application of a party, join those governmental
23 entities as parties to the proceeding if it will assist in
24 effecting the purposes of this section, and those governmental
25 entities so joined shall actively participate in the
26 procedure.

27 (12) Within 21 days after receipt of the request for
28 relief, any owner of land contiguous to the owner's property
29 and any substantially affected person who submitted oral or
30 written testimony, sworn or unsworn, of a substantive nature
31 which stated with particularity objections to or support for

1 the development order or enforcement action at issue may
2 request to participate in the proceeding. Those persons may
3 be permitted to participate in the hearing but shall not be
4 granted party or intervenor status. The participation of such
5 persons is limited to addressing issues raised regarding
6 alternatives, variances, and other types of adjustment to the
7 development order or enforcement action which may impact their
8 substantial interests, including denial of the development
9 order or application of an enforcement action.

10 (13) Each party must make efforts to assure that those
11 persons qualified by training or experience necessary to
12 address issues raised by the request or by the special
13 magistrate ~~master~~ and further qualified to address
14 alternatives, variances, and other types of modifications to
15 the development order or enforcement action are present at the
16 hearing.

17 (14) The special magistrate ~~master~~ may subpoena any
18 nonparty witnesses in the state whom the special magistrate
19 ~~master~~ believes will aid in the disposition of the matter.

20 (15)(a) The special magistrate ~~master~~ shall hold a
21 hearing within 45 days after his or her receipt of the request
22 for relief unless a different date is agreed to by all the
23 parties. The hearing must be held in the county in which the
24 property is located.

25 (b) The special magistrate ~~master~~ must provide notice
26 of the place, date, and time of the hearing to all parties and
27 any other persons who have requested such notice at least 40
28 days prior to the hearing.

29 (16)(a) Fifteen days following the filing of a request
30 for relief, the governmental entity that issued the
31 development order or that is taking the enforcement action

1 shall file a response to the request for relief with the
2 special magistrate ~~master~~ together with a copy to the owner.
3 The response must set forth in reasonable detail the position
4 of the governmental entity regarding the matters alleged by
5 the owner. The response must include a brief statement
6 explaining the public purpose of the regulations on which the
7 development order or enforcement action is based.

8 (b) Any governmental entity that is added by the
9 special magistrate ~~master~~ as a party must file a response to
10 the request for relief prior to the hearing but not later than
11 15 days following its admission.

12 (c) Any party may incorporate in the response to the
13 request for relief a request to be dropped from the
14 proceeding. The request to be dropped must set forth facts
15 and circumstances relevant to aid the special magistrate
16 ~~master~~ in ruling on the request. All requests to be dropped
17 must be disposed of prior to conducting any hearings on the
18 merits of the request for relief.

19 (17) In all respects, the hearing must be informal and
20 open to the public and does not require the use of an
21 attorney. The hearing must operate at the direction and under
22 the supervision of the special magistrate ~~master~~. The object
23 of the hearing is to focus attention on the impact of the
24 governmental action giving rise to the request for relief and
25 to explore alternatives to the development order or
26 enforcement action and other regulatory efforts by the
27 governmental entities in order to recommend relief, when
28 appropriate, to the owner.

29 (a) The first responsibility of the special magistrate
30 ~~master~~ is to facilitate a resolution of the conflict between
31 the owner and governmental entities to the end that some

1 modification of the owner's proposed use of the property or
2 adjustment in the development order or enforcement action or
3 regulatory efforts by one or more of the governmental parties
4 may be reached. Accordingly, the special magistrate ~~master~~
5 shall act as a facilitator or mediator between the parties in
6 an effort to effect a mutually acceptable solution. The
7 parties shall be represented at the mediation by persons with
8 authority to bind their respective parties to a solution, or
9 by persons with authority to recommend a solution directly to
10 the persons with authority to bind their respective parties to
11 a solution.

12 (b) If an acceptable solution is not reached by the
13 parties after the special magistrate's ~~master's~~ attempt at
14 mediation, the special magistrate ~~master~~ shall consider the
15 facts and circumstances set forth in the request for relief
16 and any responses and any other information produced at the
17 hearing in order to determine whether the action by the
18 governmental entity or entities is unreasonable or unfairly
19 burdens the real property.

20 (c) In conducting the hearing, the special magistrate
21 ~~master~~ may hear from all parties and witnesses that are
22 necessary to an understanding of the matter. The special
23 magistrate ~~master~~ shall weigh all information offered at the
24 hearing.

25 (18) The circumstances to be examined in determining
26 whether the development order or enforcement action, or the
27 development order or enforcement action in conjunction with
28 regulatory efforts of other governmental parties, is
29 unreasonable or unfairly burdens use of the property may
30 include, but are not limited to:

31

1 (a) The history of the real property, including when
2 it was purchased, how much was purchased, where it is located,
3 the nature of the title, the composition of the property, and
4 how it was initially used.

5 (b) The history or development and use of the real
6 property, including what was developed on the property and by
7 whom, if it was subdivided and how and to whom it was sold,
8 whether plats were filed or recorded, and whether
9 infrastructure and other public services or improvements may
10 have been dedicated to the public.

11 (c) The history of environmental protection and land
12 use controls and other regulations, including how and when the
13 land was classified, how use was proscribed, and what changes
14 in classifications occurred.

15 (d) The present nature and extent of the real
16 property, including its natural and altered characteristics.

17 (e) The reasonable expectations of the owner at the
18 time of acquisition, or immediately prior to the
19 implementation of the regulation at issue, whichever is later,
20 under the regulations then in effect and under common law.

21 (f) The public purpose sought to be achieved by the
22 development order or enforcement action, including the nature
23 and magnitude of the problem addressed by the underlying
24 regulations on which the development order or enforcement
25 action is based; whether the development order or enforcement
26 action is necessary to the achievement of the public purpose;
27 and whether there are alternative development orders or
28 enforcement action conditions that would achieve the public
29 purpose and allow for reduced restrictions on the use of the
30 property.

31

1 (g) Uses authorized for and restrictions placed on
2 similar property.

3 (h) Any other information determined relevant by the
4 special magistrate ~~master~~.

5 (19) Within 14 days after the conclusion of the
6 hearing, the special magistrate ~~master~~ shall prepare and file
7 with all parties a written recommendation.

8 (a) If the special magistrate ~~master~~ finds that the
9 development order at issue, or the development order or
10 enforcement action in combination with the actions or
11 regulations of other governmental entities, is not
12 unreasonable or does not unfairly burden the use of the
13 owner's property, the special magistrate ~~master~~ must recommend
14 that the development order or enforcement action remain
15 undisturbed and the proceeding shall end, subject to the
16 owner's retention of all other available remedies.

17 (b) If the special magistrate ~~master~~ finds that the
18 development order or enforcement action, or the development
19 order or enforcement action in combination with the actions or
20 regulations of other governmental entities, is unreasonable or
21 unfairly burdens use of the owner's property, the special
22 magistrate ~~master~~, with the owner's consent to proceed, may
23 recommend one or more alternatives that protect the public
24 interest served by the development order or enforcement action
25 and regulations at issue but allow for reduced restraints on
26 the use of the owner's real property, including, but not
27 limited to:

28 1. An adjustment of land development or permit
29 standards or other provisions controlling the development or
30 use of land.

31

- 1 2. Increases or modifications in the density,
2 intensity, or use of areas of development.
- 3 3. The transfer of development rights.
- 4 4. Land swaps or exchanges.
- 5 5. Mitigation, including payments in lieu of onsite
6 mitigation.
- 7 6. Location on the least sensitive portion of the
8 property.
- 9 7. Conditioning the amount of development or use
10 permitted.
- 11 8. A requirement that issues be addressed on a more
12 comprehensive basis than a single proposed use or development.
- 13 9. Issuance of the development order, a variance,
14 special exception, or other extraordinary relief, including
15 withdrawal of the enforcement action.
- 16 10. Purchase of the real property, or an interest
17 therein, by an appropriate governmental entity.
- 18 (c) This subsection does not prohibit the owner and
19 governmental entity from entering in to an agreement as to the
20 permissible use of the property prior to the special
21 magistrate ~~master~~ entering a recommendation. An agreement for
22 a permissible use must be incorporated in the special
23 magistrate's ~~master's~~ recommendation.
- 24 (20) The special magistrate's ~~master's~~ recommendation
25 is a public record under chapter 119. However, actions or
26 statements of all participants to the special magistrate
27 ~~master~~ proceeding are evidence of an offer to compromise and
28 inadmissible in any proceeding, judicial or administrative.
- 29 (21) Within 45 days after receipt of the special
30 magistrate's ~~master's~~ recommendation, the governmental entity
31 responsible for the development order or enforcement action

1 and other governmental entities participating in the
2 proceeding must consult among themselves and each governmental
3 entity must:

4 (a) Accept the recommendation of the special
5 magistrate ~~master~~ as submitted and proceed to implement it by
6 development agreement, when appropriate, or by other method,
7 in the ordinary course and consistent with the rules and
8 procedures of that governmental entity. However, the decision
9 of the governmental entity to accept the recommendation of the
10 special magistrate ~~master~~ with respect to granting a
11 modification, variance, or special exception to the
12 application of statutes, rules, regulations, or ordinances as
13 they would otherwise apply to the subject property does not
14 require an owner to duplicate previous processes in which the
15 owner has participated in order to effectuate the granting of
16 the modification, variance, or special exception;

17 (b) Modify the recommendation as submitted by the
18 special magistrate ~~master~~ and proceed to implement it by
19 development agreement, when appropriate, or by other method,
20 in the ordinary course and consistent with the rules and
21 procedures of that governmental entity; or

22 (c) Reject the recommendation as submitted by the
23 special magistrate ~~master~~. Failure to act within 45 days is a
24 rejection unless the period is extended by agreement of the
25 owner and issuer of the development order or enforcement
26 action.

27 (22) If a governmental entity accepts the special
28 magistrate's ~~master's~~ recommendation or modifies it and the
29 owner rejects the acceptance or modification, or if a
30 governmental entity rejects the special magistrate's ~~master's~~
31 recommendation, the governmental entity must issue a written

1 decision within 30 days that describes as specifically as
2 possible the use or uses available to the subject real
3 property.

4 (23) The procedure established by this section may not
5 continue longer than 165 days, unless the period is extended
6 by agreement of the parties. A decision describing available
7 uses constitutes the last prerequisite to judicial action and
8 the matter is ripe or final for subsequent judicial
9 proceedings unless the owner initiates a proceeding under ss.
10 120.569 and 120.57. If the owner brings a proceeding under ss.
11 120.569 and 120.57, the matter is ripe when the proceeding
12 culminates in a final order whether further appeal is
13 available or not.

14 (24) The procedure created by this section is not
15 itself, nor does it create, a judicial cause of action. Once
16 the governmental entity acts on the special magistrate's
17 ~~master's~~ recommendation, the owner may elect to file suit in a
18 court of competent jurisdiction. Invoking the procedures of
19 this section is not a condition precedent to filing a civil
20 action.

21 (25) Regardless of the action the governmental entity
22 takes on the special magistrate's ~~master's~~ recommendation, a
23 recommendation that the development order or enforcement
24 action, or the development order or enforcement action in
25 combination with other governmental regulatory actions, is
26 unreasonable or unfairly burdens use of the owner's real
27 property may serve as an indication of sufficient hardship to
28 support modification, variances, or special exceptions to the
29 application of statutes, rules, regulations, or ordinances to
30 the subject property.

31

1 (26) A special magistrate's ~~master's~~ recommendation
2 under this section constitutes data in support of, and a
3 support document for, a comprehensive plan or comprehensive
4 plan amendment, but is not, in and of itself, dispositive of a
5 determination of compliance with chapter 163. Any
6 comprehensive plan amendment necessary to carry out the
7 approved recommendation of a special magistrate ~~master~~ under
8 this section is exempt from the twice-a-year limit on plan
9 amendments and may be adopted by the local government
10 amendments in s. 163.3184(16)(d).

11 (27) The special magistrate ~~master~~ shall send a copy
12 of the recommendation in each case to the Department of Legal
13 Affairs. Each governmental entity, within 15 days after its
14 action on the special magistrate's ~~master's~~ recommendation,
15 shall notify the Department of Legal Affairs in writing as to
16 what action the governmental entity took on the special
17 magistrate's ~~master's~~ recommendation.

18 (28) Each governmental entity may establish procedural
19 guidelines to govern the conduct of proceedings authorized by
20 this section, which must include, but are not limited to,
21 payment of special magistrate ~~master~~ fees and expenses,
22 including the costs of providing notice and effecting service
23 of the request for relief under this section, which shall be
24 borne equally by the governmental entities and the owner.

25 (29) This section shall be liberally construed to
26 effect fully its obvious purposes and intent, and governmental
27 entities shall direct all available resources and authorities
28 to effect fully the obvious purposes and intent of this
29 section in resolving disputes. Governmental entities are
30 encouraged to expedite notice and time-related provisions to
31 implement resolution of disputes under this section. The

1 procedure established by this section may be used to resolve
2 disputes in pending judicial proceedings, with the agreement
3 of the parties to the judicial proceedings, and subject to the
4 approval of the court in which the judicial proceedings are
5 pending. The provisions of this section are cumulative, and
6 do not supplant other methods agreed to by the parties and
7 lawfully available for arbitration, mediation, or other forms
8 of alternative dispute resolution.

9 (30) This section applies only to development orders
10 issued, modified, or amended, or to enforcement actions
11 issued, on or after October 1, 1995.

12 Section 58. Subsection (1) of section 92.142, Florida
13 Statutes, is amended to read:

14 92.142 Witnesses; pay.--

15 (1) Witnesses in all cases, civil and criminal, in all
16 courts, now or hereafter created, and witnesses summoned
17 before any arbitrator or general or special magistrate
18 appointed by the court ~~master in chancery~~ shall receive for
19 each day's actual attendance \$5 and also 6 cents per mile for
20 actual distance traveled to and from the courts. A witness in
21 a criminal case required to appear in a county other than the
22 county of his or her residence and residing more than 50 miles
23 from the location of the trial shall be entitled to per diem
24 and travel expenses at the same rate provided for state
25 employees under s. 112.061, in lieu of any other witness fee
26 at the discretion of the court.

27 Section 59. Section 112.41, Florida Statutes, is
28 amended to read:

29 112.41 Contents of order of suspension; Senate select
30 committee; special magistrate ~~examiner~~.--

31

1 (1) The order of the Governor, in suspending any
2 officer pursuant to the provisions of s. 7, Art. IV of the
3 State Constitution, shall specify facts sufficient to advise
4 both the officer and the Senate as to the charges made or the
5 basis of the suspension.

6 (2) The Senate shall conduct a hearing in the manner
7 prescribed by rules of the Senate adopted for this purpose.

8 (3) The Senate may provide for a select committee to
9 be appointed by the Senate in accordance with its rules for
10 the purpose of hearing the evidence and making its
11 recommendation to the Senate as to the removal or
12 reinstatement of the suspended officer.

13 (4) The Senate may, in lieu of the use of a select
14 committee, appoint a ~~special examiner or a special~~ magistrate
15 ~~master~~ to receive the evidence and make recommendations to the
16 Senate.

17 Section 60. Section 112.43, Florida Statutes, is
18 amended to read:

19 112.43 Prosecution of suspension before Senate.--All
20 suspensions heard by the Senate, a select committee, or
21 special magistrate ~~master, or examiner~~ in accordance with
22 rules of the Senate shall be prosecuted by the Governor, the
23 Governor's legal staff, or an attorney designated by the
24 Governor. Should the Senate, or the select committee
25 appointed by the Senate to hear the evidence and to make
26 recommendations, desire private counsel, either the Senate or
27 the select committee shall be entitled to employ its own
28 counsel for this purpose. Nothing herein shall prevent the
29 Senate or its select committee from making its own
30 investigation and presenting such evidence as its
31 investigation may reveal. The Governor may request the advice

1 of the Department of Legal Affairs relative to the suspension
2 order prior to its issuance by the Governor. Following the
3 issuance of the suspension order, either the Senate or the
4 select committee may request the Department of Legal Affairs
5 to provide counsel for the Senate to advise on questions of
6 law or otherwise advise with the Senate or the select
7 committee, but the Department of Legal Affairs shall not be
8 required to prosecute before the Senate or the committee and
9 shall, pursuant to the terms of this section, act as the legal
10 adviser only.

11 Section 61. Section 112.47, Florida Statutes, is
12 amended to read:

13 112.47 Hearing before Senate select committee;
14 notice.--The Senate shall afford each suspended official a
15 hearing before a select committee or special magistrate,
16 ~~master, or examiner,~~ and shall notify such suspended official
17 of the time and place of the hearing sufficiently in advance
18 thereof to afford such official an opportunity fully and
19 adequately to prepare such defenses as the official may be
20 advised are necessary and proper, and all such defenses may be
21 presented by the official or by the official's attorney. In
22 the furtherance of this provision the Senate shall adopt
23 sufficient procedural rules to afford due process both to the
24 Governor in the presentation of his or her evidence and to the
25 suspended official, but in the absence of such adoption, this
26 section shall afford a full and complete hearing, public in
27 nature, as required by the State Constitution. However,
28 nothing in this part shall prevent either the select committee
29 or the Senate from conducting portions of the hearing in
30 executive session if the Senate rules so provide.

31

1 Section 62. Subsection (2) of section 162.03, Florida
2 Statutes, is amended to read:

3 162.03 Applicability.--

4 (2) A charter county, a noncharter county, or a
5 municipality may, by ordinance, adopt an alternate code
6 enforcement system that ~~which~~ gives code enforcement boards or
7 special magistrates ~~masters~~ designated by the local governing
8 body, or both, the authority to hold hearings and assess fines
9 against violators of the respective county or municipal codes
10 and ordinances. A special magistrate ~~master~~ shall have the
11 same status as an enforcement board under this chapter.
12 References in this chapter to an enforcement board, except in
13 s. 162.05, shall include a special magistrate ~~master~~ if the
14 context permits.

15 Section 63. Subsection (5) of section 162.06, Florida
16 Statutes, is amended to read:

17 162.06 Enforcement procedure.--

18 (5) If the owner of property that ~~which~~ is subject to
19 an enforcement proceeding before an enforcement board, special
20 magistrate ~~master~~, or court transfers ownership of such
21 property between the time the initial pleading was served and
22 the time of the hearing, such owner shall:

23 (a) Disclose, in writing, the existence and the nature
24 of the proceeding to the prospective transferee.

25 (b) Deliver to the prospective transferee a copy of
26 the pleadings, notices, and other materials relating to the
27 code enforcement proceeding received by the transferor.

28 (c) Disclose, in writing, to the prospective
29 transferee that the new owner will be responsible for
30 compliance with the applicable code and with orders issued in
31 the code enforcement proceeding.

1 (d) File a notice with the code enforcement official
2 of the transfer of the property, with the identity and address
3 of the new owner and copies of the disclosures made to the new
4 owner, within 5 days after the date of the transfer.

5
6 A failure to make the disclosures described in paragraphs (a),
7 (b), and (c) before the transfer creates a rebuttable
8 presumption of fraud. If the property is transferred before
9 the hearing, the proceeding shall not be dismissed, but the
10 new owner shall be provided a reasonable period of time to
11 correct the violation before the hearing is held.

12 Section 64. Paragraph (d) of subsection (2) of section
13 162.09, Florida Statutes, is amended to read:

14 162.09 Administrative fines; costs of repair; liens.--

15 (2)

16 (d) A county or a municipality having a population
17 equal to or greater than 50,000 may adopt, by a vote of at
18 least a majority plus one of the entire governing body of the
19 county or municipality, an ordinance that gives code
20 enforcement boards or special magistrates ~~masters~~, or both,
21 authority to impose fines in excess of the limits set forth in
22 paragraph (a). Such fines shall not exceed \$1,000 per day per
23 violation for a first violation, \$5,000 per day per violation
24 for a repeat violation, and up to \$15,000 per violation if the
25 code enforcement board or special magistrate ~~master~~ finds the
26 violation to be irreparable or irreversible in nature. In
27 addition to such fines, a code enforcement board or special
28 magistrate ~~master~~ may impose additional fines to cover all
29 costs incurred by the local government in enforcing its codes
30 and all costs of repairs pursuant to subsection (1). Any
31 ordinance imposing such fines shall include criteria to be

1 considered by the code enforcement board or special magistrate
2 ~~master~~ in determining the amount of the fines, including, but
3 not limited to, those factors set forth in paragraph (b).

4 Section 65. Section 173.09, Florida Statutes, is
5 amended to read:

6 173.09 Judgment for complainant; special magistrate's
7 ~~master's~~ sale; complainant may purchase and later sell.--

8 (1) Any such decree shall direct the special
9 magistrate ~~master~~ thereby appointed to sell the several
10 parcels of land separately to the highest and best bidder for
11 cash (or, at the option of complainant, to the extent of
12 special assessments included in such judgment, for bonds or
13 interest coupons issued by complainant), at public outcry at
14 the courthouse door of the county in which such suit is
15 pending, or at such point or place in the complainant
16 municipality as the court in such final decree may direct,
17 after having advertised such sale (which advertisement may
18 include all lands so ordered sold) once each week for 2
19 consecutive weeks in some newspaper published in the
20 municipality ~~city or town~~ in which ~~is~~ the complainant arose
21 or, if there is no such newspaper, in a newspaper published in
22 the county in which the suit is pending, and if all the lands
23 so advertised for sale be not sold on the day specified in
24 such advertisement, such sale shall be continued from day to
25 day until the sale of all such land is completed.

26 (2) Such sales shall be subject to confirmation by the
27 court, and the said special magistrate ~~master~~ shall, upon
28 confirmation of the sale or sales, deliver to the purchaser or
29 purchasers at said sale a deed of conveyance of the property
30 so sold; provided, however, that in any case where any lands
31 are offered for sale by the special magistrate ~~master~~ and the

1 sum of the tax, tax certificates and special assessments,
2 interest, penalty, costs, and attorney's fee is not bid for
3 the same, the complainant may bid the whole amount due and the
4 special magistrate ~~master~~ shall thereupon convey such parcel
5 or parcels of land to the complainant.

6 (3) The property so bid in by complainant shall become
7 its property in fee simple and may be disposed of by it in the
8 manner provided by law, except that in the sale or disposition
9 of any such lands the municipality ~~city or town~~ may, in its
10 discretion, accept in payment or part payment therefor any
11 bonds or interest coupons constituting liabilities of the
12 municipality ~~said city or town~~.

13 Section 66. Section 173.10, Florida Statutes, is
14 amended to read:

15 173.10 Judgment for complainant; court may order
16 payment of other taxes or sale subject to taxes; special
17 magistrate's ~~master's~~ conveyances.--

18 (1) In the judgment or decree the court may, in its
19 discretion, direct the payment of all unpaid state and county
20 taxes and also all unpaid municipal ~~city or town~~ taxes and
21 special assessments or installments thereof, imposed or
22 falling due since the institution of the suit, with the
23 penalties and costs, out of the proceeds of such foreclosure
24 sale, or it may order and direct such sale or sales to be made
25 subject to such state, and county, and municipal ~~city or town~~
26 taxes and special assessments.

27 (2) Any and all conveyances by the special magistrate
28 ~~master~~ shall vest in the purchaser the fee simple title to the
29 property so sold, subject only to such liens for state and
30 county taxes or taxing districts whose liens are of equal
31 dignity, and liens for municipal taxes and special

1 assessments, or installments thereof, as are not directed by
2 the decree of sale to be paid out of the proceeds of said
3 sale.

4 Section 67. Section 173.11, Florida Statutes, is
5 amended to read:

6 173.11 Distribution of proceeds of sale.--The proceeds
7 of any foreclosure sale authorized by this chapter shall be
8 distributed by the special magistrate ~~master~~ conducting the
9 sale according to the final decree, and if any surplus remains
10 after the payment of the full amount of the decree, costs and
11 attorney's fees, and any subsequent tax liens that ~~which~~ may
12 be directed by such decree to be paid from the proceeds of
13 sale, such surplus shall be deposited with the clerk of the
14 court and disbursed under order of the court.

15 Section 68. Section 173.12, Florida Statutes, is
16 amended to read:

17 173.12 Lands may be redeemed prior to sale.--Any
18 person interested in any lands included in the suit may redeem
19 such lands at any time prior to the sale thereof by the
20 special magistrate ~~master~~ by paying into the registry of the
21 court the amount due for delinquent taxes, interest and
22 penalties thereon, and such proportionate part of the expense,
23 attorney's fees, and costs of suit as may have been fixed by
24 the court in its decree of sale, or by written stipulation of
25 complainant, and thereupon such lands shall be dismissed from
26 the cause.

27 Section 69. Subsection (1) of section 194.013, Florida
28 Statutes, is amended to read:

29 194.013 Filing fees for petitions; disposition;
30 waiver.--

31

1 (1) If so required by resolution of the value
2 adjustment board, a petition filed pursuant to s. 194.011
3 shall be accompanied by a filing fee to be paid to the clerk
4 of the value adjustment board in an amount determined by the
5 board not to exceed \$15 for each separate parcel of property,
6 real or personal, covered by the petition and subject to
7 appeal. However, no such filing fee may be required with
8 respect to an appeal from the disapproval of homestead
9 exemption under s. 196.151 or from the denial of tax deferral
10 under s. 197.253. Only a single filing fee shall be charged
11 under this section as to any particular parcel of property
12 despite the existence of multiple issues and hearings
13 pertaining to such parcel. For joint petitions filed pursuant
14 to s. 194.011(3)(e) or (f), a single filing fee shall be
15 charged. Such fee shall be calculated as the cost of the
16 special magistrate ~~master~~ for the time involved in hearing the
17 joint petition and shall not exceed \$5 per parcel. Said fee
18 is to be proportionately paid by affected parcel owners.

19 Section 70. Paragraph (d) of subsection (1) and
20 subsections (2) and (6) of section 194.034, Florida Statutes,
21 are amended to read:

22 194.034 Hearing procedures; rules.--

23 (1)

24 (d) Notwithstanding the provisions of this subsection,
25 no petitioner may present for consideration, nor may a board
26 or special magistrate ~~master~~ accept for consideration,
27 testimony or other evidentiary materials that were requested
28 of the petitioner in writing by the property appraiser of
29 which the petitioner had knowledge and denied to the property
30 appraiser.

31

1 (2) In each case, except when a complaint is withdrawn
2 by the petitioner or is acknowledged as correct by the
3 property appraiser, the value adjustment board shall render a
4 written decision. All such decisions shall be issued within
5 20 calendar days after ~~of~~ the last day the board is in session
6 under s. 194.032. The decision of the board shall contain
7 findings of fact and conclusions of law and shall include
8 reasons for upholding or overturning the determination of the
9 property appraiser. When a special magistrate ~~master~~ has been
10 appointed, the recommendations of the special magistrate
11 ~~master~~ shall be considered by the board. The clerk, upon
12 issuance of the decisions, shall, on a form provided by the
13 Department of Revenue, notify by first-class mail each
14 taxpayer, the property appraiser, and the department of the
15 decision of the board.

16 (6) For purposes of hearing joint petitions filed
17 pursuant to s. 194.011(3)(e), each included parcel shall be
18 considered by the board as a separate petition. Such separate
19 petitions shall be heard consecutively by the board. If a
20 special magistrate ~~master~~ is appointed, such separate
21 petitions shall all be assigned to the same special magistrate
22 ~~master~~.

23 Section 71. Section 194.035, Florida Statutes, is
24 amended to read:

25 194.035 Special magistrates ~~masters~~; property
26 evaluators.--

27 (1) In counties having a population of more than
28 75,000, the board shall appoint special magistrates ~~masters~~
29 for the purpose of taking testimony and making recommendations
30 to the board, which recommendations the board may act upon
31 without further hearing. These ~~Such~~ special magistrates

1 ~~masters~~ may not be elected or appointed officials or employees
2 of the county but shall be selected from a list of those
3 qualified individuals who are willing to serve as special
4 magistrates ~~masters~~. Employees and elected or appointed
5 officials of a taxing jurisdiction or of the state may not
6 serve as special magistrates ~~masters~~. The clerk of the board
7 shall annually notify such individuals or their professional
8 associations to make known to them that opportunities to serve
9 as special magistrates ~~masters~~ exist. The Department of
10 Revenue shall provide a list of qualified special magistrates
11 ~~masters~~ to any county with a population of 75,000 or less.
12 Subject to appropriation, the department shall reimburse
13 counties with a population of 75,000 or less for payments made
14 to special magistrates ~~masters~~ appointed for the purpose of
15 taking testimony and making recommendations to the value
16 adjustment board pursuant to this section. The department
17 shall establish a reasonable range for payments per case to
18 special magistrates ~~masters~~ based on such payments in other
19 counties. Requests for reimbursement of payments outside this
20 range shall be justified by the county. If the total of all
21 requests for reimbursement in any year exceeds the amount
22 available pursuant to this section, payments to all counties
23 shall be prorated accordingly. A special magistrate ~~master~~
24 appointed to hear issues of exemptions and classifications
25 shall be a member of The Florida Bar with no less than 5
26 years' experience in the area of ad valorem taxation. A
27 special magistrate ~~master~~ appointed to hear issues regarding
28 the valuation of real estate shall be a state certified real
29 estate appraiser with not less than 5 years' experience in
30 real property valuation. A special magistrate ~~master~~ appointed
31 to hear issues regarding the valuation of tangible personal

1 property shall be a designated member of a nationally
2 recognized appraiser's organization with not less than 5
3 years' experience in tangible personal property valuation. A
4 special magistrate ~~master~~ need not be a resident of the county
5 in which he or she serves. A No special magistrate may not
6 ~~master shall be permitted to~~ represent a person before the
7 board in any tax year during which he or she has served that
8 board as a special magistrate ~~master~~. The board shall appoint
9 special magistrates ~~such masters~~ from the list so compiled
10 prior to convening of the board. The expense of hearings
11 before magistrates ~~masters~~ and any compensation of special
12 magistrates ~~masters~~ shall be borne three-fifths by the board
13 of county commissioners and two-fifths by the school board.

14 (2) The value adjustment board of each county may
15 employ qualified property appraisers or evaluators to appear
16 before the value adjustment board at that meeting of the board
17 which is held for the purpose of hearing complaints. Such
18 property appraisers or evaluators shall present testimony as
19 to the just value of any property the value of which is
20 contested before the board and shall submit to examination by
21 the board, the taxpayer, and the property appraiser.

22 Section 72. Section 206.16, Florida Statutes, is
23 amended to read:

24 206.16 Officer selling property.--

25 (1) No sheriff, receiver, assignee, general or special
26 magistrate ~~master~~, or other officer shall sell the property or
27 franchise of any person for failure to pay fuel taxes,
28 penalties, or interest without first filing with the
29 department a statement containing the following information:

30 (a) The name of the plaintiff or party at whose
31 instance or upon whose account the sale is made;

1 (b) The name of the person whose property or franchise
2 is to be sold;

3 (c) The time and place of sale; and

4 (d) The nature of the property and the location of the
5 same.

6 (2) The department, after receiving notice as
7 aforesaid, shall furnish to the sheriff, receiver, trustee,
8 assignee, general or special magistrate ~~master~~, or other
9 officer having charge of the sale a certified copy or copies
10 of all fuel taxes, penalties, and interest on file in the
11 office of the department as liens against such person, and, in
12 the event there are no such liens, a certificate showing that
13 fact, which certified copies or copy of certificate shall be
14 publicly read by such officer at and immediately before the
15 sale of the property or franchise of such person.

16 Section 73. Section 207.016, Florida Statutes, is
17 amended to read:

18 207.016 Officer's sale of property or franchise.--

19 (1) No sheriff, receiver, assignee, general or special
20 magistrate ~~master~~, or other officer shall sell the property or
21 franchise of any person for failure to pay taxes, penalties,
22 or interest without first filing with the department a
23 statement containing the following information:

24 (a) The name of the plaintiff or party at whose
25 instance or upon whose account the sale is made.

26 (b) The name of the person whose property or franchise
27 is to be sold.

28 (c) The time and place of sale.

29 (d) The nature of the property and the location of the
30 same.

31

1 (2) The department, after receiving notice as provided
2 in subsection (1), shall furnish to the sheriff, receiver,
3 trustee, assignee, general or special magistrate ~~master~~, or
4 other officer having charge of the sale a certified copy or
5 copies of all taxes, penalties, and interest on file in the
6 office of the department as liens against such person and, in
7 the event there are no such liens, a certificate showing that
8 fact, which certified copy or copies of certificate shall be
9 publicly read by such officer at and immediately before the
10 sale of the property or franchise of such person.

11 Section 74. Section 320.411, Florida Statutes, is
12 amended to read:

13 320.411 Officer's sale of property or franchise.--

14 (1) No sheriff, receiver, assignee, general or special
15 magistrate ~~master~~, or other officer shall sell the property or
16 franchise of any motor carrier for failure to pay taxes,
17 penalties, or interest without first filing with the
18 department a statement containing the following information:

19 (a) The name of the plaintiff or party at whose
20 instance or upon whose account the sale is made.

21 (b) The name of the motor carrier whose property or
22 franchise is to be sold.

23 (c) The time and place of sale.

24 (d) The nature of the property and the location of the
25 same.

26 (2) The department, after receiving notice as provided
27 in subsection (1), shall furnish to the sheriff, receiver,
28 trustee, assignee, general or special magistrate ~~master~~, or
29 other officer having charge of the sale a certified copy of
30 all taxes, penalties, and interest on file in the office of
31 the department as liens against such motor carrier and, in the

1 event there are no such liens, a certificate showing that
2 fact, which certified copy or copies of certificate shall be
3 publicly read by such officer at and immediately before the
4 sale of the property or franchise of such motor carrier.

5 Section 75. Subsection (7) of section 393.11, Florida
6 Statutes, is amended to read:

7 393.11 Involuntary admission to residential
8 services.--

9 (7) HEARING.--

10 (a) The hearing for involuntary admission shall be
11 conducted, and the order shall be entered, in the county in
12 which the person is residing or be as convenient to the person
13 as may be consistent with orderly procedure. The hearing shall
14 be conducted in a physical setting not likely to be injurious
15 to the person's condition.

16 (b) A hearing on the petition shall be held as soon as
17 practicable after the petition is filed, but reasonable delay
18 for the purpose of investigation, discovery, or procuring
19 counsel or witnesses shall be granted.

20 (c) The court may appoint a general or special
21 magistrate ~~master~~ to preside. Except as otherwise specified,
22 the magistrate's ~~master's~~ proceeding shall be governed by Rule
23 1.490, Florida Rules of Civil Procedure.

24 (d) The person with mental retardation shall be
25 physically present throughout the entire proceeding. If the
26 person's attorney believes that the person's presence at the
27 hearing is not in the person's best interest, the person's
28 presence may be waived once the court has seen the person and
29 the hearing has commenced.

30 (e) The person shall have the right to present
31 evidence and to cross-examine all witnesses and other evidence

1 alleging the appropriateness of the person's admission to
2 residential care. Other relevant and material evidence
3 regarding the appropriateness of the person's admission to
4 residential services; the most appropriate, least restrictive
5 residential placement; and the appropriate care, treatment,
6 and habilitation of the person, including written or oral
7 reports, may be introduced at the hearing by any interested
8 person.

9 (f) The petitioning commission may be represented by
10 counsel at the hearing. The petitioning commission shall have
11 the right to call witnesses, present evidence, cross-examine
12 witnesses, and present argument on behalf of the petitioning
13 commission.

14 (g) All evidence shall be presented according to
15 chapter 90. The burden of proof shall be on the party
16 alleging the appropriateness of the person's admission to
17 residential services. The burden of proof shall be by clear
18 and convincing evidence.

19 (h) All stages of each proceeding shall be
20 stenographically reported.

21 Section 76. Subsections (6) and (7) of section
22 394.467, Florida Statutes, are amended to read:

23 394.467 Involuntary placement.--

24 (6) HEARING ON INVOLUNTARY PLACEMENT.--

25 (a)1. The court shall hold the hearing on involuntary
26 placement within 5 days, unless a continuance is granted. The
27 hearing shall be held in the county where the patient is
28 located and shall be as convenient to the patient as may be
29 consistent with orderly procedure and shall be conducted in
30 physical settings not likely to be injurious to the patient's
31 condition. If the court finds that the patient's attendance

1 at the hearing is not consistent with the best interests of
2 the patient, and the patient's counsel does not object, the
3 court may waive the presence of the patient from all or any
4 portion of the hearing. The state attorney for the circuit in
5 which the patient is located shall represent the state, rather
6 than the petitioning facility administrator, as the real party
7 in interest in the proceeding.

8 2. The court may appoint a general or special
9 magistrate ~~master~~ to preside at the hearing. One of the
10 professionals who executed the involuntary placement
11 certificate shall be a witness. The patient and the patient's
12 guardian or representative shall be informed by the court of
13 the right to an independent expert examination. If the
14 patient cannot afford such an examination, the court shall
15 provide for one. The independent expert's report shall be
16 confidential and not discoverable, unless the expert is to be
17 called as a witness for the patient at the hearing. The
18 testimony in the hearing must be given under oath, and the
19 proceedings must be recorded. The patient may refuse to
20 testify at the hearing.

21 (b) If the court concludes that the patient meets the
22 criteria for involuntary placement, it shall order that the
23 patient be transferred to a treatment facility or, if the
24 patient is at a treatment facility, that the patient be
25 retained there or be treated at any other appropriate
26 receiving or treatment facility, or that the patient receive
27 services from a receiving or treatment facility, on an
28 involuntary basis, for a period of up to 6 months. The order
29 shall specify the nature and extent of the patient's mental
30 illness. The facility shall discharge a patient any time the
31 patient no longer meets the criteria for involuntary

1 placement, unless the patient has transferred to voluntary
2 status.

3 (c) If at any time prior to the conclusion of the
4 hearing on involuntary placement it appears to the court that
5 the person does not meet the criteria for involuntary
6 placement under this chapter, but instead meets the criteria
7 for involuntary assessment, protective custody, or involuntary
8 admission pursuant to s. 397.675, then the court may order the
9 person to be admitted for involuntary assessment for a period
10 of 5 days pursuant to s. 397.6811. Thereafter, all
11 proceedings shall be governed by chapter 397.

12 (d) At the hearing on involuntary placement, the court
13 shall consider testimony and evidence regarding the patient's
14 competence to consent to treatment. If the court finds that
15 the patient is incompetent to consent to treatment, it shall
16 appoint a guardian advocate as provided in s. 394.4598.

17 (e) The administrator of the receiving facility shall
18 provide a copy of the court order and adequate documentation
19 of a patient's mental illness to the administrator of a
20 treatment facility whenever a patient is ordered for
21 involuntary placement, whether by civil or criminal court.
22 Such documentation shall include any advance directives made
23 by the patient, a psychiatric evaluation of the patient, and
24 any evaluations of the patient performed by a clinical
25 psychologist or a clinical social worker. The administrator of
26 a treatment facility may refuse admission to any patient
27 directed to its facilities on an involuntary basis, whether by
28 civil or criminal court order, who is not accompanied at the
29 same time by adequate orders and documentation.

30 (7) PROCEDURE FOR CONTINUED INVOLUNTARY PLACEMENT.--
31

1 (a) Hearings on petitions for continued involuntary
2 placement shall be administrative hearings and shall be
3 conducted in accordance with the provisions of s. 120.57(1),
4 except that any order entered by the administrative law judge
5 ~~hearing officer~~ shall be final and subject to judicial review
6 in accordance with s. 120.68. Orders concerning patients
7 committed after successfully pleading not guilty by reason of
8 insanity shall be governed by the provisions of s. 916.15.

9 (b) If the patient continues to meet the criteria for
10 involuntary placement, the administrator shall, prior to the
11 expiration of the period during which the treatment facility
12 is authorized to retain the patient, file a petition
13 requesting authorization for continued involuntary placement.
14 The request shall be accompanied by a statement from the
15 patient's physician or clinical psychologist justifying the
16 request, a brief description of the patient's treatment during
17 the time he or she was involuntarily placed, and an
18 individualized plan of continued treatment. Notice of the
19 hearing shall be provided as set forth in s. 394.4599. If at
20 the hearing the administrative law judge ~~hearing officer~~ finds
21 that attendance at the hearing is not consistent with the best
22 interests of the patient, the administrative law judge ~~hearing~~
23 ~~officer~~ may waive the presence of the patient from all or any
24 portion of the hearing, unless the patient, through counsel,
25 objects to the waiver of presence. The testimony in the
26 hearing must be under oath, and the proceedings must be
27 recorded.

28 (c) Unless the patient is otherwise represented or is
29 ineligible, he or she shall be represented at the hearing on
30 the petition for continued involuntary placement by the public
31 defender of the circuit in which the facility is located.

1 (d) If at a hearing it is shown that the patient
2 continues to meet the criteria for involuntary placement, the
3 administrative law judge shall sign the order for continued
4 involuntary placement for a period not to exceed 6 months.
5 The same procedure shall be repeated prior to the expiration
6 of each additional period the patient is retained.

7 (e) If continued involuntary placement is necessary
8 for a patient admitted while serving a criminal sentence, but
9 whose sentence is about to expire, or for a patient
10 involuntarily placed while a minor but who is about to reach
11 the age of 18, the administrator shall petition the
12 administrative law judge for an order authorizing continued
13 involuntary placement.

14 (f) If the patient has been previously found
15 incompetent to consent to treatment, the administrative law
16 judge hearing officer shall consider testimony and evidence
17 regarding the patient's competence. If the administrative law
18 judge hearing officer finds evidence that the patient is now
19 competent to consent to treatment, the administrative law
20 judge hearing officer may issue a recommended order to the
21 court that found the patient incompetent to consent to
22 treatment that the patient's competence be restored and that
23 any guardian advocate previously appointed be discharged.

24 Section 77. Subsection (7) of section 397.311, Florida
25 Statutes, is amended to read:

26 397.311 Definitions.--As used in this chapter, except
27 part VIII:

28 (7) "Court" means, with respect to all involuntary
29 proceedings under this chapter, the circuit court of the
30 county in which the judicial proceeding is pending or where
31 the substance abuse impaired person resides or is located, and

1 includes any general or special magistrate ~~master~~ that may be
2 appointed by the chief judge to preside over all or part of
3 such proceeding. Otherwise, "court" refers to the court of
4 legal jurisdiction in the context in which the term is used in
5 this chapter.

6 Section 78. Subsection (1) of section 397.681, Florida
7 Statutes, is amended to read:

8 397.681 Involuntary petitions; general provisions;
9 court jurisdiction and right to counsel.--

10 (1) JURISDICTION.--The courts have jurisdiction of
11 involuntary assessment and stabilization petitions and
12 involuntary treatment petitions for substance abuse impaired
13 persons, and such petitions must be filed with the clerk of
14 the court in the county where the person is located. The
15 chief judge may appoint a general or special magistrate ~~master~~
16 to preside over all or part of the proceedings. The alleged
17 impaired person is named as the respondent.

18 Section 79. Subsection (5) of section 447.207, Florida
19 Statutes, is amended to read:

20 447.207 Commission; powers and duties.--

21 (5) The commission shall adopt rules as to the
22 qualifications of persons who may serve as mediators and
23 special magistrates ~~masters~~ and shall maintain lists of such
24 qualified persons who are not employees of the commission.
25 The commission may initiate dispute resolution procedures by
26 special magistrates ~~masters~~, pursuant to the provisions of
27 this part.

28 Section 80. Subsections (2), (3), and (4) of section
29 447.403, Florida Statutes, are amended to read:

30 447.403 Resolution of impasses.--

31

1 (2)(a) If no mediator is appointed, or upon the
2 request of either party, the commission shall appoint, and
3 submit all unresolved issues to, a special magistrate ~~master~~
4 acceptable to both parties. If the parties are unable to agree
5 on the appointment of a special magistrate ~~master~~, the
6 commission shall appoint, in its discretion, a qualified
7 special magistrate ~~master~~. However, if the parties agree in
8 writing to waive the appointment of a special magistrate
9 ~~master~~, the parties may proceed directly to resolution of the
10 impasse by the legislative body pursuant to paragraph (4)(d).
11 Nothing in this section precludes the parties from using the
12 services of a mediator at any time during the conduct of
13 collective bargaining.

14 (b) If the Governor is the public employer, no special
15 magistrate ~~master~~ shall be appointed. The parties may proceed
16 directly to the Legislature for resolution of the impasse
17 pursuant to paragraph (4)(d).

18 (3) The special magistrate ~~master~~ shall hold hearings
19 in order to define the area or areas of dispute, to determine
20 facts relating to the dispute, and to render a decision on any
21 and all unresolved contract issues. The hearings shall be
22 held at times, dates, and places to be established by the
23 special magistrate ~~master~~ in accordance with rules promulgated
24 by the commission. The special magistrate ~~master~~ shall be
25 empowered to administer oaths and issue subpoenas on behalf of
26 the parties to the dispute or on his or her own behalf.
27 Within 15 calendar days after the close of the final hearing,
28 the special magistrate ~~master~~ shall transmit his or her
29 recommended decision to the commission and to the
30 representatives of both parties by registered mail, return
31 receipt requested. Such recommended decision shall be

1 discussed by the parties, and each recommendation of the
2 special magistrate ~~master~~ shall be deemed approved by both
3 parties unless specifically rejected by either party by
4 written notice filed with the commission within 20 calendar
5 days after the date the party received the special
6 magistrate's ~~master's~~ recommended decision. The written
7 notice shall include a statement of the cause for each
8 rejection and shall be served upon the other party.

9 (4) If either the public employer or the employee
10 organization does not accept, in whole or in part, the
11 recommended decision of the special magistrate ~~master~~:

12 (a) The chief executive officer of the governmental
13 entity involved shall, within 10 days after rejection of a
14 recommendation of the special magistrate ~~master~~, submit to the
15 legislative body of the governmental entity involved a copy of
16 the findings of fact and recommended decision of the special
17 magistrate ~~master~~, together with the chief executive officer's
18 recommendations for settling the disputed impasse issues. The
19 chief executive officer shall also transmit his or her
20 recommendations to the employee organization;

21 (b) The employee organization shall submit its
22 recommendations for settling the disputed impasse issues to
23 such legislative body and to the chief executive officer;

24 (c) The legislative body or a duly authorized
25 committee thereof shall forthwith conduct a public hearing at
26 which the parties shall be required to explain their positions
27 with respect to the rejected recommendations of the special
28 magistrate ~~master~~;

29 (d) Thereafter, the legislative body shall take such
30 action as it deems to be in the public interest, including the
31

1 interest of the public employees involved, to resolve all
2 disputed impasse issues; and
3 (e) Following the resolution of the disputed impasse
4 issues by the legislative body, the parties shall reduce to
5 writing an agreement which includes those issues agreed to by
6 the parties and those disputed impasse issues resolved by the
7 legislative body's action taken pursuant to paragraph (d). The
8 agreement shall be signed by the chief executive officer and
9 the bargaining agent and shall be submitted to the public
10 employer and to the public employees who are members of the
11 bargaining unit for ratification. If such agreement is not
12 ratified by all parties, pursuant to the provisions of s.
13 447.309, the legislative body's action taken pursuant to the
14 provisions of paragraph (d) shall take effect as of the date
15 of such legislative body's action for the remainder of the
16 first fiscal year which was the subject of negotiations;
17 however, the legislative body's action shall not take effect
18 with respect to those disputed impasse issues which establish
19 the language of contractual provisions which could have no
20 effect in the absence of a ratified agreement, including, but
21 not limited to, preambles, recognition clauses, and duration
22 clauses.

23 Section 81. Section 447.405, Florida Statutes, is
24 amended to read:

25 447.405 Factors to be considered by the special
26 magistrate ~~master~~.--The special magistrate ~~master~~ shall
27 conduct the hearings and render recommended decisions with the
28 objective of achieving a prompt, peaceful, and just settlement
29 of disputes between the public employee organizations and the
30 public employers. The factors, among others, to be given
31

1 weight by the special magistrate ~~master~~ in arriving at a
2 recommended decision shall include:

3 (1) Comparison of the annual income of employment of
4 the public employees in question with the annual income of
5 employment maintained for the same or similar work of
6 employees exhibiting like or similar skills under the same or
7 similar working conditions in the local operating area
8 involved.

9 (2) Comparison of the annual income of employment of
10 the public employees in question with the annual income of
11 employment of public employees in similar public employee
12 governmental bodies of comparable size within the state.

13 (3) The interest and welfare of the public.

14 (4) Comparison of peculiarities of employment in
15 regard to other trades or professions, specifically with
16 respect to:

- 17 (a) Hazards of employment.
- 18 (b) Physical qualifications.
- 19 (c) Educational qualifications.
- 20 (d) Intellectual qualifications.
- 21 (e) Job training and skills.
- 22 (f) Retirement plans.
- 23 (g) Sick leave.
- 24 (h) Job security.
- 25 (5) Availability of funds.

26 Section 82. Section 447.407, Florida Statutes, is
27 amended to read:

28 447.407 Compensation of mediator and special
29 magistrate ~~master~~; expenses.--The compensation of the mediator
30 and special magistrate ~~master~~, and all stenographic and other
31 expenses, shall be borne equally by the parties.

1 Section 83. Section 447.409, Florida Statutes, is
2 amended to read:

3 447.409 Records.--All records that ~~which~~ are relevant
4 to, or have a bearing upon, any issue or issues raised by the
5 proceedings conducted by the special magistrate ~~master~~ shall
6 be made available to the special magistrate ~~master~~ by a
7 request in writing to any of the parties to the impasse
8 proceedings. Notice of such request must ~~shall~~ be furnished
9 to all parties. Any such records that ~~which~~ are made
10 available to the special magistrate ~~master~~ must ~~shall~~ also be
11 made available to any other party to the impasse proceedings,
12 upon written request.

13 Section 84. Subsection (1) of section 475.011, Florida
14 Statutes, is amended to read:

15 475.011 Exemptions.--This part does not apply to:

16 (1) Any person acting as an attorney in fact for the
17 purpose of the execution of contracts or conveyances only; as
18 an attorney at law within the scope of her or his duties as
19 such; as a certified public accountant, as defined in chapter
20 473, within the scope of her or his duties as such; as the
21 personal representative, receiver, trustee, or general or
22 special magistrate ~~master~~ under, or by virtue of, an
23 appointment by will or by order of a court of competent
24 jurisdiction; or as trustee under a deed of trust, or under a
25 trust agreement, the ultimate purpose and intent whereof is
26 charitable, is philanthropic, or provides for those having a
27 natural right to the bounty of the donor or trustor.

28 Section 85. Paragraphs (d), (f), (g), (h), and (j) of
29 subsection (5) of section 489.127, Florida Statutes, are
30 amended to read:

31 489.127 Prohibitions; penalties.--

1 (5) Each county or municipality may, at its option,
2 designate one or more of its code enforcement officers, as
3 defined in chapter 162, to enforce, as set out in this
4 subsection, the provisions of subsection (1) and s. 489.132(1)
5 against persons who engage in activity for which a county or
6 municipal certificate of competency or license or state
7 certification or registration is required.

8 (d) The act for which the citation is issued shall be
9 ceased upon receipt of the citation; and the person charged
10 with the violation shall elect either to correct the violation
11 and pay the civil penalty in the manner indicated on the
12 citation or, within 10 days after ~~of~~ receipt of the citation,
13 exclusive of weekends and legal holidays, request an
14 administrative hearing before the enforcement or licensing
15 board or designated special magistrate ~~master~~ to appeal the
16 issuance of the citation by the code enforcement officer.

17 1. Hearings shall be held before an enforcement or
18 licensing board or designated special magistrate ~~master~~ as
19 established by s. 162.03(2), and such hearings shall be
20 conducted pursuant to the requirements of ss. 162.07 and
21 162.08.

22 2. Failure of a violator to appeal the decision of the
23 code enforcement officer within the time period set forth in
24 this paragraph shall constitute a waiver of the violator's
25 right to an administrative hearing. A waiver of the right to
26 an administrative hearing shall be deemed an admission of the
27 violation, and penalties may be imposed accordingly.

28 3. If the person issued the citation, or his or her
29 designated representative, shows that the citation is invalid
30 or that the violation has been corrected prior to appearing
31 before the enforcement or licensing board or designated

1 special magistrate ~~master~~, the enforcement or licensing board
2 or designated special magistrate ~~master~~ may dismiss the
3 citation unless the violation is irreparable or irreversible.

4 4. Each day a willful, knowing violation continues
5 shall constitute a separate offense under the provisions of
6 this subsection.

7 (f) If the enforcement or licensing board or
8 designated special magistrate ~~master~~ finds that a violation
9 exists, the enforcement or licensing board or designated
10 special magistrate ~~master~~ may order the violator to pay a
11 civil penalty of not less than the amount set forth on the
12 citation but not more than \$1,000 per day for each violation.
13 In determining the amount of the penalty, the enforcement or
14 licensing board or designated special magistrate ~~master~~ shall
15 consider the following factors:

- 16 1. The gravity of the violation.
17 2. Any actions taken by the violator to correct the
18 violation.
19 3. Any previous violations committed by the violator.

20 (g) Upon written notification by the code enforcement
21 officer that a violator had not contested the citation or paid
22 the civil penalty within the timeframe allowed on the
23 citation, or if a violation has not been corrected within the
24 timeframe set forth on the notice of violation, the
25 enforcement or licensing board or the designated special
26 magistrate ~~master~~ shall enter an order ordering the violator
27 to pay the civil penalty set forth on the citation or notice
28 of violation, and a hearing shall not be necessary for the
29 issuance of such order.

30 (h) A certified copy of an order imposing a civil
31 penalty against an uncertified contractor may be recorded in

1 the public records and thereafter shall constitute a lien
2 against any real or personal property owned by the violator.
3 Upon petition to the circuit court, such order may be enforced
4 in the same manner as a court judgment by the sheriffs of this
5 state, including a levy against personal property; however,
6 such order shall not be deemed to be a court judgment except
7 for enforcement purposes. A civil penalty imposed pursuant to
8 this part shall continue to accrue until the violator comes
9 into compliance or until judgment is rendered in a suit to
10 foreclose on a lien filed pursuant to this subsection,
11 whichever occurs first. After 3 months following ~~from~~ the
12 filing of any such lien which remains unpaid, the enforcement
13 board or licensing board or designated special magistrate
14 ~~master~~ may authorize the local governing body's attorney to
15 foreclose on the lien. No lien created pursuant to the
16 provisions of this part may be foreclosed on real property
17 which is a homestead under s. 4, Art. X of the State
18 Constitution.

19 (j) An aggrieved party, including the local governing
20 body, may appeal a final administrative order of an
21 enforcement board or licensing board or designated special
22 magistrate ~~master~~ to the circuit court. Such an appeal shall
23 not be a hearing de novo but shall be limited to appellate
24 review of the record created before the enforcement board or
25 licensing board or designated special magistrate ~~master~~. An
26 appeal shall be filed within 30 days after ~~of the~~ execution of
27 the order to be appealed.

28 Section 86. Paragraphs (d), (f), (g), (h), and (j) of
29 subsection (4) of section 489.531, Florida Statutes, are
30 amended to read:

31 489.531 Prohibitions; penalties.--

1 (4)

2 (d) The act for which the citation is issued shall be
3 ceased upon receipt of the citation; and the person charged
4 with the violation shall elect either to correct the violation
5 and pay the civil penalty in the manner indicated on the
6 citation or, within 10 days after ~~of~~ receipt of the citation,
7 exclusive of weekends and legal holidays, request an
8 administrative hearing before the enforcement or licensing
9 board or designated special magistrate ~~master~~ to appeal the
10 issuance of the citation by the code enforcement officer.

11 1. Hearings shall be held before an enforcement or
12 licensing board or designated special magistrate ~~master~~ as
13 established by s. 162.03(2) and such hearings shall be
14 conducted pursuant to ss. 162.07 and 162.08.

15 2. Failure of a violator to appeal the decision of the
16 code enforcement officer within the time period set forth in
17 this paragraph shall constitute a waiver of the violator's
18 right to an administrative hearing. A waiver of the right to
19 administrative hearing shall be deemed an admission of the
20 violation and penalties may be imposed accordingly.

21 3. If the person issued the citation, or his or her
22 designated representative, shows that the citation is invalid
23 or that the violation has been corrected prior to appearing
24 before the enforcement or licensing board or designated
25 special magistrate ~~master~~, the enforcement or licensing board
26 or designated special magistrate ~~master~~ shall dismiss the
27 citation unless the violation is irreparable or irreversible.

28 4. Each day a willful, knowing violation continues
29 shall constitute a separate offense under the provisions of
30 this subsection.

31

1 (f) If the enforcement or licensing board or
2 designated special magistrate ~~master~~ finds that a violation
3 exists, the enforcement or licensing board or designated
4 special magistrate ~~master~~ may order the violator to pay a
5 civil penalty of not less than the amount set forth on the
6 citation but not more than \$500 per day for each violation.
7 In determining the amount of the penalty, the enforcement or
8 licensing board or designated special magistrate ~~master~~ shall
9 consider the following factors:

- 10 1. The gravity of the violation.
11 2. Any actions taken by the violator to correct the
12 violation.
13 3. Any previous violations committed by the violator.

14 (g) Upon written notification by the code enforcement
15 officer that a violator had not contested the citation or paid
16 the civil penalty within the timeframe allowed on the
17 citation, or if a violation has not been corrected within the
18 timeframe set forth on the notice of violation, the
19 enforcement or licensing board or the designated special
20 magistrate ~~master~~ shall enter an order ordering the violator
21 to pay the civil penalty set forth on the citation or notice
22 of violation, and a hearing shall not be necessary for the
23 issuance of such order.

24 (h) A certified copy of an order imposing a civil
25 penalty against an uncertified contractor may be recorded in
26 the public records and thereafter shall constitute a lien
27 against any real or personal property owned by the violator.
28 Upon petition to the circuit court, such order may be enforced
29 in the same manner as a court judgment by the sheriffs of this
30 state, including a levy against personal property; however,
31 such order shall not be deemed to be a court judgment except

1 for enforcement purposes. A civil penalty imposed pursuant to
2 this part shall continue to accrue until the violator comes
3 into compliance or until judgment is rendered in a suit to
4 foreclose on a lien filed pursuant to this section, whichever
5 occurs first. After 3 months following ~~from~~ the filing of any
6 such lien which remains unpaid, the enforcement or licensing
7 board or designated special magistrate ~~master~~ may authorize
8 the local governing body's attorney to foreclose on the lien.
9 No lien created pursuant to the provisions of this part may be
10 foreclosed on real property which is a homestead under s. 4,
11 Art. X of the State Constitution.

12 (j) An aggrieved party, including the local governing
13 body, may appeal a final administrative order of an
14 enforcement or licensing board or ~~special~~ designated special
15 magistrate ~~master~~ to the circuit court. Such an appeal shall
16 not be a hearing de novo but shall be limited to appellate
17 review of the record created before the enforcement or
18 licensing board or designated special master. An appeal shall
19 be filed within 30 days of the execution of the order to be
20 appealed.

21 Section 87. Subsection (1) of section 496.420, Florida
22 Statutes, is amended to read:

23 496.420 Civil remedies and enforcement.--

24 (1) In addition to other remedies authorized by law,
25 the department may bring a civil action in circuit court to
26 enforce ss. 496.401-496.424 or s. 496.426. Upon a finding that
27 any person has violated any of these sections, a court may
28 make any necessary order or enter a judgment including, but
29 not limited to, a temporary or permanent injunction, a
30 declaratory judgment, the appointment of a general or special
31 magistrate ~~master~~ or receiver, the sequestration of assets,

1 the reimbursement of persons from whom contributions have been
2 unlawfully solicited, the distribution of contributions in
3 accordance with the charitable or sponsor purpose expressed in
4 the registration statement or in accordance with the
5 representations made to the person solicited, the
6 reimbursement of the department for investigative costs,
7 attorney's fees and costs, and any other equitable relief the
8 court finds appropriate. Upon a finding that any person has
9 violated any provision of ss. 496.401-496.424 or s. 496.426
10 with actual knowledge or knowledge fairly implied on the basis
11 of objective circumstances, a court may enter an order
12 imposing a civil penalty in an amount not to exceed \$10,000
13 per violation.

14 Section 88. Subsection (3) of section 501.207, Florida
15 Statutes, is amended to read:

16 501.207 Remedies of enforcing authority.--

17 (3) Upon motion of the enforcing authority or any
18 interested party in any action brought under subsection (1),
19 the court may make appropriate orders, including, but not
20 limited to, appointment of a general or special magistrate
21 ~~master~~ or receiver or sequestration or freezing of assets, to
22 reimburse consumers or governmental entities found to have
23 been damaged; to carry out a transaction in accordance with
24 the reasonable expectations of consumers or governmental
25 entities; to strike or limit the application of clauses of
26 contracts to avoid an unconscionable result; to order any
27 defendant to divest herself or himself of any interest in any
28 enterprise, including real estate; to impose reasonable
29 restrictions upon the future activities of any defendant to
30 impede her or him from engaging in or establishing the same
31 type of endeavor; to order the dissolution or reorganization

1 of any enterprise; or to grant legal, equitable, or other
2 appropriate relief. The court may assess the expenses of a
3 general or special magistrate ~~master~~ or receiver against a
4 person who has violated, is violating, or is otherwise likely
5 to violate this part. Any injunctive order, whether temporary
6 or permanent, issued by the court shall be effective
7 throughout the state unless otherwise provided in the order.

8 Section 89. Section 501.618, Florida Statutes, is
9 amended to read:

10 501.618 General civil remedies.--The department may
11 bring:

12 (1) An action to obtain a declaratory judgment that an
13 act or practice violates the provisions of this part.

14 (2) An action to enjoin a person who has violated, is
15 violating, or is otherwise likely to violate the provisions of
16 this part.

17 (3) An action on behalf of one or more purchasers for
18 the actual damages caused by an act or practice performed in
19 violation of the provisions of this part. Such an action may
20 include, but is not limited to, an action to recover against a
21 bond, letter of credit, or certificate of deposit as otherwise
22 provided in this part.

23
24 Upon motion of the enforcing authority in any action brought
25 under this section, the court may make appropriate orders,
26 including appointment of a general or special magistrate
27 ~~master~~ or receiver or sequestration of assets, to reimburse
28 consumers found to have been damaged, to carry out a consumer
29 transaction in accordance with the consumer's reasonable
30 expectations, or to grant other appropriate relief. The court
31 may assess the expenses of a general or special magistrate

1 ~~master~~ or receiver against a commercial telephone seller. Any
2 injunctive order, whether temporary or permanent, issued by
3 the court shall be effective throughout the state unless
4 otherwise provided in the order.

5 Section 90. Subsection (6) of section 559.936, Florida
6 Statutes, is amended to read:

7 559.936 Civil penalties; remedies.--

8 (6) Upon motion of the department in any action
9 brought under this part, the court may make appropriate
10 orders, including appointment of a general or special
11 magistrate ~~master~~ or receiver or sequestration of assets, to
12 reimburse consumers found to have been damaged, to carry out a
13 consumer transaction in accordance with the consumer's
14 reasonable expectations, or to grant other appropriate relief.

15 Section 91. Subsection (1) of section 582.23, Florida
16 Statutes, is amended to read:

17 582.23 Performance of work under the regulations by
18 the supervisors.--

19 (1) The supervisors may go upon any lands within the
20 district to determine whether land use regulations adopted are
21 being observed. Where the supervisors of any district shall
22 find that any of the provisions of land use regulations
23 adopted are not being observed on particular lands, and that
24 such nonobservance tends to increase erosion on such lands and
25 is interfering with the prevention or control of erosion on
26 other lands within the district, the supervisors may present
27 to the circuit court for the county or counties within which
28 the lands of the defendant may lie, a petition, duly verified,
29 setting forth the adoption of the land use regulations, the
30 failure of the defendant landowner or occupier to observe such
31 regulations, and to perform particular work, operations, or

1 avoidances as required thereby, and that such nonobservance
2 tends to increase erosion on such lands and is interfering
3 with the prevention or control of erosion on other lands
4 within the district, and praying the court to require the
5 defendant to perform the work, operations, or avoidances
6 within a reasonable time and to order that if the defendant
7 shall fail so to perform the supervisors may go on the land,
8 perform the work or other operations or otherwise bring the
9 condition of such lands into conformity with the requirements
10 of such regulations, and recover the costs and expenses
11 thereof, with interest, from the owner of such land. Upon the
12 presentation of such petition the court shall cause process to
13 be issued against the defendant, and shall hear the case. If
14 it shall appear to the court that testimony is necessary for
15 the proper disposition of the matter, it may take evidence or
16 appoint a special magistrate ~~master~~ to take such evidence as
17 it may direct and report the same to the court within her or
18 his findings of fact and conclusions of law, which shall
19 constitute a part of the proceedings upon which the
20 determination of the court shall be made.

21 Section 92. Subsection (2) of section 631.182, Florida
22 Statutes, is amended to read:

23 631.182 Receiver claims report and claimants
24 objections procedure.--

25 (2) At the hearing, any interested person is entitled
26 to appear. The hearing shall not be de novo but shall be
27 limited to the record as described in s. 631.181(2). The court
28 shall enter an order allowing, allowing in part, or
29 disallowing the claim. Any such order is deemed to be an
30 appealable order. In the interests of judicial economy, the
31 court may appoint a special magistrate ~~master~~ to resolve

1 objections or to perform any particular service required by
2 the court. This subsection shall apply to receivership
3 proceedings commencing prior to, or subsequent to, July 1,
4 1997.

5 Section 93. Subsections (3) and (4) of section
6 631.331, Florida Statutes, are amended to read:

7 631.331 Assessment prima facie correct; notice;
8 payment; proceeding to collect.--

9 (3) If any such member or subscriber fails to pay the
10 assessment within the period specified in the notice, which
11 period shall not be less than 20 days after mailing, the
12 department may obtain an order in the delinquency proceeding
13 requiring the member or subscriber to show cause at a time and
14 place fixed by the court why judgment should not be entered
15 against such member or subscriber for the amount of the
16 assessment, together with all costs. ~~and~~ A copy of the order
17 and a copy of the petition therefor shall be served upon the
18 member or subscriber within the time and in the manner
19 designated in the order.

20 (4) If the subscriber or member after due service of a
21 copy of the order and petition referred to in subsection (3)
22 is made upon her or him:

23 (a) Fails to appear at the time and place specified in
24 the order, judgment shall be entered against her or him as
25 prayed for in the petition; or

26 (b) Appears in the manner and form required by law in
27 response to the order, the court shall hear and determine the
28 matter and enter a judgment in accordance with its decision.
29 In the interests of judicial economy, the court may appoint a
30 special magistrate ~~master~~ to resolve objections or to perform
31 any particular service required by the court. This paragraph

1 shall apply to receivership proceedings commencing prior to,
2 or subsequent to, July 1, 1997.

3 Section 94. Subsection (2) of section 633.052, Florida
4 Statutes, is amended to read:

5 633.052 Ordinances relating to firesafety;
6 definitions; penalties.--

7 (2) A county or municipality that ~~which~~ has created a
8 code enforcement board or special magistrate ~~master~~ system
9 pursuant to chapter 162 may enforce firesafety code violations
10 as provided in chapter 162. The governing body of a county or
11 municipality which has not created a code enforcement board or
12 special magistrate ~~master~~ system for firesafety under chapter
13 162 is authorized to enact ordinances relating to firesafety
14 codes, which ordinances shall provide:

15 (a) That a violation of such an ordinance is a civil
16 infraction.

17 (b) A maximum civil penalty not to exceed \$500.

18 (c) A civil penalty of less than the maximum civil
19 penalty if the person who has committed the civil infraction
20 does not contest the citation.

21 (d) For the issuance of a citation by an officer who
22 has probable cause to believe that a person has committed a
23 violation of an ordinance relating to firesafety.

24 (e) For the contesting of a citation in the county
25 court.

26 (f) Such procedures and provisions necessary to
27 implement any ordinances enacted under the authority of this
28 section.

29 Section 95. Subsection (2) of section 744.369, Florida
30 Statutes, is amended to read:

31 744.369 Judicial review of guardianship reports.--

1 (2) The court may appoint general or special
2 magistrate masters to assist the court in its review function.
3 The court may require the general or special magistrate master
4 to conduct random field audits.

5 Section 96. Subsection (11) of section 760.11, Florida
6 Statutes, is amended to read:

7 760.11 Administrative and civil remedies;
8 construction.--

9 (11) If a complaint is within the jurisdiction of the
10 commission, the commission shall simultaneously with its other
11 statutory obligations attempt to eliminate or correct the
12 alleged discrimination by informal methods of conference,
13 conciliation, and persuasion. Nothing said or done in the
14 course of such informal endeavors may be made public or used
15 as evidence in a subsequent civil proceeding, trial, or
16 hearing. The commission may initiate dispute resolution
17 procedures, including voluntary arbitration, by special
18 magistrates masters or mediators. The commission may adopt
19 rules as to the qualifications of persons who may serve as
20 special magistrates masters and mediators.

21 Section 97. Subsection (1) of section 837.011, Florida
22 Statutes, is amended to read:

23 837.011 Definitions.--In this chapter, unless a
24 different meaning plainly is required:

25 (1) "Official proceeding" means a proceeding heard, or
26 which may be or is required to be heard, before any
27 legislative, judicial, administrative, or other governmental
28 agency or official authorized to take evidence under oath,
29 including any referee, general or special magistrate master in
30 chancery, administrative law judge, hearing officer, hearing
31 examiner, commissioner, notary, or other person taking

1 testimony or a deposition in connection with any such
2 proceeding.

3 Section 98. Subsection (6) of section 838.014, Florida
4 Statutes, is amended to read:

5 838.014 Definitions.--As used in this chapter, the
6 term:

7 (6) "Public servant" means:

- 8 (a) Any officer or employee of a state, county,
9 municipal, or special district agency or entity;
10 (b) Any legislative or judicial officer or employee;
11 (c) Any person, except a witness, who acts as a
12 general or special magistrate ~~master~~, receiver, auditor,
13 arbitrator, umpire, referee, consultant, or hearing officer
14 while performing a governmental function; or

15 (d) A candidate for election or appointment to any of
16 the positions listed in this subsection, or an individual who
17 has been elected to, but has yet to officially assume the
18 responsibilities of, public office.

19 Section 99. Section 839.17, Florida Statutes, is
20 amended to read:

21 839.17 Misappropriation of moneys by commissioners to
22 make sales.--Any commissioner or general or special magistrate
23 ~~master in chancery~~, having received the purchase money or the
24 securities resulting from any of the sales authorized by law,
25 who shall fail to deliver such moneys and securities, or
26 either of them, to the executor or administrator, or the
27 person entitled to receive the same, upon the order of the
28 court, unless she or he is rendered unable to do so by some
29 cause not attributable to her or his own default or neglect,
30 shall be fined in a sum equal to the amount received from the
31 purchaser, and commits ~~shall be guilty of~~ a felony of the

1 second degree, punishable as provided in s. 775.082, s.
2 775.083, or s. 775.084.

3 Section 100. Paragraph (a) of subsection (3) of
4 section 916.107, Florida Statutes, is amended to read:

5 916.107 Rights of forensic clients.--

6 (3) RIGHT TO EXPRESS AND INFORMED CONSENT.--

7 (a) A client committed to the department pursuant to
8 this act shall be asked to give express and informed written
9 consent for treatment. If a client in a forensic facility
10 refuses such treatment as is deemed necessary by the client's
11 multidisciplinary treatment team at the forensic facility for
12 the appropriate care of the client and the safety of the
13 client or others, such treatment may be provided under the
14 following circumstances:

15 1. In an emergency situation in which there is
16 immediate danger to the safety of the client or others, such
17 treatment may be provided upon the written order of a
18 physician for a period not to exceed 48 hours, excluding
19 weekends and legal holidays. If, after the 48-hour period,
20 the client has not given express and informed consent to the
21 treatment initially refused, the administrator or designee of
22 the forensic facility shall, within 48 hours, excluding
23 weekends and legal holidays, petition the committing court or
24 the circuit court serving the county in which the facility is
25 located, at the option of the facility administrator or
26 designee, for an order authorizing the continued treatment of
27 the client. In the interim, treatment may be continued
28 without the consent of the client upon the continued written
29 order of a physician who has determined that the emergency
30 situation continues to present a danger to the safety of the
31 client or others.

1 2. In a situation other than an emergency situation,
2 the administrator or designee of the forensic facility shall
3 petition the court for an order authorizing the treatment to
4 the client. The order shall allow such treatment for a period
5 not to exceed 90 days from the date of the entry of the order.
6 Unless the court is notified in writing that the client has
7 provided express and informed consent in writing or that the
8 client has been discharged by the committing court, the
9 administrator or designee shall, prior to the expiration of
10 the initial 90-day order, petition the court for an order
11 authorizing the continuation of treatment for another 90-day
12 period. This procedure shall be repeated until the client
13 provides consent or is discharged by the committing court.

14 3. At the hearing on the issue of whether the court
15 should enter an order authorizing treatment for which a client
16 has refused to give express and informed consent, the court
17 shall determine by clear and convincing evidence that the
18 client is mentally ill, retarded, or autistic as defined in
19 this chapter, that the treatment not consented to is essential
20 to the care of the client, and that the treatment not
21 consented to is not experimental and does not present an
22 unreasonable risk of serious, hazardous, or irreversible side
23 effects. In arriving at the substitute judgment decision, the
24 court must consider at least the following factors:

- 25 a. The client's expressed preference regarding
26 treatment;
27 b. The probability of adverse side effects;
28 c. The prognosis without treatment; and
29 d. The prognosis with treatment.

30
31

1 The hearing shall be as convenient to the client as may be
2 consistent with orderly procedure and shall be conducted in
3 physical settings not likely to be injurious to the client's
4 condition. The court may appoint a general or special
5 magistrate ~~master~~ to preside at the hearing. The client or the
6 client's guardian, and the representative, shall be provided
7 with a copy of the petition and the date, time, and location
8 of the hearing. The client has the right to have an attorney
9 represent him or her at the hearing, and, if the client is
10 indigent, the court shall appoint the office of the public
11 defender to represent the client at the hearing. The client
12 may testify or not, as he or she chooses, and has the right to
13 cross-examine witnesses and may present his or her own
14 witnesses.

15 Section 101. Subsection (11) of section 938.30,
16 Florida Statutes, is amended to read:

17 938.30 Financial obligations in criminal cases;
18 supplementary proceedings.--

19 (11) The court may refer any proceeding under this
20 section to a special magistrate ~~master~~ who shall report
21 findings and make recommendations to the court. The court
22 shall act on such recommendations within a reasonable amount
23 of time.

24 Section 102. Subsection (3) of section 945.43, Florida
25 Statutes, is amended to read:

26 945.43 Admission of inmate to mental health treatment
27 facility.--

28 (3) PROCEDURE FOR HEARING ON TRANSFER OF AN INMATE FOR
29 MENTAL HEALTH TREATMENT.--If the inmate does not waive a
30 hearing or if the inmate or the inmate's representative files
31 a petition for a hearing after having waived it, the court

1 shall serve notice on the warden of the facility where the
2 inmate is confined, the director, and the allegedly mentally
3 ill inmate. The notice shall specify the date, time, and place
4 of the hearing; the basis for the allegation of mental
5 illness; and the names of the examining experts. The hearing
6 shall be held within 5 days, and the court may appoint a
7 general or special magistrate ~~master~~ to preside. The hearing
8 may be as informal as is consistent with orderly procedure.
9 One of the experts whose opinion supported the recommendation
10 shall be present at the hearing for information purposes. If,
11 at the hearing, the court finds that the inmate is mentally
12 ill and in need of care and treatment, it shall order that he
13 or she be transferred to a mental health treatment facility
14 and provided appropriate treatment. The court shall provide a
15 copy of its order authorizing transfer and all supporting
16 documentation relating to the inmate's condition to the warden
17 of the treatment facility. If the court finds that the inmate
18 is not mentally ill, it shall dismiss the petition for
19 transfer.

20 Section 103. This act shall take effect October 1,
21 2004.

22
23 *****

24 SENATE SUMMARY

25 Revises laws governing various judicial and
26 administrative proceedings to redesignate "magistrates"
27 as "trial court judges" and to redesignate "masters" and
"general or special masters" as "general or special
magistrates."
28
29
30
31