

CHAMBER ACTION

1 The Justice Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to the state judicial system; amending s.
7 27.40, F.S., relating to circuit registries for court-
8 appointed counsel; requiring that an attorney enter into a
9 contract to be included on the registry; revising
10 requirements for private court-appointed counsel;
11 requiring the Justice Administrative Commission to approve
12 uniform procedures and forms for use in billing for
13 attorney's fees, costs, and related expenses; requiring
14 that a withdrawal order be filed with the commission;
15 revising fee payment provisions; providing that withdrawal
16 from a case creates a rebuttable presumption of
17 nonentitlement to the entire flat fee; amending s. 27.42,
18 F.S.; requiring the circuit Article V indigent services
19 committee to establish the compensation rates for court-
20 appointed counsel or in cases of indigency; requiring each
21 committee to establish a schedule of allowances for due-
22 process expenses; authorizing alternate models for
23 providing criminal and civil due-process representation;

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24 | amending s. 27.52, F.S., relating to the determination of
25 | indigent status; providing for application to the clerk of
26 | court for such a determination and appointment of a public
27 | defender; providing application requirements; requiring an
28 | application fee; providing for transfer and deposit of
29 | such fees into the Indigent Criminal Defense Trust Fund to
30 | be used for certain purposes; authorizing clerks of courts
31 | to retain a portion of the fees for certain purposes;
32 | prescribing duties of the clerk of court and the public
33 | defender relating to an application; prescribing
34 | application requirements and review criteria; providing
35 | for determinations by a clerk on the basis of an
36 | applicant's indigency; providing criteria; providing for
37 | appointment of counsel on an interim basis; providing for
38 | review by the court of a clerk's determination; providing
39 | criteria; authorizing the court to determine a person
40 | indigent for costs and eligible for payment of due-process
41 | expenses; providing criteria and requirements for such
42 | determination; requiring certain parents or legal
43 | guardians to furnish legal services and costs to certain
44 | persons relating to delinquency proceedings or criminal
45 | prosecutions; providing for imposition of a lien for
46 | certain liabilities and lien enforcement; providing for a
47 | reevaluation of indigent status and referral to the state
48 | attorney upon evidence of financial discrepancies or
49 | fraud; providing for recovery and disposition of certain
50 | amounts recovered; providing criminal penalties for the
51 | provision of false information; amending s. 27.5304, F.S.;

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52 requiring certain private court-appointed counsel to enter
53 into a uniform contract with Justice Administrative
54 Commission and use the commission's uniform procedures and
55 form for certain billing purposes; authorizing the Justice
56 Administrative Commission to pay attorney's fees without
57 court approval under certain conditions; requiring the
58 attorney to provide the commission with advance notice of
59 a court hearing on payment of fees and costs; authorizing
60 the commission to participate in such hearings using
61 certain equipment; entitling private court-appointed
62 counsel to compensation upon final disposition; providing
63 exceptions; specifying intervals other than final
64 disposition of a case at which private court-appointed
65 counsel may request payment; clarifying a prohibition
66 against allowing an attorney who is not on the registry to
67 appear; restricting the reimbursement allowed for the
68 preparation of invoices; requiring the Justice
69 Administrative Commission to develop a schedule to provide
70 partial payment for attorney fees under certain
71 circumstances; amending s. 27.54, F.S.; requiring a county
72 or municipality to pay certain costs for due-process
73 services in local ordinance violation cases; prescribing
74 assessment of fees to recover such costs; providing for
75 determination and collection of such fees; amending s.
76 28.24, F.S.; requiring the clerk of the court to charge
77 for certain recording services and performing certain
78 duties; requiring the clerk of the court to provide
79 without charge copies to court-appointed counsel paid by

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80 | the state; requiring clerks of the court to participate in
81 | the Comprehensive Case Information System by a certain
82 | date; providing an exception to the designation of the
83 | clerk of court as custodian of official records; amending
84 | s. 28.2402, F.S.; prohibiting a county or municipality
85 | from being required to pay more than one filing fee for a
86 | single filing containing multiple allegations; prohibiting
87 | a filing fee for initiating certain enforcement
88 | proceedings; amending s. 28.245, F.S.; requiring the
89 | clerks of the court to remit collections to the Department
90 | of Revenue within a specified period; amending s. 28.246,
91 | F.S.; conforming a reference to the Florida Clerks of
92 | Court Operations Corporation; revising provisions
93 | authorizing an individual to enter into a payment plan for
94 | the payment of fees, costs, or fines; requiring the clerk
95 | to enter into a payment plan with certain persons;
96 | providing payment plan criteria; providing for the court
97 | to review the payment plan; amending s. 28.345, F.S.;
98 | exempting certain court staff and court-appointed counsel
99 | from the payment of fees and charges assessed by the clerk
100 | of the circuit court; amending s. 28.36, F.S.; requiring
101 | the chief judge of each circuit to coordinate court-
102 | related functions and determine the priorities of
103 | functions of the clerk of court; revising the date for the
104 | county clerk to submit a proposed budget; conforming a
105 | reference to the Florida Clerks of Court Operations
106 | Corporation; conforming a cross reference; conforming a
107 | reference to the Chief Financial Officer; amending s.

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108 | 28.37, F.S.; expanding the types of excess funds that
 109 | clerks of the court must remit to the Department of
 110 | Revenue over the amount needed to meet approved budgets;
 111 | creating s. 28.44, F.S.; providing a method by which the
 112 | clerk of court may discontinue or substantially modify
 113 | court-related functions; providing a definition; amending
 114 | s. 29.004, F.S.; providing for state appropriations to be
 115 | used for expert witnesses who are appointed by the court
 116 | rather than requested by any party; amending s. 29.005,
 117 | F.S.; deleting certain appointed mental health
 118 | professionals from elements of state attorneys' offices
 119 | provided from state revenues; amending s. 29.007, F.S.;
 120 | providing for state funds to be used in providing mental
 121 | health professionals in certain civil cases; clarifying
 122 | the use of state funds at the trial or appellate level to
 123 | pay certain costs on behalf of a litigant who is indigent;
 124 | amending s. 29.008, F.S.; requiring that the county where
 125 | the appellate district is located fund the appellate
 126 | division of the public defender's office; expanding the
 127 | definition of the term "facility" to include items
 128 | necessary for court-reporting services; narrowing a
 129 | limitation on the application of certain requirements to
 130 | specified facilities; including hearing rooms within those
 131 | facilities funded by the county as a court-related
 132 | function; including audio equipment within county-funded
 133 | communications services; amending s. 29.015, F.S.;
 134 | requiring the Justice Administrative Commission to adjust
 135 | certain allocations of funds among circuits under certain

136 | circumstances; requiring notice of such adjustment;
 137 | requiring the commission to request a budget amendment
 138 | under certain circumstances to address budget deficits
 139 | relating to due-process services; amending s. 29.018,
 140 | F.S.; eliminating the authority for court-appointed
 141 | counsel to contract to share in court and due-process
 142 | services; providing that the Justice Administrative
 143 | Commission may contract for such cost-sharing on behalf of
 144 | court-appointed counsel; creating s. 29.0185, F.S.;
 145 | prohibiting the provision of due process services with
 146 | state revenues to individuals under certain circumstances;
 147 | amending s. 34.045, F.S.; proscribing a county or
 148 | municipality from being required to pay more than one
 149 | filing fee for a single filing containing multiple
 150 | allegations; prohibiting assessment of a filing fee for
 151 | initiating certain enforcement proceedings in county
 152 | court; expanding conditions under which the county or
 153 | municipality is the prevailing party; requiring an
 154 | assessment of a filing fee; amending s. 34.191, F.S.;
 155 | excluding certain counties having a consolidated
 156 | government from the term municipality; amending s.
 157 | 39.0132, F.S.; authorizing the Justice Administrative
 158 | Commission to inspect certain court dockets; authorizing
 159 | the commission to petition the court for certain
 160 | additional documentation; amending s. 39.821, F.S.;
 161 | requiring the Guardian Ad Litem Program rather than the
 162 | chief judge to request the federal criminal records check
 163 | for purposes of certifying guardians ad litem; amending s.

164 39.822, F.S.; directing agencies, persons, and other
 165 organizations to provide a guardian ad litem access to
 166 certain records related to the best interests of a child;
 167 providing a definition; amending s. 40.29, F.S.; revising
 168 procedures for the payments made by the state to the clerk
 169 of the court for the costs of witnesses; creating s.
 170 40.355, F.S.; requiring the clerk of the court to report
 171 on, and refund to the state attorneys and public
 172 defenders, certain moneys collected for payment of jurors
 173 and due-process costs; amending s. 43.16, F.S.; removing
 174 the Judicial Qualifications Commission from the duties of
 175 the Justice Administrative Commission and adding the
 176 Guardian ad Litem Program; providing that the Justice
 177 Administrative Commission is not subject to the
 178 Administrative Procedure Act; amending s. 43.26, F.S.;
 179 providing responsibilities of the chief judge of each
 180 circuit; amending s. 44.102, F.S.; revising conditions
 181 under which nonvolunteer court mediators may be
 182 compensated by the county or parties; amending s. 44.108,
 183 F.S.; clarifying the fees charged for scheduled mediation
 184 services provided by a circuit court's mediation program;
 185 requiring the clerk of the court to report to the chief
 186 judge the amount of such fees collected; amending s.
 187 57.081, F.S.; providing a cross-reference to conform;
 188 creating s. 57.082, F.S., relating to the determination of
 189 civil indigent status; providing for application to the
 190 clerk of court for such a determination and appointment of
 191 a private attorney in certain civil cases; providing

192 application requirements; prescribing duties of the clerk
 193 of court relating to an application; prescribing
 194 application requirements and review criteria; providing
 195 for determinations by a clerk of the basis of an
 196 applicant's indigency; providing criteria; providing for
 197 appointment of counsel on an interim basis; providing for
 198 review by the court of a clerk's determination; providing
 199 criteria; authorizing a court to determine a person
 200 indigent and eligible for appointed counsel; providing
 201 criteria and requirements for such determination;
 202 requiring persons determined to be indigent for civil
 203 proceedings to be enrolled in a payment plan and charged
 204 an administrative processing charge; providing plan
 205 criteria; providing for a reevaluation of indigent status
 206 and referral to the state attorney upon evidence of
 207 financial discrepancies or fraud; providing for recovery
 208 and disposition of certain amounts recovered; providing
 209 criminal penalties for the provision of false information;
 210 amending s. 92.142, F.S.; deleting a provision that
 211 provides for payment of per diem and travel expenses for a
 212 witness in a criminal case at the discretion of the court;
 213 amending s. 92.231, F.S.; removing a reference to the
 214 Article V Indigent Services Advisory Board; amending s.
 215 110.205, F.S.; specifying that members, officers, and
 216 employees of the Justice Administrative Commission and
 217 certain related organizations are exempt positions under
 218 career service provisions; amending s. 116.01, F.S.;
 219 providing procedures for the clerk of the court to remit

220 funds to the Department of Revenue; amending s. 119.07,
 221 F.S.; extending the time period during which certain
 222 social security numbers and other data included in court
 223 or official county records may be available for public
 224 inspection unless redaction is requested; extending the
 225 deadline by which court clerks and county recorders must
 226 keep such data confidential; amending s. 142.01, F.S.;
 227 clarifying those moneys to be included within the fine and
 228 forfeiture fund of the clerk of the circuit court;
 229 amending s. 213.13, F.S.; requiring that the court-related
 230 collections remitted by the clerk to the state be
 231 transmitted electronically within a specified period;
 232 amending s. 219.07, F.S.; revising disbursement
 233 requirements for the clerk as part of his or her court-
 234 related functions; amending s. 219.075, F.S.; exempting
 235 funds collected by the clerk from the requirements for the
 236 investment of surplus funds of a county; amending s.
 237 318.121, F.S.; specifying that certain surcharges may not
 238 be added to civil traffic penalties; amending s. 318.18,
 239 F.S.; authorizing a portion of certain surcharge revenues
 240 to be used for local law libraries; requiring the clerk of
 241 the court to quarterly report the amount of certain
 242 surcharges collected to the chief judge, the Governor, and
 243 the Legislature; amending s. 318.21, F.S.; providing for
 244 the disposition of traffic-infraction penalties for
 245 violations occurring in unincorporated areas of certain
 246 counties having a consolidated government or
 247 unincorporated areas of certain municipalities having a

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248 consolidated government; amending s. 318.31, F.S.;

249 deleting provisions concerning the appointment of a civil

250 traffic infraction hearing officer; amending s. 318.325,

251 F.S.; deleting provisions specifying the funding of such

252 hearing officer; amending s. 322.29, F.S.; increasing the

253 fees charged for reinstating a driver's license; amending

254 s. 372.72, F.S.; requiring that the proceeds from

255 unclaimed bonds be deposited into the clerk's fine and

256 forfeiture fund; amending s. 903.26, F.S.; revising the

257 procedure for determining the amount of the costs incurred

258 in returning a defendant to the county of jurisdiction;

259 amending s. 903.28, F.S.; revising certain notice

260 requirements following the surrender or apprehension of a

261 defendant for purposes of remission of a forfeiture;

262 authorizing clerks of circuit courts to enter into

263 contracts or interagency agreements to represent the clerk

264 in certain actions; providing that the clerk is the real

265 party in interest for all appeals arising from such an

266 action; authorizing the clerk to withhold unpaid fines,

267 fees, costs, and charges under certain circumstances;

268 amending s. 916.115, F.S.; revising requirements for the

269 payment of experts; specifying which fees are to be paid

270 by the state, the office of the public defender, the

271 office of the state attorney, or the Justice

272 Administrative Commission; amending s. 916.12, F.S.;

273 revising the procedures under which the court may take

274 action following a finding that the defendant is

275 incompetent to proceed; requiring evaluation of a

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276 | defendant; providing criteria; authorizing a court to
 277 | commit a defendant or take other action under certain
 278 | circumstances; amending s. 916.301, F.S.; requiring the
 279 | court to pay for certain expert witnesses appointed by the
 280 | court; amending s. 938.29, F.S.; providing for a judgment
 281 | lien for the payment of certain attorney's fees to be
 282 | filed without cost; amending s. 939.06, F.S.; clarifying
 283 | that an acquitted defendant is not liable for certain
 284 | costs or fees; providing a procedure for such a defendant
 285 | to request a refund from the Justice Administrative
 286 | Commission of costs or fees paid; amending s. 985.05,
 287 | F.S.; authorizing the Justice Administrative Commission to
 288 | have access to certain court records; amending s. 985.201,
 289 | F.S.; revising the manner in which a court may retain
 290 | jurisdiction over a child and the child's parent when the
 291 | court has ordered restitution for certain delinquent acts;
 292 | requiring the party calling a witness in traffic court to
 293 | bear the costs; requiring the office of the state attorney
 294 | to pay such costs if the witness is required to testify on
 295 | behalf of the prosecution; authorizing the trial court
 296 | administrator to recover expenditures for state-funded
 297 | services if those services were furnished to a user
 298 | possessing the ability to pay; providing for deposit of
 299 | such funds; authorizing the trial court administrator to
 300 | recover certain costs under certain circumstances;
 301 | requiring the chief judge to determine the rate, which may
 302 | not exceed the cost of the service and recovery; providing
 303 | legislative intent; repealing s. 29.014, F.S., relating to

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304 the Article V Indigent Service Advisory Board; repealing
305 s. 318.37, F.S., relating to funding for a Civil Traffic
306 Infraction Hearing Officer Program; providing effective
307 dates.

308

309 Be It Enacted by the Legislature of the State of Florida:

310

311 Section 1. Subsections (2), (3), (5), and (7) of section
312 27.40, Florida Statutes, are amended to read:

313 27.40 Court-appointed counsel; circuit registries; minimum
314 requirements; appointment by court.--

315 (2) ~~No later than October 1, 2004,~~ Private counsel
316 appointed by the court to provide representation shall be
317 selected from a registry of individual attorneys established by
318 the circuit Article V indigent services committee or procured
319 through a competitive bidding process.

320 (3) In utilizing a registry:

321 (a) Each circuit Article V indigent services committee
322 shall compile and maintain a list of attorneys in private
323 practice, by county and by category of cases. To be included on
324 a registry, attorneys shall certify that they meet any minimum
325 requirements established in general law for court appointment,
326 are available to represent indigent defendants in cases
327 requiring court appointment of private counsel, and are willing
328 to abide by the terms of the contract for services. To be
329 included on a registry, an attorney also must enter into a
330 contract for services with the Justice Administrative
331 Commission. Failure to comply with the terms of the contract for

332 services may result in termination of the contract and removal
 333 from the registry. Each attorney on the registry shall be
 334 responsible for notifying the circuit Article V indigent
 335 services committee and the Justice Administrative Commission of
 336 any change in his or her status. Failure to comply with this
 337 requirement shall be cause for termination of the contract for
 338 services and removal from the registry until the requirement is
 339 fulfilled.

340 (b) The court shall appoint attorneys in rotating order in
 341 the order in which names appear on the applicable registry,
 342 unless the court makes a finding of good cause on the record for
 343 appointing an attorney out of order. An attorney not appointed
 344 in the order in which his or her name appears on the list shall
 345 remain next in order.

346 (c) If it finds the number of attorneys on the registry in
 347 a county or circuit for a particular category of cases is
 348 inadequate, the circuit Article V indigent services committee
 349 shall notify the chief judge of the particular circuit in
 350 writing. The chief judge shall submit the names of at least
 351 three private attorneys with relevant experience. The clerk of
 352 court shall send an application to each of these attorneys to
 353 register for appointment.

354 (d) Quarterly, ~~beginning no later than October 1, 2004,~~
 355 each circuit Article V indigent services committee shall provide
 356 a current copy of each registry to the Chief Justice of the
 357 Supreme Court, the chief judge, the state attorney and public
 358 defender in each judicial circuit, ~~and~~ the clerk of court in
 359 each county, the Justice Administrative Commission, and the

360 Indigent Services Advisory Board ~~with a current copy of each~~
361 ~~registry.~~

362 (5) The Justice Administrative Commission shall approve
363 uniform contract forms for use in procuring the services of
364 private court-appointed counsel and uniform procedures and forms
365 for use by a court-appointed attorney in support of billing for
366 attorney's fees, costs, and related expenses to demonstrate the
367 attorney's completion of specified duties.

368 (7)(a) An attorney appointed to represent a defendant or
369 other client is entitled to payment pursuant to s. 27.5304, only
370 upon full performance by the attorney of specified duties,
371 approval of payment by the court, except for payment based on a
372 flat fee per case as provided in s. 27.5304; and attorney
373 submission of a payment request to the Justice Administrative
374 Commission. Upon being permitted to withdraw from a case, a
375 court-appointed attorney shall submit a copy of the order to the
376 Justice Administrative Commission at the time it is issued by
377 the court. If an attorney is permitted to withdraw or is
378 otherwise removed from representation prior to full performance
379 of the duties specified in this section for reasons other than
380 breach of duty, the trial court shall approve payment of
381 attorney's fees and costs for work performed in an amount not to
382 exceed the amounts specified in s. 27.5304. Withdrawal from a
383 case prior to full performance of the duties specified shall
384 create a rebuttable presumption that the attorney is not
385 entitled to the entire flat fee for those cases paid on a flat-
386 fee-per-case basis.

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387 (b) The attorney shall maintain appropriate documentation,
 388 including a current and detailed hourly accounting of time spent
 389 representing the defendant or other client. These records and
 390 documents are subject to review by the Justice Administrative
 391 Commission, subject to the attorney-client privilege and work
 392 product privilege.

393 Section 2. Section 27.42, Florida Statutes, is amended to
 394 read:

395 27.42 Circuit Article V indigent services committees;
 396 composition; staff; responsibilities; funding.--

397 (1) In each judicial circuit a circuit Article V indigent
 398 services committee shall be established. The committee shall
 399 consist of the following:

400 (a) The chief judge of the judicial circuit or the chief
 401 judge's designee, who shall serve as the chair.

402 (b) The public defender of the judicial circuit, or
 403 designee from within the office of the public defender.

404 (c) One experienced private criminal defense attorney
 405 appointed by the chief judge to serve a 2-year term. During the
 406 2-year term, the attorney is prohibited from serving as court-
 407 appointed counsel.

408 (d) One experienced civil trial attorney appointed by the
 409 chief judge, to serve a 2-year term. During the 2-year term, the
 410 attorney is prohibited from serving as court-appointed counsel.

411 (2)(a) The responsibility of the circuit Article V
 412 indigent services committee is to manage the appointment and
 413 compensation of court-appointed counsel within a circuit
 414 pursuant to ss. 27.40 and 27.5303. The committee shall also set

415 the compensation rates of due-process service providers in cases
 416 where the court has appointed counsel or declared a person
 417 indigent for costs, not to exceed any rates specified in the
 418 General Appropriations Act such that the total amount expended
 419 does not exceed the amount budgeted in the General
 420 Appropriations Act for the particular due-process service. The
 421 circuit Article V indigent services committee shall meet at
 422 least quarterly.

423 (b) ~~No later than October 1, 2004,~~ Each circuit Article V
 424 indigent services committee shall maintain a registry pursuant
 425 to s. 27.40, even when procuring counsel through a competitive
 426 bidding process. However, if counsel is procured through a
 427 competitive bidding process, the registry shall be used only
 428 when counsel obtained through that process is unable to provide
 429 representation due to a conflict of interest or reasons beyond
 430 their control. The committee shall apply any eligibility and
 431 performance standards set by the Legislature.

432 (c) Each circuit Article V indigent services committee
 433 shall develop a schedule of standard fees and expense allowances
 434 for the categories of cases specified in s. 27.5304 ~~27.5303~~,
 435 consistent with the overall compensation rates in that section
 436 and within the amount of appropriated funds allocated by the
 437 Justice Administrative Commission to the circuit for this
 438 purpose.

439 (d) Each circuit Article V indigent services committee
 440 shall establish a schedule of standard allowances for due-
 441 process expenses for cases in which the court has declared a
 442 person indigent for costs, within the amount of appropriated

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443 funds allocated by the Justice Administrative Commission to the
444 circuit for this purpose.

445 (3) Notwithstanding any other provision of this section, a
446 circuit Article V indigent services committee may approve, and
447 the Justice Administrative Commission shall investigate and
448 evaluate the use of funds for, alternate models for the
449 provision of criminal and civil due-process services and
450 representation other than a model based on a per-case fee if a
451 more cost-effective and efficient system can be provided. An
452 alternate model may include court-reporting services and the
453 provision of court-appointed counsel.

454 (4)(3) The Justice Administrative Commission shall prepare
455 and issue on a quarterly basis a statewide report comparing
456 actual year-to-date expenditures to budgeted amounts for the
457 circuit Article V indigent services committees in each of the
458 judicial circuits. Copies of these quarterly reports shall be
459 distributed to each circuit Article V indigent services
460 committee and to the Governor, the Chief Justice of the Supreme
461 Court, the President of the Senate, and the Speaker of the House
462 of Representatives.

463 (5)(4)(a) The funding and positions for the processing of
464 committees' fees and expenses shall be as appropriated to the
465 Justice Administrative Commission in the General Appropriations
466 Act.

467 (b) Funds for criminal conflict attorney's fees and
468 expenses shall be appropriated by the Legislature in a separate
469 appropriations category within the Justice Administrative

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470 Commission. These funds shall be allocated to each circuit as
471 prescribed in the General Appropriations Act.

472 (c) Funds for attorney's fees and expenses for child
473 dependency and civil conflict cases shall be appropriated by the
474 Legislature in a separate appropriations category within the
475 Justice Administrative Commission.

476 (d) Any funds the Legislature appropriates for other
477 court-appointed counsel cases shall be as appropriated within
478 the Justice Administrative Commission.

479
480 The Justice Administrative Commission shall separately track
481 expenditures on private court-appointed counsel for the
482 following categories of cases: criminal conflict, civil
483 conflict, dependency and termination of parental rights, and
484 guardianship.

485 Section 3. Section 27.52, Florida Statutes, is amended to
486 read:

487 (Substantial rewording of section. See
488 s. 27.52, F.S., for present text.)

489 27.52 Determination of indigent status.--

490 (1) APPLICATION TO THE CLERK.--A person seeking
491 appointment of a public defender under s. 27.51 based upon an
492 inability to pay must apply to the clerk of the court for a
493 determination of indigent status using an application form
494 developed by the Florida Clerks of Court Operations Corporation
495 with final approval by the Supreme Court.

496 (a) The application must include, at a minimum, the
497 following financial information:

498 1. Net income, consisting of total salary and wages, minus
 499 deductions required by law, including court-ordered support
 500 payments.

501 2. Other income, including, but not limited to, social
 502 security benefits, union funds, veterans' benefits, workers'
 503 compensation, other regular support from absent family members,
 504 public or private employee pensions, unemployment compensation,
 505 dividends, interest, rent, trusts, and gifts.

506 3. Assets, including, but not limited to, cash, savings
 507 accounts, bank accounts, stocks, bonds, certificates of deposit,
 508 equity in real estate, and equity in a boat or a motor vehicle
 509 or in other tangible property.

510 4. All liabilities and debts.

511 5. If applicable, the amount of any bail paid for the
 512 applicant's release from incarceration and the source of the
 513 funds.

514
 515 The application must include a signature by the applicant which
 516 attests to the truthfulness of the information provided. The
 517 application form developed by the corporation must include
 518 notice that the applicant may seek court review of a clerk's
 519 determination that the applicant is not indigent, as provided in
 520 this section.

521 (b) An applicant shall pay a \$40 application fee to the
 522 clerk for each application for court-appointed counsel filed.
 523 The applicant shall pay the fee within 7 days after submitting
 524 the application. If the applicant does not pay the fee prior to

525 the disposition of the case, the clerk shall notify the court,
526 and the court shall:

527 1. Assess the application fee as part of the sentence or
528 as a condition of probation; or

529 2. Assess the application fee pursuant to s. 938.29.

530 (c) Notwithstanding any provision of law, court rule, or
531 administrative order, the clerk shall assign the first \$40 of
532 any fees or costs paid by an indigent person as payment of the
533 application fee. A person found to be indigent may not be
534 refused counsel or other required due-process services for
535 failure to pay the fee.

536 (d) All application fees collected by the clerk under this
537 section shall be transferred monthly by the clerk to the
538 Department of Revenue for deposit in the Indigent Criminal
539 Defense Trust Fund administered by the Justice Administrative
540 Commission, to be used to as appropriated by the Legislature.
541 The clerk may retain 2 percent of application fees collected
542 monthly for administrative costs prior to remitting the
543 remainder to the Department of Revenue.

544 (e)1. The clerk shall assist a person who appears before
545 the clerk and requests assistance in completing the application,
546 and the clerk shall notify the court if a person is unable to
547 complete the application after the clerk has provided
548 assistance.

549 2. If the person seeking appointment of a public defender
550 is incarcerated, the public defender is responsible for
551 providing the application to the person and assisting him or her
552 in its completion and is responsible for submitting the

553 application to the clerk on the person's behalf. The public
 554 defender may enter into an agreement for jail employees,
 555 pretrial services employees, or employees of other criminal
 556 justice agencies to assist the public defender in performing
 557 functions assigned to the public defender under this
 558 subparagraph.

559 (2) DETERMINATION BY THE CLERK.--The clerk of the court
 560 shall determine whether an applicant seeking appointment of a
 561 public defender is indigent based upon the information provided
 562 in the application and the criteria prescribed in this
 563 subsection.

564 (a)1. An applicant, including an applicant who is a minor
 565 or an adult tax-dependent person, is indigent if the applicant's
 566 income is equal to or below 200 percent of the then-current
 567 federal poverty guidelines prescribed for the size of the
 568 household of the applicant by the United States Department of
 569 Health and Human Services or if the person is receiving
 570 Temporary Assistance for Needy Families-Cash Assistance,
 571 poverty-related veterans' benefits, or Supplemental Security
 572 Income (SSI).

573 2. There is a presumption that the applicant is not
 574 indigent if the applicant owns, or has equity in, any intangible
 575 or tangible personal property or real property or the expectancy
 576 of an interest in any such property having a net equity value of
 577 \$2,500 or more, excluding the value of the person's homestead
 578 and one vehicle having a net value not exceeding \$5,000.

579 (b) Based upon its review, the clerk shall make one of the
 580 following determinations:

581 1. The applicant is not indigent.

582 2. The applicant is indigent.

583 (c)1. If the clerk determines that the applicant is
 584 indigent, the clerk shall submit the determination to the office
 585 of the public defender and immediately file the determination in
 586 the case file.

587 2. If the public defender is unable to provide
 588 representation due to a conflict pursuant to s. 27.5303, the
 589 public defender shall move the court for withdrawal from
 590 representation and appointment of private counsel.

591 (d) The duty of the clerk in determining whether an
 592 applicant is indigent shall be limited to receiving the
 593 application and comparing the information provided in the
 594 application to the criteria prescribed in this subsection. The
 595 determination of indigent status is a ministerial act of the
 596 clerk and not a decision based on further investigation or the
 597 exercise of independent judgment by the clerk. The clerk may
 598 contract with third parties to perform functions assigned to the
 599 clerk under this section.

600 (e) The applicant may seek review of the clerk's
 601 determination that the applicant is not indigent in the court
 602 having jurisdiction over the matter at the next scheduled
 603 hearing. If the applicant seeks review of the clerk's
 604 determination of indigent status, the court shall make a final
 605 determination as provided in subsection (4).

606 (3) APPOINTMENT OF COUNSEL ON INTERIM BASIS.--If the clerk
 607 of the court has not made a determination of indigent status at
 608 the time a person requests appointment of a public defender, the

609 court shall make a preliminary determination of indigent status,
 610 pending further review by the clerk, and may, by court order,
 611 appoint a public defender or private counsel on an interim
 612 basis.

613 (4) REVIEW OF CLERK'S DETERMINATION.--

614 (a) If the clerk of the court determines that the
 615 applicant is not indigent, and the applicant seeks review of the
 616 clerk's determination, the court shall make a final
 617 determination of indigent status by reviewing the information
 618 provided in the application against the criteria prescribed in
 619 subsection (2) and by considering the following additional
 620 factors:

621 1. Whether the applicant has been released on bail in an
 622 amount of \$5,000 or more.

623 2. Whether a bond has been posted, the type of bond, and
 624 who paid the bond.

625 3. Whether paying for private counsel in an amount that
 626 exceeds the limitations in s. 27.5304, or other due-process
 627 services creates a substantial hardship for the applicant or the
 628 applicant's family.

629 4. Any other relevant financial circumstances of the
 630 applicant or the applicant's family.

631 (b) Based upon its review, the court shall make one of the
 632 following determinations and, if the applicant is indigent,
 633 shall appoint a public defender or private counsel:

634 1. The applicant is not indigent.

635 2. The applicant is indigent.

636 (5) INDIGENT FOR COSTS.--A person who is eligible to be
 637 represented by a public defender under s. 27.51 but who is
 638 represented by private counsel not appointed by the court for a
 639 reasonable fee as approved by the court, on a pro bono basis, or
 640 who is proceeding pro se, may move the court for a determination
 641 that he or she is indigent for costs and eligible for the
 642 provision of due-process services, as prescribed by ss. 29.006
 643 and 29.007, funded by the state.

644 (a) The person must submit to the court:

- 645 1. The completed application prescribed in subsection (1).
 646 2. In the case of a person represented by counsel, an
 647 affidavit attesting to the estimated amount of attorney's fees
 648 and the source of payment for these fees.

649 (b) In reviewing the motion, the court shall consider:

- 650 1. Whether the applicant applied for a determination of
 651 indigent status under subsection (1) and the outcome of such
 652 application.

- 653 2. The extent to which the person's income equals or
 654 exceeds the income criteria prescribed in subsection (2).

- 655 3. The additional factors prescribed in subsection (4).

- 656 4. Whether the applicant is proceeding pro se.

- 657 5. When the applicant retained private counsel.

- 658 6. The amount of any attorney's fees and who is paying the
 659 fees.

660 (c) Based upon its review, the court shall make one of the
 661 following determinations:

- 662 1. The applicant is not indigent for costs.

- 663 2. The applicant is indigent for costs.

664 (d) The provision of due-process services based upon a
 665 determination that a person is indigent for costs under this
 666 subsection must be effectuated pursuant to a court order, a copy
 667 of which the clerk shall provide to counsel representing the
 668 person, or to the person directly if he or she is proceeding pro
 669 se, for use in requesting payment of due-process expenses
 670 through the Justice Administrative Commission. Counsel
 671 representing a person declared indigent for costs shall execute
 672 the Justice Administrative Commission's contract for counsel
 673 representing persons determined to be indigent for costs.

674 (6) DUTIES OF PARENT OR LEGAL GUARDIAN.--A nonindigent
 675 parent or legal guardian of an applicant who is a minor or an
 676 adult tax-dependent person shall furnish the minor or adult tax-
 677 dependent person with the necessary legal services and costs
 678 incident to a delinquency proceeding or, upon transfer of such
 679 person for criminal prosecution as an adult pursuant to chapter
 680 985, a criminal prosecution in which the person has a right to
 681 legal counsel under the Constitution of the United States or the
 682 Constitution of the State of Florida. The failure of a parent or
 683 legal guardian to furnish legal services and costs under this
 684 section does not bar the appointment of legal counsel pursuant
 685 to this section, s. 27.40, or s. 27.5303. When the public
 686 defender, a private court-appointed conflict counsel, or a
 687 private attorney is appointed to represent a minor or an adult
 688 tax-dependent person in any proceeding in circuit court or in a
 689 criminal proceeding in any other court, the parents or the legal
 690 guardian shall be liable for payment of the fees, charges, and
 691 costs of the representation even if the person is a minor being

692 tried as an adult. Liability for the fees, charges, and costs of
 693 the representation shall be imposed in the form of a lien
 694 against the property of the nonindigent parents or legal
 695 guardian of the minor or adult tax-dependent person. The lien is
 696 enforceable as provided in s. 27.561 or s. 938.29.

697 (7) FINANCIAL DISCREPANCIES; FRAUD; FALSE INFORMATION.--

698 (a) If the court learns of discrepancies between the
 699 application or motion and the actual financial status of the
 700 person found to be indigent or indigent for costs, the court
 701 shall determine whether the public defender or private attorney
 702 shall continue representation or whether the authorization for
 703 any other due-process services previously authorized shall be
 704 revoked. The person may be heard regarding the information
 705 learned by the court. If the court, based on the information,
 706 determines that the person is not indigent or indigent for
 707 costs, the court shall order the public defender or private
 708 attorney to discontinue representation and revoke the provision
 709 of any other authorized due-process services.

710 (b) If the court has reason to believe that any applicant,
 711 through fraud or misrepresentation, was improperly determined to
 712 be indigent or indigent for costs, the matter shall be referred
 713 to the state attorney. Twenty-five percent of any amount
 714 recovered by the state attorney as reasonable value of the
 715 services rendered, including fees, charges, and costs paid by
 716 the state on the person's behalf, shall be remitted to the
 717 Department of Revenue for deposit into the Grants and Donations
 718 Trust Fund within the Justice Administrative Commission.
 719 Seventy-five percent of any amount recovered shall be remitted

720 to the Department of Revenue for deposit into the General
 721 Revenue Fund.

722 (c) A person who knowingly provides false information to
 723 the clerk or the court in seeking a determination of indigent
 724 status under this section commits a misdemeanor of the first
 725 degree, punishable as provided in s. 775.082 or s. 775.083.

726 Section 4. Subsections (1), (2), and (6) of section
 727 27.5304, Florida Statutes, are amended, and subsections (7),
 728 (8), (9), and (10) are added to said section, to read:

729 27.5304 Private court-appointed counsel; compensation.--

730 (1) Private court-appointed counsel shall be compensated
 731 by the Justice Administrative Commission in an amount not to
 732 exceed the fee limits established in this section. The attorney
 733 also shall be reimbursed for reasonable and necessary expenses
 734 in accordance with s. 29.007. If the attorney is representing a
 735 defendant charged with more than one offense in the same case,
 736 the attorney shall be compensated at the rate provided for the
 737 most serious offense for which he or she represented the
 738 defendant. This section does not allow stacking of the fee
 739 limits established by this section. Private court-appointed
 740 counsel providing representation under an alternative model
 741 shall enter into a uniform contract with the Justice
 742 Administrative Commission and shall use the Justice
 743 Administrative Commission's uniform procedures and forms in
 744 support of billing for attorney's fees, costs, and related
 745 expenses. Failure to comply with the terms of the contract for
 746 services may result in termination of the contract.

747 (2) The Justice Administrative Commission shall review an
 748 intended billing by private court-appointed counsel for
 749 attorney's fees based on a flat fee per case for completeness
 750 and compliance with contractual, statutory, and circuit Article
 751 V indigent services committee requirements. The commission may
 752 approve the intended bill for a flat fee per case for payment
 753 without approval by the court if the intended billing is
 754 correct. For all other intended billings, prior to filing a
 755 motion for an order approving payment of attorney's fees, costs,
 756 or related expenses, the private court-appointed counsel shall
 757 deliver a copy of the intended billing, together with supporting
 758 affidavits and all other necessary documentation, to the Justice
 759 Administrative Commission. The Justice Administrative Commission
 760 shall review the billings, affidavit, and documentation for
 761 completeness and compliance with contractual and statutory
 762 requirements. If the Justice Administrative Commission objects
 763 to any portion of the proposed billing, the objection and
 764 reasons therefor shall be communicated to the private court-
 765 appointed counsel. The private court-appointed counsel may
 766 thereafter file his or her motion for order approving payment of
 767 attorney's fees, costs, or related expenses together with
 768 supporting affidavits and all other necessary documentation. The
 769 motion must specify whether the Justice Administrative
 770 Commission objects to any portion of the billing or the
 771 sufficiency of documentation and shall attach the Justice
 772 Administrative Commission's letter stating its objection. The
 773 attorney shall have the burden to prove the entitlement to
 774 attorney's fees, costs, or related expenses, ~~if so, the reasons~~

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775 ~~therefor~~. A copy of the motion and attachments shall be served
776 on the Justice Administrative Commission at least 5 business
777 days prior to the date of a hearing. The Justice Administrative
778 Commission shall have standing to appear before the court to
779 contest any motion for order approving payment of attorney's
780 fees, costs, or related expenses and may participate in a
781 hearing on the motion by use of telephonic or other
782 communication equipment unless ordered otherwise. The Justice
783 Administrative Commission may contract with other public or
784 private entities or individuals to appear before the court for
785 the purpose of contesting any motion for order approving payment
786 of attorney's fees, costs, or related expenses. The fact that
787 the Justice Administrative Commission has not objected to any
788 portion of the billing or to the sufficiency of the
789 documentation is not binding on the court. The court retains
790 primary authority and responsibility for determining the
791 reasonableness of all billings for attorney's fees, costs, and
792 related expenses, subject to statutory limitations. Private
793 court-appointed counsel is entitled to compensation upon final
794 disposition of a case, except as provided in subsections (7),
795 (8), and (10). Before final disposition of a case, a private
796 court-appointed counsel may file a motion for fees, costs, and
797 related expenses for services completed up to the date of the
798 motion in any case or matter in which legal services have been
799 provided by the attorney for more than 1 year. The amount
800 approved by the court may not exceed 80 percent of the fees
801 earned, or costs and related expenses incurred, to date, or an
802 amount proportionate to the maximum fees permitted under this

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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803 section based on legal services provided to date, whichever is
 804 less. The court may grant the motion if counsel shows that
 805 failure to grant the motion would work a particular hardship
 806 upon counsel.

807 (6) A private attorney appointed in lieu of the public
 808 defender to represent an indigent defendant may not reassign or
 809 subcontract the case to another attorney or allow another
 810 attorney to appear at a critical stage of a case who is not on
 811 the registry developed under ~~pursuant to~~ s. 27.40.

812 (7) Private court-appointed counsel representing a parent
 813 in a dependency case that is open may submit a request for
 814 payment to the Justice Administrative Commission at the
 815 following intervals:

816 (a) Upon entry of an order of disposition as to the parent
 817 being represented.

818 (b) Upon conclusion of a 12-month permanency review.

819 (c) Following a judicial review hearing.

820
 821 In no case, however, may counsel submit requests under this
 822 paragraph more than once per quarter, unless the court finds
 823 extraordinary circumstances justifying more frequent submission
 824 of payment requests.

825 (8) Private court-appointed counsel representing an
 826 individual in an appeal to a district court of appeal or the
 827 Supreme Court may submit a request for payment to the Justice
 828 Administrative Commission at the following intervals:

829 (a) Upon the filing of an appellate brief, including, but
 830 not limited to, a reply brief.

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831 (b) When the opinion of the appellate court is finalized.

832 (9) Private court-appointed counsel may not bill for
833 preparation of invoices whether or not the case is paid on the
834 basis of an hourly rate or by flat fee.

835 (10) The Justice Administrative Commission shall develop a
836 schedule to provide partial payment of attorney fees for cases
837 that are not resolved within 6 months. The schedule must provide
838 that the aggregate payments shall not exceed limits established
839 by law. Any partial payment made pursuant to this subsection
840 shall not exceed the actual value of services provided to date.
841 Any partial payment shall be proportionate to the value of
842 services provided based on payment rates included in the
843 contract, not to exceed any limit provided by law.

844 Section 5. Subsection (2) of section 27.54, Florida
845 Statutes, is amended to read:

846 27.54 Limitation on payment of expenditures for public
847 defender's office other than by the state.--

848 (2) A county or municipality may contract with, or
849 appropriate or contribute funds to, the operation of the offices
850 of the various public defenders as provided in this subsection.
851 A public defender defending violations of special laws or county
852 or municipal ordinances punishable by incarceration and not
853 ancillary to a state charge shall contract with counties and
854 municipalities to recover the full cost of services rendered on
855 an hourly basis or reimburse the state for the full cost of
856 assigning one or more full-time equivalent attorney positions to
857 work on behalf of the county or municipality. Notwithstanding
858 any other provision of law, in the case of a county with a

859 | population of less than 75,000, the public defender shall
 860 | contract for full reimbursement, or for reimbursement as the
 861 | parties otherwise agree. In local ordinance violation cases, the
 862 | county or municipality shall pay for due-process services that
 863 | are approved by the court, including deposition costs,
 864 | deposition transcript costs, investigative costs, witness fees,
 865 | expert witness costs, and interpreter costs. The person charged
 866 | with the violation shall be assessed a fee for the services of a
 867 | public defender and other costs and fees paid by the county or
 868 | municipality, which assessed fee may be reduced to a lien, in
 869 | all instances in which the person enters a plea of guilty or no
 870 | contest or is found to be in violation or guilty of any count or
 871 | lesser included offense of the charge or companion case charges,
 872 | regardless of adjudication. The court shall determine the amount
 873 | of the obligation. The county or municipality may recover
 874 | assessed fees through collections court or as otherwise
 875 | permitted by law and any fees recovered pursuant to this section
 876 | shall be forwarded to the applicable county or municipality as
 877 | reimbursement.

878 | (a) A contract for reimbursement on an hourly basis shall
 879 | require a county or municipality to reimburse the public
 880 | defender for services rendered at a rate of \$50 per hour. If an
 881 | hourly rate is specified in the General Appropriations Act, that
 882 | rate shall control.

883 | (b) A contract for assigning one or more full-time
 884 | equivalent attorney positions to perform work on behalf of the
 885 | county or municipality shall assign one or more full-time
 886 | equivalent positions based on estimates by the public defender

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887 | of the number of hours required to handle the projected
 888 | workload. The full cost of each full-time equivalent attorney
 889 | position on an annual basis shall be \$50, or the amount
 890 | specified in the General Appropriations Act, multiplied by the
 891 | legislative budget request standard for available work hours for
 892 | one full-time equivalent attorney position, or, in the absence
 893 | of that standard, 1,854 hours. The contract may provide for
 894 | funding full-time equivalent positions in one-quarter
 895 | increments.

896 | (c) Any payments received pursuant to this subsection
 897 | shall be deposited into the Grants and Donations Trust Fund
 898 | within the Justice Administrative Commission for appropriation
 899 | by the Legislature.

900 | Section 6. Section 28.24, Florida Statutes, is amended to
 901 | read:

902 | 28.24 Service charges by clerk of the circuit court.--The
 903 | clerk of the circuit court shall ~~may~~ charge for services
 904 | rendered by the clerk's office in recording documents and
 905 | instruments and in performing the duties enumerated in amounts
 906 | not to exceed those specified in this section. Notwithstanding
 907 | any other provision of this section, the clerk of the circuit
 908 | court shall provide without charge to the state attorney, public
 909 | defender, ~~and~~ guardian ad litem, public guardian, attorney ad
 910 | litem, and court-appointed counsel paid by the state, and to the
 911 | authorized staff acting on behalf of each, access to and a copy
 912 | of any public record, if the requesting party is entitled by law
 913 | to view the exempt or confidential record, as maintained by and
 914 | in the custody of the clerk of the circuit court as provided in

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915 | general law and the Florida Rules of Judicial Administration.
 916 | The clerk of the circuit court may provide the requested public
 917 | record in an electronic format in lieu of a paper format when
 918 | capable of being accessed by the requesting entity.

919 |

920 | Charges

921 | (1) For examining, comparing, correcting, verifying, and
 922 | certifying transcripts of record in appellate proceedings,
 923 | prepared by attorney for appellant or someone else other than
 924 | clerk per page....4.50

925 | (2) For preparing, numbering, and indexing an original
 926 | record of appellate proceedings, per instrument....3.00

927 | (3) For certifying copies of any instrument in the public
 928 | records....1.50

929 | (4) For verifying any instrument presented for
 930 | certification prepared by someone other than clerk, per
 931 | page....3.00

932 | (5)(a) For making copies by photographic process of any
 933 | instrument in the public records consisting of pages of not more
 934 | than 14 inches by 8 1/2 inches, per page....1.00

935 | (b) For making copies by photographic process of any
 936 | instrument in the public records of more than 14 inches by 8 1/2
 937 | inches, per page....5.00

938 | (6) For making microfilm copies of any public records:

939 | (a) 16 mm 100' microfilm roll....37.50

940 | (b) 35 mm 100' microfilm roll....52.50

941 | (c) Microfiche, per fiche....3.00

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- 942 (7) For copying any instrument in the public records by
- 943 other than photographic process, per page....6.00
- 944 (8) For writing any paper other than herein specifically
- 945 mentioned, same as for copying, including signing and
- 946 sealing....6.00
- 947 (9) For indexing each entry not recorded....1.00
- 948 (10) For receiving money into the registry of court:
- 949 (a)1. First \$500, percent....3
- 950 2. Each subsequent \$100, percent....1.5
- 951 (b) Eminent domain actions, per deposit....\$150.00
- 952 (11) For examining, certifying, and recording plats and
- 953 for recording condominium exhibits larger than 14 inches by 8 1/2
- 954 inches:
- 955 (a) First page....30.00
- 956 (b) Each additional page....15.00
- 957 (12) For recording, indexing, and filing any instrument
- 958 not more than 14 inches by 8 1/2 inches, including required
- 959 notice to property appraiser where applicable:
- 960 (a) First page or fraction thereof....5.00
- 961 (b) Each additional page or fraction thereof....4.00
- 962 (c) For indexing instruments recorded in the official
- 963 records which contain more than four names, per additional
- 964 name....1.00
- 965 (d) An additional service charge shall be paid to the
- 966 clerk of the circuit court to be deposited in the Public Records
- 967 Modernization Trust Fund for each instrument listed in s.
- 968 28.222, except judgments received from the courts and notices of
- 969 lis pendens, recorded in the official records:

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- 970 | 1. First page....1.00
- 971 | 2. Each additional page....0.50

972 |

973 | Said fund shall be held in trust by the clerk and used

974 | exclusively for equipment and maintenance of equipment,

975 | personnel training, and technical assistance in modernizing the

976 | public records system of the office. In a county where the duty

977 | of maintaining official records exists in an office other than

978 | the office of the clerk of the circuit court, the clerk of the

979 | circuit court is entitled to 25 percent of the moneys deposited

980 | into the trust fund for equipment, maintenance of equipment,

981 | training, and technical assistance in modernizing the system for

982 | storing records in the office of the clerk of the circuit court.

983 | The fund may not be used for the payment of travel expenses,

984 | membership dues, bank charges, staff-recruitment costs, salaries

985 | or benefits of employees, construction costs, general operating

986 | expenses, or other costs not directly related to obtaining and

987 | maintaining equipment for public records systems or for the

988 | purchase of furniture or office supplies and equipment not

989 | related to the storage of records. On or before December 1,

990 | 1995, and on or before December 1 of each year immediately

991 | preceding each year during which the trust fund is scheduled for

992 | legislative review under s. 19(f)(2), Art. III of the State

993 | Constitution, each clerk of the circuit court shall file a

994 | report on the Public Records Modernization Trust Fund with the

995 | President of the Senate and the Speaker of the House of

996 | Representatives. The report must itemize each expenditure made

997 | from the trust fund since the last report was filed; each

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998 obligation payable from the trust fund on that date; and the
 999 percentage of funds expended for each of the following:
 1000 equipment, maintenance of equipment, personnel training, and
 1001 technical assistance. The report must indicate the nature of the
 1002 system each clerk uses to store, maintain, and retrieve public
 1003 records and the degree to which the system has been upgraded
 1004 since the creation of the trust fund.

1005 (e) An additional service charge of \$4 per page shall be
 1006 paid to the clerk of the circuit court for each instrument
 1007 listed in s. 28.222, except judgments received from the courts
 1008 and notices of lis pendens, recorded in the official records.
 1009 From the additional \$4 service charge collected:

1010 1. If the counties maintain legal responsibility for the
 1011 costs of the court-related technology needs as defined in s.
 1012 29.008(1)(f)2. and (h), 10 cents shall be distributed to the
 1013 Florida Association of Court Clerks and Comptroller, Inc., for
 1014 the cost of development, implementation, operation, and
 1015 maintenance of the clerks' Comprehensive Case Information
 1016 System, in which system all clerks shall participate on or
 1017 before January 1, 2006; \$1.90 shall be retained by the clerk to
 1018 be deposited in the Public Records Modernization Trust Fund and
 1019 used exclusively for funding court-related technology needs of
 1020 the clerk as defined in s. 29.008(1)(f)2. and (h); and \$2 shall
 1021 be distributed to the board of county commissioners to be used
 1022 exclusively to fund court-related technology, and court
 1023 technology needs as defined in s. 29.008(1)(f)2. and (h) for the
 1024 state trial courts, state attorney, and public defender in that
 1025 county. If the counties maintain legal responsibility for the

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1026 costs of the court-related technology needs as defined in s.
 1027 29.008(1)(f)2. and (h), notwithstanding any other provision of
 1028 law, the county is not required to provide additional funding
 1029 beyond that provided herein for the court-related technology
 1030 needs of the clerk as defined in s. 29.008(1)(f)2. and (h). All
 1031 court records and official records are the property of the State
 1032 of Florida, including any records generated as part of the
 1033 Comprehensive Case Information System funded pursuant to this
 1034 paragraph and the clerk of court is designated as the custodian
 1035 of such records, except in a county where the duty of
 1036 maintaining official records exists in a county office other
 1037 than the clerk of court, such county office is designated the
 1038 custodian of all official records, and the clerk of court is
 1039 designated the custodian of all court records. The clerk of
 1040 court or any entity acting on behalf of the clerk of court,
 1041 including an association, shall not charge a fee to any agency
 1042 as defined in s. 119.011, the Legislature, or the State Court
 1043 System for copies of records generated by the Comprehensive Case
 1044 Information System or held by the clerk of court or any entity
 1045 acting on behalf of the clerk of court, including an
 1046 association.

1047 2. If the state becomes legally responsible for the costs
 1048 of court-related technology needs as defined in s.
 1049 29.008(1)(f)2. and (h), whether by operation of general law or
 1050 by court order, \$4 shall be remitted to the Department of
 1051 Revenue for deposit into the General Revenue Fund.

1052 (13) Oath, administering, attesting, and sealing, not
 1053 otherwise provided for herein....3.00

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- 1054 (14) For validating certificates, any authorized bonds,
1055 each....3.00
- 1056 (15) For preparing affidavit of domicile....5.00
- 1057 (16) For exemplified certificates, including signing and
1058 sealing....6.00
- 1059 (17) For authenticated certificates, including signing and
1060 sealing....6.00
- 1061 (18)(a) For issuing and filing a subpoena for a witness,
1062 not otherwise provided for herein (includes writing, preparing,
1063 signing, and sealing)....6.00
- 1064 (b) For signing and sealing only....1.50
- 1065 (19) For approving bond....7.50
- 1066 (20) For searching of records, for each year's
1067 search....1.50
- 1068 (21) For processing an application for a tax deed sale
1069 (includes application, sale, issuance, and preparation of tax
1070 deed, and disbursement of proceeds of sale), other than excess
1071 proceeds....60.00
- 1072 (22) For disbursement of excess proceeds of tax deed sale,
1073 first \$100 or fraction thereof....10.00
- 1074 (23) Upon receipt of an application for a marriage
1075 license, for preparing and administering of oath; issuing,
1076 sealing, and recording of the marriage license; and providing a
1077 certified copy....30.00
- 1078 (24) For solemnizing matrimony....30.00
- 1079 (25) For sealing any court file or expungement of any
1080 record....37.50

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1081 (26)(a) For receiving and disbursing all restitution
1082 payments, per payment....3.00

1083 (b) For receiving and disbursing all partial payments,
1084 other than restitution payments, for which an administrative
1085 processing service charge is not imposed pursuant to s. 28.246,
1086 per month....5.00

1087 (c) For setting up a payment plan, a one-time
1088 administrative processing charge in lieu of a per month charge
1089 under paragraph (b)....25.00

1090 (27) Postal charges incurred by the clerk of the circuit
1091 court in any mailing by certified or registered mail shall be
1092 paid by the party at whose instance the mailing is made.

1093 (28) For furnishing an electronic copy of information
1094 contained in a computer database: a fee as provided for in
1095 chapter 119.

1096 Section 7. Paragraph (a) of subsection (1) of section
1097 28.2402, Florida Statutes, is amended to read:

1098 28.2402 Cost recovery; use of the circuit court for
1099 ordinance or special law violations.--

1100 (1)(a) In lieu of payment of a filing fee under s. 28.241,
1101 a filing fee of \$10 shall be paid by a county or municipality
1102 when filing a county or municipal ordinance violation or
1103 violation of a special law in circuit court. This fee shall be
1104 paid to the clerk of the court for performing court-related
1105 functions. A county or municipality is not required to pay more
1106 than one filing fee for a single filing against a single
1107 defendant that contains multiple alleged violations. A filing
1108 fee, other than that imposed under this section, may not be

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1109 assessed for initiating an enforcement proceeding in circuit
 1110 court for a violation of a county or municipal code or ordinance
 1111 or a violation of a special law. The filing fee shall not apply
 1112 to instances in which a county or municipality has contracted
 1113 with the state, or has been delegated by the state,
 1114 responsibility for enforcing state operations, policies, or
 1115 requirements under s. 125.69, s. 166.0415, or chapter 162.

1116 Section 8. Section 28.245, Florida Statutes, is amended to
 1117 read:

1118 28.245 Transmittal of funds to Department of Revenue;
 1119 uniform remittance form required.--Notwithstanding any other
 1120 provision of law, all moneys collected by the clerks of the
 1121 court as part of the clerk's court-related functions for
 1122 subsequent distribution to any state entity must be transmitted
 1123 electronically, by the 20th day of the month immediately
 1124 following the month in which the moneys are collected, to the
 1125 Department of Revenue for appropriate distribution. A uniform
 1126 remittance form provided by the Department of Revenue detailing
 1127 the specific amounts due each fund must accompany such
 1128 submittal. All moneys collected by the clerks of court for
 1129 remittance to any entity must be distributed pursuant to the law
 1130 in effect at the time of collection.

1131 Section 9. Subsections (1) and (4) of section 28.246,
 1132 Florida Statutes, are amended to read:

1133 28.246 Payment of court-related fees, charges, and costs;
 1134 partial payments; distribution of funds.--

1135 (1) Beginning July 1, 2003, the clerk of the circuit court
 1136 shall report the following information to the Legislature and

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1137 | the Florida Clerks ~~Clerk~~ of Court Operations Corporation
 1138 | ~~Conference~~ on a form developed by the Department of Financial
 1139 | Services:

1140 | (a) The total amount of mandatory fees, service charges,
 1141 | and costs; the total amount actually assessed; the total amount
 1142 | discharged, waived, or otherwise not assessed; and the total
 1143 | amount collected.

1144 | (b) The amount of discretionary fees, service charges, and
 1145 | costs assessed; the total amount discharged; and the total
 1146 | amount collected.

1147 | (c) The total amount of mandatory fines and other monetary
 1148 | penalties; the total amount assessed; the total amount
 1149 | discharged, waived, or otherwise not assessed; and the total
 1150 | amount collected.

1151 | (d) The amount of discretionary fines and other monetary
 1152 | penalties assessed; the amount discharged; and the total amount
 1153 | collected.

1154 |
 1155 | If provided to the clerk of court by the judge, the clerk, in
 1156 | reporting the amount assessed, shall separately identify the
 1157 | amount assessed pursuant to s. 938.30 as community service;
 1158 | assessed by reducing the amount to a judgment or lien; satisfied
 1159 | by time served; or other. The form developed by the Chief
 1160 | Financial Officer shall include separate entries for recording
 1161 | these amounts. The clerk shall submit the report on a quarterly
 1162 | basis 30 days after the end of the quarter for the period from
 1163 | July 1, 2003, through June 30, 2004, and on an annual basis
 1164 | thereafter, 60 days after the end of the county fiscal year.

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1165 (4) The clerk of the circuit court shall accept partial
 1166 payments for court-related fees, service charges, costs, and
 1167 fines in accordance with the terms of an established payment
 1168 plan. An individual seeking to defer payment of fees, service
 1169 charges, costs, or fines imposed by operation of law or order of
 1170 the court under any provision of general law shall apply to the
 1171 clerk for enrollment in a payment plan. The clerk shall enter
 1172 into a payment plan with an individual who the court determines
 1173 is indigent for costs. A monthly payment amount, calculated
 1174 based upon all fees and all anticipated costs, is presumed to
 1175 correspond to the person's ability to pay if the amount does not
 1176 exceed 2 percent of the person's annual net income, as defined
 1177 in 27.52(1), divided by 12. The court may review the
 1178 reasonableness of the payment plan, ~~and determined by the court~~
 1179 ~~to be unable to make payment in full, shall be enrolled by the~~
 1180 ~~clerk in a payment program, with periodic payment amounts~~
 1181 ~~corresponding to the individual's ability to pay.~~

1182 Section 10. Section 28.345, Florida Statutes, is amended
 1183 to read:

1184 28.345 Exemption from court-related fees and
 1185 charges.--Notwithstanding any other provision of this chapter or
 1186 law to the contrary, judges and those court staff acting on
 1187 behalf of judges, state attorneys, guardians ad litem, public
 1188 guardians, attorneys ad litem, court-appointed private counsel,
 1189 and public defenders, acting in their official capacity, and
 1190 state agencies, are exempt from all court-related fees and
 1191 charges assessed by the clerks of the circuit courts.

1192 Section 11. Subsection (2), paragraph (a) of subsection
 1193 (3), and paragraph (b) of subsection (4) of section 28.36,
 1194 Florida Statutes, are amended to read:

1195 28.36 Budget procedure.--There is hereby established a
 1196 budget procedure for the court-related functions of the clerks
 1197 of the court.

1198 (2)(a) For the period July 1, 2004, through September 30,
 1199 2004, and for each county fiscal year ending September 30
 1200 thereafter, each clerk of the court shall prepare a budget
 1201 relating solely to the performance of the standard list of
 1202 court-related functions pursuant to s. 28.35(4)(a).

1203 (b) The chief judge of each circuit, after consultation
 1204 with the clerk of court, shall coordinate the provision of all
 1205 court-related functions and determine the priorities for the
 1206 court-related functions of the clerk of court provided pursuant
 1207 to s. 28.35(4)(a).

1208 (3) Each proposed budget shall further conform to the
 1209 following requirements:

1210 (a) On or before August 15 ~~±~~ for each fiscal year
 1211 thereafter, the proposed budget shall be prepared, summarized,
 1212 and submitted by the clerk in each county to the Clerks of Court
 1213 Operations Corporation in the manner and form prescribed by the
 1214 corporation conference ~~conference~~. The proposed budget must provide
 1215 detailed information on the anticipated revenues available and
 1216 expenditures necessary for the performance of the standard list
 1217 of court-related functions of the clerk's office developed
 1218 pursuant to s. 28.35(4)(a) for the county fiscal year beginning
 1219 the following October 1.

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1220 (4) If a clerk of the court estimates that available funds
 1221 plus projected revenues from fines, fees, service charges, and
 1222 costs for court-related services are insufficient to meet the
 1223 anticipated expenditures for the standard list of court-related
 1224 functions in s. 28.35(4)(a) performed by his or her office, the
 1225 clerk must report the revenue deficit to the Clerks of Court
 1226 Operations Corporation in the manner and form prescribed by the
 1227 corporation pursuant to contract with the Chief Financial
 1228 Officer. The corporation shall verify that the proposed budget
 1229 is limited to the standard list of court-related functions in s.
 1230 28.35(4)(a).

1231 (b) If the Chief Financial Officer ~~Department of Revenue~~
 1232 finds the court-related budget proposed by a clerk includes
 1233 functions not included in the standard list of court-related
 1234 functions in s. 28.35(4)(a) ~~28.35(3)(a)~~, the Chief Financial
 1235 Officer ~~department~~ shall notify the clerk of the amount of the
 1236 proposed budget not eligible to be funded from fees, service
 1237 charges, costs, and fines for court-related functions and shall
 1238 identify appropriate corrective measures to ensure budget
 1239 integrity. The clerk shall then immediately discontinue all
 1240 ineligible ~~the~~ expenditures of court-related funds for this
 1241 purpose and reimburse the Clerks of the Court Trust Fund for any
 1242 previously ineligible expenditures made for non-court-related
 1243 functions, and shall implement any corrective actions identified
 1244 by the Chief Financial Officer ~~incurred to date for these~~
 1245 ~~functions~~.

1246 Section 12. Subsection (4) of section 28.37, Florida
 1247 Statutes, is amended to read:

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1248 28.37 Fines, fees, service charges, and costs remitted to
1249 the state.--

1250 (4) Beginning January 1, 2005, for the period July 1,
1251 2004, through September 30, 2004, and each January 1 thereafter
1252 for the preceding county fiscal year of October 1 through
1253 September 30, the clerk of the court must remit to the
1254 Department of Revenue for deposit in the General Revenue Fund
1255 the cumulative excess of all fees, service charges, court costs,
1256 and fines retained by the clerks of the court, plus any funds
1257 received by the clerks of the court from the Department of
1258 Revenue Clerk of the Court Trust Fund under s. 28.36(4)(a), over
1259 the amount needed to meet the approved budget amounts
1260 established under s. 28.36.

1261 Section 13. Section 28.44, Florida Statutes, is created to
1262 read:

1263 28.44 Clerk discontinuance of court-related functions.--

1264 (1) No function of the clerk of court being performed in
1265 support of the trial courts by the individual clerks of court on
1266 July 1, 2004, may be discontinued or substantially modified on a
1267 unilateral basis except pursuant to this section. A clerk of
1268 court may discontinue performing a function performed in support
1269 of the trial court only if:

1270 (a) The chief judge of the circuit has consented in
1271 writing to the discontinuance or substantial modification of the
1272 function performed in support of the trial court; or

1273 (b) The clerk of court has given written notice of the
1274 intention to substantially modify or discontinue a function
1275 performed in support of the trial court at least one year before

1276 | the effective date of the discontinuance or substantial
 1277 | modification of the function.

1278 | (2) "Substantial modification" of a function performed in
 1279 | support of the trial court means a modification which has the
 1280 | effect of reducing the level of services provided to the trial
 1281 | court.

1282 | Section 14. Subsection (6) of section 29.004, Florida
 1283 | Statutes, is amended to read:

1284 | 29.004 State courts system.--For purposes of implementing
 1285 | s. 14, Art. V of the State Constitution, the elements of the
 1286 | state courts system to be provided from state revenues
 1287 | appropriated by general law are as follows:

1288 | (6) Expert witnesses who ~~not requested by any party which~~
 1289 | are appointed by the court pursuant to an express grant of
 1290 | statutory authority.

1291 | Section 15. Subsections (4), (5), (6), (7), and (8) of
 1292 | section 29.005, Florida Statutes, are amended to read:

1293 | 29.005 State attorneys' offices and prosecution
 1294 | expenses.--For purposes of implementing s. 14, Art. V of the
 1295 | State Constitution, the elements of the state attorneys' offices
 1296 | to be provided from state revenues appropriated by general law
 1297 | are as follows:

1298 | ~~(4) Mental health professionals appointed pursuant to s.~~
 1299 | ~~394.473 and required in a court hearing involving an indigent,~~
 1300 | ~~and mental health professionals appointed pursuant to s.~~
 1301 | ~~916.115(2) and required in a court hearing involving an~~
 1302 | ~~indigent.~~

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1303 (4)~~(5)~~ Reasonable transportation services in the
 1304 performance of constitutional and statutory responsibilities.
 1305 Motor vehicles owned by the counties and provided exclusively to
 1306 state attorneys as of July 1, 2003, and any additional vehicles
 1307 owned by the counties and provided exclusively to state
 1308 attorneys during fiscal year 2003-2004 shall be transferred by
 1309 title to the state effective July 1, 2004.

1310 (5)~~(6)~~ Travel expenses reimbursable under s. 112.061
 1311 reasonably necessary in the performance of constitutional and
 1312 statutory responsibilities.

1313 (6)~~(7)~~ Reasonable library and electronic legal research
 1314 services, other than a public law library.

1315 (7)~~(8)~~ Reasonable pretrial consultation fees and costs.

1316 Section 16. Section 29.007, Florida Statutes, is amended
 1317 to read:

1318 29.007 Court-appointed counsel.--For purposes of
 1319 implementing s. 14, Art. V of the State Constitution, the
 1320 elements of court-appointed counsel to be provided from state
 1321 revenues appropriated by general law are as follows:

1322 (1) Private attorneys appointed by the court to handle
 1323 cases where the defendant is indigent and cannot be represented
 1324 by the public defender under ss. 27.42 and 27.53.

1325 (2) Private attorneys appointed by the court to represent
 1326 indigents or other classes of litigants in civil proceedings
 1327 requiring court-appointed counsel in accordance with state and
 1328 federal constitutional guarantees and federal and state
 1329 statutes.

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1330 (3) Reasonable court reporting and transcription services
 1331 necessary to meet constitutional or statutory requirements,
 1332 including the cost of transcribing and copying depositions of
 1333 witnesses and the cost of foreign language and sign-language
 1334 interpreters and translators.

1335 (4) Witnesses, including expert witnesses, summoned to
 1336 appear for an investigation, preliminary hearing, or trial in a
 1337 case when the witnesses are summoned on behalf of an indigent,
 1338 and any other expert witnesses approved by the court.

1339 (5) Mental health professionals appointed pursuant to s.
 1340 394.473 and required in a court hearing involving an indigent,
 1341 ~~and~~ mental health professionals appointed pursuant to s.
 1342 916.115(2) and required in a court hearing involving an
 1343 indigent, and any other mental health professionals expressly
 1344 required by law for the full adjudication of any civil case
 1345 involving an indigent person.

1346 (6) Reasonable pretrial consultation fees and costs.

1347 (7) Travel expenses reimbursable under s. 112.061
 1348 reasonably necessary in the performance of constitutional and
 1349 statutory responsibilities.

1350
 1351 Subsections (3), (4), (5), (6), and (7) apply when court-
 1352 appointed counsel is appointed; when the court determines that
 1353 the litigant is indigent for costs; or when the litigant is
 1354 acting pro se and the court determines that the litigant is
 1355 indigent for costs at the trial or appellate level. This section
 1356 applies in any situation in which the court appoints counsel to
 1357 protect a litigant's due-process rights. The Justice

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1358 Administrative Commission shall approve uniform contract forms
 1359 for use in processing payments for due process services under
 1360 this section. In each case in which a private attorney
 1361 represents a person determined by the court to be indigent for
 1362 costs, the attorney shall execute the commission's contract for
 1363 private attorneys representing persons determined to be indigent
 1364 for costs.

1365 Section 17. Subsection (1) of section 29.008, Florida
 1366 Statutes, is amended to read:

1367 29.008 County funding of court-related functions.--

1368 (1) Counties are required by s. 14, Art. V of the State
 1369 Constitution to fund the cost of communications services,
 1370 existing radio systems, existing multiagency criminal justice
 1371 information systems, and the cost of construction or lease,
 1372 maintenance, utilities, and security of facilities for the
 1373 circuit and county courts, public defenders' offices, state
 1374 attorneys' offices, guardian ad litem offices, and the offices
 1375 of the clerks of the circuit and county courts performing court-
 1376 related functions. For purposes of this section, the term
 1377 "circuit and county courts" shall include the offices and
 1378 staffing of the guardian ad litem programs. The county
 1379 designated under s. 35.05(1) as the headquarters for each
 1380 appellate district shall fund these costs for the appellate
 1381 division of the public defender's office in that county. For
 1382 purposes of implementing these requirements, the term:

1383 (a) "Facility" means reasonable and necessary buildings
 1384 and office space and appurtenant equipment and furnishings,
 1385 structures, real estate, easements, and related interests in

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1386 | real estate, including, but not limited to, those for the
 1387 | purpose of housing legal materials for use by the general public
 1388 | and personnel, equipment, or functions of the circuit or county
 1389 | courts, public defenders' offices, state attorneys' offices, and
 1390 | court-related functions of the office of the clerks of the
 1391 | circuit and county courts and all storage. The term "facility"
 1392 | includes all wiring necessary for court-reporting services. The
 1393 | term also includes access to parking for such facilities in
 1394 | connection with such court-related functions that may be
 1395 | available free or from a private provider or a local government
 1396 | for a fee. The office space provided by a county may not be less
 1397 | than the standards for space allotment adopted by the Department
 1398 | of Management Services, except this requirement applies only to
 1399 | facilities that are leased, or on which construction commences,
 1400 | after June 30, 2003. County funding must include physical
 1401 | modifications and improvements to all facilities as are required
 1402 | for compliance with the Americans with Disabilities Act. Upon
 1403 | mutual agreement of a county and the affected entity in this
 1404 | paragraph, the office space provided by the county may vary from
 1405 | the standards for space allotment adopted by the Department of
 1406 | Management Services. ~~This section applies only to facilities~~
 1407 | ~~that are leased, or on which construction commences, after June~~
 1408 | ~~30, 2003.~~

1409 | 1. As of July 1, 2005, equipment and furnishings shall be
 1410 | limited to that appropriate and customary for courtrooms,
 1411 | hearing rooms, jury facilities, and other public areas in
 1412 | courthouses and any other facility occupied by the courts, state

1413 attorneys, and public defenders. Court-reporting equipment in
 1414 these areas or facilities is not a responsibility of the county.

1415 2. Equipment and furnishings under this paragraph in
 1416 existence and owned by counties on July 1, 2005, except for that
 1417 in the possession of the clerks, for areas other than
 1418 courtrooms, hearing rooms, jury facilities, and other public
 1419 areas in courthouses and any other facility occupied by the
 1420 courts, state attorneys, and public defenders, shall be
 1421 transferred to the state at no charge. This provision does not
 1422 apply to any communication services as defined in paragraph (f).

1423 (b) "Construction or lease" includes, but is not limited
 1424 to, all reasonable and necessary costs of the acquisition or
 1425 lease of facilities for all judicial officers, staff, jurors,
 1426 volunteers of a tenant agency, and the public for the circuit
 1427 and county courts, the public defenders' offices, state
 1428 attorneys' offices, and for performing the court-related
 1429 functions of the offices of the clerks of the circuit and county
 1430 courts. This includes expenses related to financing such
 1431 facilities and the existing and future cost and bonded
 1432 indebtedness associated with placing the facilities in use.

1433 (c) "Maintenance" includes, but is not limited to, all
 1434 reasonable and necessary costs of custodial and groundskeeping
 1435 services and renovation and reconstruction as needed to
 1436 accommodate functions for the circuit and county courts, the
 1437 public defenders' offices, and state attorneys' offices and for
 1438 performing the court-related functions of the offices of the
 1439 clerks of the circuit and county court and for maintaining the

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1440 facilities in a condition appropriate and safe for the use
1441 intended.

1442 (d) "Utilities" means all electricity services for light,
1443 heat, and power; natural or manufactured gas services for light,
1444 heat, and power; water and wastewater services and systems,
1445 stormwater or runoff services and systems, sewer services and
1446 systems, all costs or fees associated with these services and
1447 systems, and any costs or fees associated with the mitigation of
1448 environmental impacts directly related to the facility.

1449 (e) "Security" includes but is not limited to, all
1450 reasonable and necessary costs of services of law enforcement
1451 officers or licensed security guards and all electronic,
1452 cellular, or digital monitoring and screening devices necessary
1453 to ensure the safety and security of all persons visiting or
1454 working in a facility; to provide for security of the facility,
1455 including protection of property owned by the county or the
1456 state; and for security of prisoners brought to any facility.
1457 This includes bailiffs while providing courtroom and other
1458 security for each judge and other quasi-judicial officers.

1459 (f) "Communications services" are defined as any
1460 reasonable and necessary transmission, emission, and reception
1461 of signs, signals, writings, images, and sounds of intelligence
1462 of any nature by wire, radio, optical, audio equipment, or other
1463 electromagnetic systems and includes all facilities and
1464 equipment owned, leased, or used by judges, clerks, public
1465 defenders, state attorneys, and all staff of the state courts
1466 system, state attorneys' offices, public defenders' offices, and
1467 clerks of the circuit and county courts performing court-related

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1468 functions. Such system or services shall include, but not be
1469 limited to:

1470 1. Telephone system infrastructure, including computer
1471 lines, telephone switching equipment, and maintenance, and
1472 facsimile equipment, wireless communications, cellular
1473 telephones, pagers, and video teleconferencing equipment and
1474 line charges. Each county shall continue to provide access to a
1475 local carrier for local and long distance service and shall pay
1476 toll charges for local and long distance service.

1477 2. All computer networks, systems and equipment, including
1478 computer hardware and software, modems, printers, wiring,
1479 network connections, maintenance, support staff or services
1480 including any county-funded support staff located in the offices
1481 of the circuit court, county courts, state attorneys, and public
1482 defenders, training, supplies, and line charges necessary for an
1483 integrated computer system to support the operations and
1484 management of the state courts system, the offices of the public
1485 defenders, the offices of the state attorneys, and the offices
1486 of the clerks of the circuit and county courts and the
1487 capability to connect those entities and reporting data to the
1488 state as required for the transmission of revenue, performance
1489 accountability, case management, data collection, budgeting, and
1490 auditing purposes. The integrated computer system shall be
1491 operational by July 1, 2006, and, at a minimum, permit the
1492 exchange of financial, performance accountability, case
1493 management, case disposition, and other data across multiple
1494 state and county information systems involving multiple users at
1495 both the state level and within each judicial circuit and be

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1496 | able to electronically exchange judicial case background data,
 1497 | sentencing scoresheets, and video evidence information stored in
 1498 | integrated case management systems over secure networks. Once
 1499 | the integrated system becomes operational, counties may reject
 1500 | requests to purchase communication services included in this
 1501 | subparagraph not in compliance with standards, protocols, or
 1502 | processes adopted by the board established pursuant to s.
 1503 | 29.0086.

1504 | 3. Courier messenger and subpoena services.

1505 | 4. Auxiliary aids and services for qualified individuals
 1506 | with a disability which are necessary to ensure access to the
 1507 | courts. Such auxiliary aids and services include, but are not
 1508 | limited to, sign language interpretation services required under
 1509 | the federal Americans with Disabilities Act other than services
 1510 | required to satisfy due-process ~~due-process~~ requirements and
 1511 | identified as a state funding responsibility pursuant to ss.
 1512 | 29.004, 29.005, 29.006, and 29.007, real-time transcription
 1513 | services for individuals who are hearing impaired, and assistive
 1514 | listening devices and the equipment necessary to implement such
 1515 | accommodations.

1516 | (g) "Existing radio systems" includes, but is not limited
 1517 | to, law enforcement radio systems that are used by the circuit
 1518 | and county courts, the offices of the public defenders, the
 1519 | offices of the state attorneys, and for court-related functions
 1520 | of the offices of the clerks of the circuit and county courts.
 1521 | This includes radio systems that were operational or under
 1522 | contract at the time Revision No. 7, 1998, to Art. V of the
 1523 | State Constitution was adopted and any enhancements made

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1524 thereafter, the maintenance of those systems, and the personnel
1525 and supplies necessary for operation.

1526 (h) "Existing multiagency criminal justice information
1527 systems" includes, but is not limited to, those components of
1528 the multiagency criminal justice information system as defined
1529 in s. 943.045, supporting the offices of the circuit or county
1530 courts, the public defenders' offices, the state attorneys'
1531 offices, or those portions of the offices of the clerks of the
1532 circuit and county courts performing court-related functions
1533 that are used to carry out the court-related activities of those
1534 entities. This includes upgrades and maintenance of the current
1535 equipment, maintenance and upgrades of supporting technology
1536 infrastructure and associated staff, and services and expenses
1537 to assure continued information sharing and reporting of
1538 information to the state. The counties shall also provide
1539 additional information technology services, hardware, and
1540 software as needed for new judges and staff of the state courts
1541 system, state attorneys' offices, public defenders' offices, and
1542 the offices of the clerks of the circuit and county courts
1543 performing court-related functions.

1544 Section 18. Subsection (2) of section 29.015, Florida
1545 Statutes, is amended to read:

1546 29.015 Contingency fund; limitation of authority to
1547 transfer funds in contracted due-process ~~due process~~ services
1548 appropriation categories.--

1549 (2) In the event that a state attorney or public defender
1550 incurs a deficit in a contracted due-process ~~due process~~

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1551 services appropriation category, the following steps shall be
1552 taken in order:

1553 (a) The state attorney or public defender shall first
1554 attempt to identify surplus funds from other appropriation
1555 categories within his or her office and submit a budget
1556 amendment pursuant to chapter 216 to transfer funds from within
1557 the office.

1558 (b) In the event that the state attorney or public
1559 defender is unable to identify surplus funds from within his or
1560 her office, he or she shall certify this to the Justice
1561 Administrative Commission along with a complete explanation of
1562 the circumstances which led to the deficit and steps the office
1563 has taken to reduce or alleviate the deficit. The Justice
1564 Administrative Commission shall inquire as to whether any other
1565 office has surplus funds in its contracted due-process ~~due~~
1566 ~~process~~ services appropriation categories which can be
1567 transferred to the office that is experiencing the deficit. If
1568 other offices indicate that surplus funds are available within
1569 the same appropriation category, the Justice Administrative
1570 Commission shall adjust the initial allocation of funds among
1571 circuits provided that such adjustment is not in conflict with
1572 specific direction provided in the General Appropriations Act
1573 and shall provide notice to the Governor and the chair and vice
1574 chair of the Legislative Budget Commission at least 14 days
1575 prior to making the adjustment. If funds are available from a
1576 different appropriation category, the Justice Administrative
1577 Commission shall request a budget amendment pursuant to all
1578 applicable provisions of chapter 216 ~~request a budget amendment~~

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1579 | ~~to transfer funds from the office or offices to alleviate the~~
 1580 | ~~deficit upon agreement of the contributing office or offices.~~

1581 | (c) If no office indicates that surplus funds are
 1582 | available to alleviate the deficit, the Justice Administrative
 1583 | Commission may request a budget amendment to transfer funds from
 1584 | the contingency fund. Such transfers shall be in accordance with
 1585 | all applicable provisions of chapter 216 and shall be subject to
 1586 | review and approval by the Legislative Budget Commission. The
 1587 | Justice Administrative Commission shall submit the documentation
 1588 | provided by the office explaining the circumstances that led to
 1589 | the deficit and the steps taken by the office and the Justice
 1590 | Administrative Commission to identify surplus funds to the
 1591 | Legislative Budget Commission.

1592 | Section 19. Section 29.018, Florida Statutes, is amended
 1593 | to read:

1594 | 29.018 Cost sharing of due-process services ~~due-process~~
 1595 | ~~costs~~; legislative intent.--It is the intent of the Legislature
 1596 | to provide state-funded due-process ~~due-process~~ services to the
 1597 | state courts system, state attorneys, public defenders, and
 1598 | court-appointed counsel in the most cost-effective and efficient
 1599 | manner. The state courts system, state attorneys, public
 1600 | defenders, and the Justice Administrative Commission on behalf
 1601 | of court-appointed counsel may enter into contractual agreements
 1602 | to share, on a pro rata basis, the costs associated with court
 1603 | reporting services, court interpreter and translation services,
 1604 | court experts, and all other due-process ~~due-process~~ services
 1605 | funded by the state pursuant to this chapter. These costs shall

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1606 | be budgeted within the funds appropriated to each of the
1607 | affected users of services.

1608 | Section 20. Section 29.0185, Florida Statutes, is created
1609 | to read:

1610 | 29.0185 Provision of state-funded due-process services to
1611 | individuals.--Due-process services may not be provided with
1612 | state revenues to an individual unless the individual on whose
1613 | behalf the due-process services are being provided is eligible
1614 | for court-appointed counsel under s. 27.40, based upon a
1615 | determination of indigency under s. 27.52, regardless of whether
1616 | such counsel is appointed or the individual on whose behalf the
1617 | due process services are being provided is eligible for court-
1618 | appointed counsel under s. 27.40 and has been determined
1619 | indigent for costs pursuant to s. 27.52.

1620 | Section 21. Subsection (1) of section 34.045, Florida
1621 | Statutes, is amended to read:

1622 | 34.045 Cost recovery; use of the county court for
1623 | ordinance or special law violations.--

1624 | (1)(a) In lieu of payment of a filing fee under s. 34.041,
1625 | a filing fee of \$10 shall be paid by a county or municipality
1626 | when filing a violation of a county or municipal ordinance or a
1627 | violation of a special law in county court. This fee shall be
1628 | paid to the clerk of the court for performing court-related
1629 | functions. A county or municipality is not required to pay more
1630 | than one filing fee for a single filing against a single
1631 | defendant that contains multiple alleged violations. A filing
1632 | fee, other than that imposed under this section, may not be
1633 | assessed for initiating an enforcement proceeding in county

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1634 court for a violation of a county or municipal code or ordinance
 1635 or a violation of a special law. The filing fee shall not apply
 1636 to instances in which a county or municipality has contracted
 1637 with the state, or has been delegated by the state,
 1638 responsibility for enforcing state operations, policies, or
 1639 requirements under s. 125.69, s. 166.0415, or chapter 162.

1640 (b) No other filing fee may be assessed for filing the
 1641 violation in county court. If a person contests the violation in
 1642 court, the court shall assess \$40 in costs against the
 1643 nonprevailing party. The county or municipality shall be
 1644 considered the prevailing party when there is a plea or finding
 1645 of violation or guilt to any count or lesser included offense of
 1646 the charge or companion case charges, regardless of
 1647 adjudication. Costs ~~Cost~~ recovered pursuant to this paragraph
 1648 shall be deposited into the clerk's fine and forfeiture fund
 1649 established pursuant to s. 142.01.

1650 (c) If the person does not contest the violation in court
 1651 or if the county or municipality is the prevailing party, the
 1652 court shall assess the person or nonprevailing party \$10 for the
 1653 filing fee provided in paragraph (a), which amount shall be
 1654 forwarded to the county or municipality.

1655 Section 22. Section 34.191, Florida Statutes, is amended
 1656 to read:

1657 34.191 Fines and forfeitures; dispositions.--

1658 (1) All fines and forfeitures arising from offenses tried
 1659 in the county court shall be collected and accounted for by the
 1660 clerk of the court and, other than the charge provided in s.
 1661 318.1215, disbursed in accordance with ss. 28.2402, 34.045,

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1662 142.01, and 142.03 ~~142.13~~ and subject to the provisions of s.
 1663 28.246(5) and (6). Notwithstanding the provisions of this
 1664 section, all fines and forfeitures arising from operation of the
 1665 provisions of s. 318.1215 shall be disbursed in accordance with
 1666 that section.

1667 (2) All fines and forfeitures received from violations of
 1668 municipal ordinances committed within a municipality within the
 1669 territorial jurisdiction of the county court, other than the
 1670 charge provided in s. 318.1215, shall be paid monthly to the
 1671 municipality except as provided in s. 28.2402(2), s. 34.045(2),
 1672 s. 318.21, or s. 943.25. A municipality does not include the
 1673 unincorporated areas, if any, of a government created pursuant
 1674 to s. 6(e), Art. VIII of the State Constitution.

1675 (3) All other fines and forfeitures collected by the
 1676 clerk, other than the charge provided in s. 318.1215, shall be
 1677 considered income of the office of the clerk for use in
 1678 performing court-related duties of the office.

1679 Section 23. Subsection (3) of section 39.0132, Florida
 1680 Statutes, is amended to read:

1681 39.0132 Oaths, records, and confidential information.--

1682 (3) The clerk shall keep all court records required by
 1683 this chapter separate from other records of the circuit court.
 1684 All court records required by this chapter shall not be open to
 1685 inspection by the public. All records shall be inspected only
 1686 upon order of the court by persons deemed by the court to have a
 1687 proper interest therein, except that, subject to the provisions
 1688 of s. 63.162, a child and the parents of the child and their
 1689 attorneys, guardian ad litem, law enforcement agencies, and the

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1690 department and its designees shall always have the right to
 1691 inspect and copy any official record pertaining to the child.
 1692 The Justice Administrative Commission may inspect court dockets
 1693 required by this chapter as necessary to audit compensation of
 1694 court-appointed attorneys. If the docket is insufficient for
 1695 purposes of the audit, the commission may petition the court for
 1696 additional documentation as necessary and appropriate. The court
 1697 may permit authorized representatives of recognized
 1698 organizations compiling statistics for proper purposes to
 1699 inspect and make abstracts from official records, under whatever
 1700 conditions upon their use and disposition the court may deem
 1701 proper, and may punish by contempt proceedings any violation of
 1702 those conditions.

1703 Section 24. Subsection (1) of section 39.821, Florida
 1704 Statutes, is amended to read:

1705 39.821 Qualifications of guardians ad litem.--

1706 (1) Because of the special trust or responsibility placed
 1707 in a guardian ad litem, the Guardian Ad Litem Program may use
 1708 any private funds collected by the program, or any state funds
 1709 so designated, to conduct a security background investigation
 1710 before certifying a volunteer to serve. A security background
 1711 investigation must include, but need not be limited to,
 1712 employment history checks, checks of references, local criminal
 1713 records checks through local law enforcement agencies, and
 1714 statewide criminal records checks through the Department of Law
 1715 Enforcement. Upon request, an employer shall furnish a copy of
 1716 the personnel record for the employee or former employee who is
 1717 the subject of a security background investigation conducted

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1718 | under this section. The information contained in the personnel
 1719 | record may include, but need not be limited to, disciplinary
 1720 | matters and the reason why the employee was terminated from
 1721 | employment. An employer who releases a personnel record for
 1722 | purposes of a security background investigation is presumed to
 1723 | have acted in good faith and is not liable for information
 1724 | contained in the record without a showing that the employer
 1725 | maliciously falsified the record. A security background
 1726 | investigation conducted under this section must ensure that a
 1727 | person is not certified as a guardian ad litem if the person has
 1728 | been convicted of, regardless of adjudication, or entered a plea
 1729 | of nolo contendere or guilty to, any offense prohibited under
 1730 | the provisions of the Florida Statutes specified in s. 435.04(2)
 1731 | or under any similar law in another jurisdiction. Before
 1732 | certifying an applicant to serve as a guardian ad litem, the
 1733 | Guardian Ad Litem Program ~~chief judge of the circuit court~~ may
 1734 | request a federal criminal records check of the applicant
 1735 | through the Federal Bureau of Investigation. In analyzing and
 1736 | evaluating the information obtained in the security background
 1737 | investigation, the program must give particular emphasis to past
 1738 | activities involving children, including, but not limited to,
 1739 | child-related criminal offenses or child abuse. The program has
 1740 | the sole discretion in determining whether to certify a person
 1741 | based on his or her security background investigation. The
 1742 | information collected pursuant to the security background
 1743 | investigation is confidential and exempt from s. 119.07(1).

1744 | Section 25. Section 39.822, Florida Statutes, is amended
 1745 | to read:

1746 39.822 Appointment of guardian ad litem for abused,
1747 abandoned, or neglected child.--

1748 (1) A guardian ad litem shall be appointed by the court at
1749 the earliest possible time to represent the child in any child
1750 abuse, abandonment, or neglect judicial proceeding, whether
1751 civil or criminal. Any person participating in a civil or
1752 criminal judicial proceeding resulting from such appointment
1753 shall be presumed prima facie to be acting in good faith and in
1754 so doing shall be immune from any liability, civil or criminal,
1755 that otherwise might be incurred or imposed.

1756 (2) In those cases in which the parents are financially
1757 able, the parent or parents of the child shall reimburse the
1758 court, in part or in whole, for the cost of provision of
1759 guardian ad litem services. Reimbursement to the individual
1760 providing guardian ad litem services shall not be contingent
1761 upon successful collection by the court from the parent or
1762 parents.

1763 (3) Upon presentation by a guardian ad litem of a court
1764 order appointing the guardian ad litem:

1765 (a) An agency, as defined in chapter 119, shall allow the
1766 guardian ad litem to inspect and copy records related to the
1767 best interests of the child who is the subject of the
1768 appointment, including, but not limited to, records made
1769 confidential or exempt from s. 119.07(1) or s. 24(a), Art. I of
1770 the State Constitution. The guardian ad litem shall maintain the
1771 confidential or exempt status of any records shared by an agency
1772 under this paragraph.

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1773 (b) A person or organization, other than an agency under
 1774 paragraph (a), shall allow the guardian ad litem to inspect and
 1775 copy any records related to the best interests of the child who
 1776 is the subject of the appointment, including, but not limited
 1777 to, confidential records.

1778
 1779 For the purposes of this subsection, the term "records related
 1780 to the best interests of the child" includes, but is not limited
 1781 to, medical, mental health, substance abuse, child care,
 1782 education, law enforcement, court, social services, and
 1783 financial records.

1784 (4)(3) The guardian ad litem or the program representative
 1785 shall review all disposition recommendations and changes in
 1786 placements, and must be present at all critical stages of the
 1787 dependency proceeding or submit a written report of
 1788 recommendations to the court. Written reports must be filed with
 1789 the court and served on all parties whose whereabouts are known
 1790 at least 72 hours prior to the hearing.

1791 Section 26. Subsection (1) of section 40.29, Florida
 1792 Statutes, is amended to read:

1793 40.29 Payment of due-process ~~due-process~~ costs.--

1794 (1)(a) Each clerk of the circuit court, on behalf of the
 1795 courts, the state attorney, court-appointed counsel, and the
 1796 public defender, shall forward to the Justice Administrative
 1797 Commission, by county, a quarterly estimate of funds necessary
 1798 to pay for ordinary witnesses, including, but not limited to,
 1799 witnesses in civil traffic cases and witnesses of the state
 1800 attorney, public defender, court-appointed counsel, and persons

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1801 determined to be indigent for costs ~~except expert witnesses paid~~
 1802 ~~pursuant to a contract or other professional services agreement,~~
 1803 ~~pursuant to ss. 29.005 and 29.006.~~ Each quarter of the state
 1804 fiscal year, the commission, based upon the estimates, shall
 1805 advance funds to each clerk to pay for these ordinary witnesses
 1806 from state funds specifically appropriated for the payment of
 1807 ordinary witnesses.

1808 (b) Each clerk of the circuit court shall forward to the
 1809 Office of the State Courts Administrator, by county, a quarterly
 1810 estimate of funds necessary to pay juror compensation.

1811 Section 27. Section 40.355, Florida Statutes, is created
 1812 to read:

1813 40.355 Accounting and payment to public defenders and
 1814 state attorneys.--The clerk of the court shall, within 2 weeks
 1815 after the last day of the state's fiscal year, render to the
 1816 state attorney and the public defender in each circuit a full
 1817 statement of accounts for moneys received and disbursed under
 1818 this chapter and, upon request of the state attorney or public
 1819 defender, shall refund to the state attorney or public defender
 1820 any balance.

1821 Section 28. Subsections (5) and (6) of section 43.16,
 1822 Florida Statutes, are amended, and subsection (7) is added to
 1823 said section, to read:

1824 43.16 Justice Administrative Commission; membership,
 1825 powers and duties.--

1826 (5) The duties of the commission shall include, but not be
 1827 limited to, the following:

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1828 (a) The maintenance of a central state office for
 1829 administrative services and assistance when possible to and on
 1830 behalf of the state attorneys and public defenders of Florida,
 1831 the office of capital collateral representative of Florida, and
 1832 the Guardian Ad Litem Program ~~Judicial Qualifications~~
 1833 ~~Commission~~.

1834 (b) Each state attorney and public defender and the
 1835 Guardian Ad Litem Program ~~Judicial Qualifications Commission~~
 1836 shall continue to prepare necessary budgets, vouchers which
 1837 represent valid claims for reimbursement by the state for
 1838 authorized expenses, and other things incidental to the proper
 1839 administrative operation of the office, such as revenue
 1840 transmittals to the Chief Financial Officer and automated
 1841 systems plans, but will forward same to the commission for
 1842 recording and submission to the proper state officer. However,
 1843 when requested by a state attorney or a public defender or the
 1844 Guardian Ad Litem Program ~~Judicial Qualifications Commission~~,
 1845 the commission will either assist in the preparation of budget
 1846 requests, voucher schedules, and other forms and reports or
 1847 accomplish the entire project involved.

1848 (6) The provisions contained in this section shall be
 1849 supplemental to those of chapter 27, relating to state attorneys
 1850 and public defenders; to those of chapter 39 s. 43.20, relating
 1851 to the Guardian Ad Litem Program ~~Judicial Qualifications~~
 1852 ~~Commission~~; or to other laws pertaining hereto.

1853 (7) Chapter 120 does not apply to the Justice
 1854 Administrative Commission.

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1855 Section 29. Subsection (6) is added to section 43.26,
1856 Florida Statutes, to read:

1857 43.26 Chief judge of circuit; selection; powers.--

1858 (6) The chief judge of each circuit is charged by s. 2(d),
1859 Article V of the Florida Constitution and this section with the
1860 authority to promote the prompt and efficient administration of
1861 justice in the courts over which he or she is chief judge. The
1862 clerks of court provide court-related functions which are
1863 essential to the orderly administration of the judicial branch.
1864 The chief judge of each circuit shall consult with each clerk of
1865 court to determine the priority of services provided by the
1866 clerk of court to the trial court pursuant to s. 28.35(4)(a).

1867 Section 30. Paragraph (b) of subsection (4) of section
1868 44.102, Florida Statutes, is amended to read:

1869 44.102 Court-ordered mediation.--

1870 (4) The chief judge of each judicial circuit shall
1871 maintain a list of mediators who have been certified by the
1872 Supreme Court and who have registered for appointment in that
1873 circuit.

1874 (b) Nonvolunteer mediators shall be compensated according
1875 to rules adopted by the Supreme Court. If a mediation program is
1876 funded pursuant to s. 44.108, a mediator may be compensated by
1877 the county or by the parties. ~~When a party has been declared~~
1878 ~~indigent or insolvent, that party's pro rata share of a~~
1879 ~~mediator's compensation shall be paid by the county at the rate~~
1880 ~~set by administrative order of the chief judge of the circuit.~~

1881 Section 31. Section 44.108, Florida Statutes, is amended
1882 to read:

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1883 44.108 Funding of mediation and arbitration.--

1884 (1) Mediation and arbitration should be accessible to all

1885 parties regardless of financial status. A filing fee of \$1 is

1886 levied on all proceedings in the circuit or county courts to

1887 fund mediation and arbitration services which are the

1888 responsibility of the Supreme Court pursuant to the provisions

1889 of s. 44.106. The clerk of the court shall forward the moneys

1890 collected to the Department of Revenue for deposit in the state

1891 courts' Mediation and Arbitration Trust Fund.

1892 (2) When court-ordered mediation services are provided by

1893 a circuit court's mediation program, the following fees, unless

1894 otherwise established in the General Appropriations Act, shall

1895 be collected by the clerk of court:

1896 (a) Eighty dollars per person per scheduled session in

1897 family mediation when the parties' combined income is greater

1898 than \$50,000, but less than \$100,000 per year;

1899 (b) Forty dollars per person per scheduled session in

1900 family mediation when the parties' combined income is less than

1901 \$50,000; or

1902 (c) Forty dollars per person per scheduled session in

1903 county court cases.

1904

1905 No mediation fees shall be assessed under this subsection in

1906 residential eviction cases, against a party found to be

1907 indigent, or for any small claims action. Fees collected by the

1908 clerk of court pursuant to this section shall be remitted to the

1909 Department of Revenue for deposit into the state courts'

1910 Mediation and Arbitration Trust Fund to fund court-ordered

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1911 mediation. The clerk of court may deduct \$1 per fee assessment
 1912 for processing this fee. The clerk of the court shall submit to
 1913 the chief judge of the circuit, no later than 30 days after the
 1914 end of each quarter, a report specifying the amount of funds
 1915 collected under this section during each quarter of the fiscal
 1916 year.

1917 Section 32. Subsection (1) of section 57.081, Florida
 1918 Statutes, is amended to read:

1919 57.081 Costs; right to proceed where prepayment of costs
 1920 waived.--

1921 (1) Any indigent person, except a prisoner as defined in
 1922 s. 57.085, who is a party or intervenor in any judicial or
 1923 administrative agency proceeding or who initiates such
 1924 proceeding shall receive the services of the courts, sheriffs,
 1925 and clerks, with respect to such proceedings, despite his or her
 1926 present inability to pay for these services. Such services are
 1927 limited to filing fees; service of process; certified copies of
 1928 orders or final judgments; a single photocopy of any court
 1929 pleading, record, or instrument filed with the clerk; examining
 1930 fees; mediation services and fees; private court-appointed
 1931 counsel fees; subpoena fees and services; service charges for
 1932 collecting and disbursing funds; and any other cost or service
 1933 arising out of pending litigation. In any appeal from an
 1934 administrative agency decision, for which the clerk is
 1935 responsible for preparing the transcript, the clerk shall record
 1936 the cost of preparing the transcripts and the cost for copies of
 1937 any exhibits in the record. Prepayment of costs to any court,
 1938 clerk, or sheriff is not required in any action if the party has

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1939 | obtained in each proceeding a certification of indigence in
 1940 | accordance with s. 27.52 or s. 57.082.

1941 | Section 33. Section 57.082, Florida Statutes, is created
 1942 | to read:

1943 | 57.082 Determination of civil indigent status.--

1944 | (1) APPLICATION TO THE CLERK.--A person seeking
 1945 | appointment of a private attorney in a civil case eligible for
 1946 | court-appointed counsel, or seeking relief from prepayment of
 1947 | fees and costs under s. 57.081, based upon an inability to pay
 1948 | must apply to the clerk of the court for a determination of
 1949 | civil indigent status using an application form developed by the
 1950 | Florida Clerks of Court Operations Corporation with final
 1951 | approval by the Supreme Court.

1952 | (a) The application must include, at a minimum, the
 1953 | following financial information:

1954 | 1. Net income, consisting of total salary and wages, minus
 1955 | deductions required by law, including court-ordered support
 1956 | payments.

1957 | 2. Other income, including, but not limited to, social
 1958 | security benefits, union funds, veterans' benefits, workers'
 1959 | compensation, other regular support from absent family members,
 1960 | public or private employee pensions, unemployment compensation,
 1961 | dividends, interest, rent, trusts, and gifts.

1962 | 3. Assets, including, but not limited to, cash, savings
 1963 | accounts, bank accounts, stocks, bonds, certificates of deposit,
 1964 | equity in real estate, and equity in a boat or a motor vehicle
 1965 | or in other tangible property.

1966 | 4. All liabilities and debts.

1967
1968 The application must include a signature by the applicant which
1969 attests to the truthfulness of the information provided. The
1970 application form developed by the corporation must include
1971 notice that the applicant may seek court review of a clerk's
1972 determination that the applicant is not indigent, as provided in
1973 this section.

1974 (b) The clerk shall assist a person who appears before the
1975 clerk and requests assistance in completing the application and
1976 the clerk shall notify the court if a person is unable to
1977 complete the application after the clerk has provided
1978 assistance.

1979 (c) The clerk shall accept an application that is signed
1980 by the applicant and submitted on his or her behalf by a private
1981 attorney who is representing the applicant in the applicable
1982 matter.

1983 (2) DETERMINATION BY THE CLERK.--The clerk of the court
1984 shall determine whether an applicant seeking such designation is
1985 indigent based upon the information provided in the application
1986 and the criteria prescribed in this subsection.

1987 (a)1. An applicant, including an applicant who is a minor
1988 or an adult tax-dependent person, is indigent if the applicant's
1989 income is equal to or below 200 percent of the then-current
1990 federal poverty guidelines prescribed for the size of the
1991 household of the applicant by the United States Department of
1992 Health and Human Services.

1993 2. There is a presumption that the applicant is not
1994 indigent if the applicant owns, or has equity in, any intangible

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1995 or tangible personal property or real property or the expectancy
 1996 of an interest in any such property having a net equity value of
 1997 \$2,500 or more, excluding the value of the person's homestead
 1998 and one vehicle having a net value not exceeding \$5,000.

1999 (b) Based upon its review, the clerk shall make one of the
 2000 following determinations:

2001 1. The applicant is not indigent.

2002 2. The applicant is indigent.

2003 (c) If the clerk determines that the applicant is
 2004 indigent, the clerk shall immediately file the determination in
 2005 the case record.

2006 (d) The duty of the clerk in determining whether an
 2007 applicant is indigent is limited to receiving the application
 2008 and comparing the information provided in the application to the
 2009 criteria prescribed in this subsection. The determination of
 2010 indigent status is a ministerial act of the clerk and may not be
 2011 based on further investigation or the exercise of independent
 2012 judgment by the clerk. The clerk may contract with third parties
 2013 to perform functions assigned to the clerk under this section.

2014 (e) The applicant may seek review of the clerk's
 2015 determination that the applicant is not indigent in the court
 2016 having jurisdiction over the matter by filing a petition to
 2017 review the clerk's determination of nonindigent status for which
 2018 a filing fee may not be charged. If the applicant seeks review
 2019 of the clerk's determination of indigent status, the court shall
 2020 make a final determination as provided in subsection (4).

2021 (3) APPOINTMENT OF COUNSEL ON AN INTERIM BASIS.--If the
 2022 clerk of the court has not made a determination of indigent

2023 status at the time a person requests appointment of a private
 2024 attorney in a civil case eligible for court-appointed counsel,
 2025 the court shall make a preliminary determination of indigent
 2026 status, pending further review by the clerk, and may, by court
 2027 order, appoint private counsel on an interim basis.

2028 (4) REVIEW OF THE CLERK'S DETERMINATION.--

2029 (a) If the clerk of the court determines that the
 2030 applicant is not indigent and the applicant seeks review of the
 2031 clerk's determination, the court shall make a final
 2032 determination of indigent status by reviewing the information
 2033 provided in the application against the criteria prescribed in
 2034 subsection (2) and by considering the following additional
 2035 factors:

2036 1. Whether paying for private counsel or other fees and
 2037 costs creates a substantial hardship for the applicant or the
 2038 applicant's family.

2039 2. Whether the applicant is proceeding pro se or is
 2040 represented by a private attorney for a fee or on a pro-bono
 2041 basis.

2042 3. When the applicant retained private counsel.

2043 4. The amount of any attorney's fees and who is paying the
 2044 fees.

2045 5. Any other relevant financial circumstances of the
 2046 applicant or the applicant's family.

2047 (b) Based upon its review, the court shall make one of the
 2048 following determinations and shall, if appropriate, appoint
 2049 private counsel:

2050 1. The applicant is not indigent.

2051 2. The applicant is indigent.

2052 (5) PROCESSING CHARGE; PAYMENT PLANS.--A person who the
 2053 clerk or the court determines is indigent for civil proceedings
 2054 under this section shall be enrolled in a payment plan under s.
 2055 28.246 and shall be charged a one-time administrative processing
 2056 charge under s. 28.24(26)(c). A monthly payment amount,
 2057 calculated based upon all fees and all anticipated costs, is
 2058 presumed to correspond to the person's ability to pay if it does
 2059 not exceed 2 percent of the person's annual net income, as
 2060 defined in subsection (1), divided by 12. The person may seek
 2061 review of the clerk's decisions regarding a payment plan
 2062 established under s. 28.246 in the court having jurisdiction
 2063 over the matter. A case may not be impeded in any way, delayed
 2064 in filing, or delayed in its progress, including the final
 2065 hearing and order, due to nonpayment of any fees by an indigent
 2066 person.

2067 (6) FINANCIAL DISCREPANCIES; FRAUD; FALSE INFORMATION.--

2068 (a) If the court learns of discrepancies between the
 2069 application and the actual financial status of the person found
 2070 to be indigent, the court shall determine whether the status and
 2071 any relief provided as a result of that status shall be revoked.
 2072 The person may be heard regarding the information learned by the
 2073 court. If the court, based on the information, determines that
 2074 the person is not indigent, the court shall revoke the provision
 2075 of any relief under this section.

2076 (b) If the court has reason to believe that any applicant,
 2077 through fraud or misrepresentation, was improperly determined to
 2078 be indigent, the matter shall be referred to the state attorney.

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2079 Twenty-five percent of any amount recovered by the state
 2080 attorney as reasonable value of the services rendered, including
 2081 fees, charges, and costs paid by the state on the person's
 2082 behalf, shall be remitted to the Department of Revenue for
 2083 deposit into the Grants and Donations Trust Fund within the
 2084 Justice Administrative Commission. Seventy-five percent of any
 2085 amount recovered shall be remitted to the Department of Revenue
 2086 for deposit into the General Revenue Fund.

2087 (c) A person who knowingly provides false information to
 2088 the clerk or the court in seeking a determination of indigent
 2089 status under this section commits a misdemeanor of the first
 2090 degree, punishable as provided in s. 775.082 or s. 775.083.

2091 Section 34. Subsection (1) of section 92.142, Florida
 2092 Statutes, is amended to read:

2093 92.142 Witnesses; pay.--

2094 (1) Witnesses in all cases, civil and criminal, in all
 2095 courts, now or hereafter created, and witnesses summoned before
 2096 any arbitrator or general or special magistrate appointed by the
 2097 court shall receive for each day's actual attendance \$5 and also
 2098 6 cents per mile for actual distance traveled to and from the
 2099 courts. A witness in a criminal case required to appear in a
 2100 county other than the county of his or her residence and
 2101 residing more than 50 miles from the location of the trial shall
 2102 be entitled to per diem and travel expenses at the same rate
 2103 provided for state employees under s. 112.061, in lieu of any
 2104 other witness fee ~~at the discretion of the court.~~

2105 Section 35. Effective July 1, 2006, subsections (2) and
 2106 (3) of section 92.231, Florida Statutes, are amended to read:

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2107 92.231 Expert witnesses; fee.--
 2108 (2) Any expert or skilled witness who shall have testified
 2109 in any cause shall be allowed a witness fee including the cost
 2110 of any exhibits used by such witness in an amount agreed to by
 2111 the parties, and the same shall be taxed as costs. In instances
 2112 where services are provided for the state, including for state-
 2113 paid private court-appointed counsel, payment from state funds
 2114 shall be in accordance with standards adopted by the Legislature
 2115 ~~after receiving recommendations from the Article V Indigent~~
 2116 ~~Services Advisory Board.~~

2117 (3) In a criminal case in which the state or an indigent
 2118 defendant requires the services of an expert witness whose
 2119 opinion is relevant to the issues of the case, the expert
 2120 witness shall be compensated in accordance with standards
 2121 adopted by the Legislature ~~after receiving recommendations from~~
 2122 ~~the Article V Indigent Services Advisory Board.~~

2123 Section 36. Paragraph (y) is added to subsection (2) of
 2124 section 110.205, Florida Statutes, to read:

2125 110.205 Career service; exemptions.--

2126 (2) EXEMPT POSITIONS.--The exempt positions that are not
 2127 covered by this part include the following:

2128 (y) All officers and employees of the Justice
 2129 Administrative Commission, Office of the State Attorney, Office
 2130 of the Public Defender, regional offices of capital collateral
 2131 counsel, and Statewide Guardian Ad Litem Office, including the
 2132 circuit guardian ad litem programs.

2133 Section 37. Subsection (1) of section 116.01, Florida
 2134 Statutes, is amended to read:

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2135 | 116.01 Payment of public funds into treasury.--
 2136 | (1) Every state and county officer within this state
 2137 | authorized to collect funds due the state or county shall pay
 2138 | all sums officially received by the officer into the state or
 2139 | county treasury not later than 7 working days from the close of
 2140 | the week in which the officer received the funds. Funds received
 2141 | by the county officer on behalf of the state shall be deposited
 2142 | directly to the account of the State Treasury not later than 7
 2143 | working days from the close of the week in which the officer
 2144 | received the funds. The clerk of the court, when collecting
 2145 | funds as part of the clerk's court-related functions, must remit
 2146 | those funds as required under s. 28.245.

2147 | Section 38. Paragraph (gg) of subsection (6) of section
 2148 | 119.07, Florida Statutes, is amended to read:

2149 | 119.07 Inspection and copying of records; photographing
 2150 | public records; fees; exemptions.--

2151 | (6)

2152 | (gg)1. Until January 1, 2007 ~~2006~~, if a social security
 2153 | number, made confidential and exempt pursuant to s. 119.0721,
 2154 | created pursuant to s. 1, ch. 2002-256, passed during the 2002
 2155 | regular legislative session, or a complete bank account, debit,
 2156 | charge, or credit card number made exempt pursuant to paragraph
 2157 | (dd), created pursuant to s. 1, ch. 2002-257, passed during the
 2158 | 2002 regular legislative session, is or has been included in a
 2159 | court file, such number may be included as part of the court
 2160 | record available for public inspection and copying unless
 2161 | redaction is requested by the holder of such number, or by the
 2162 | holder's attorney or legal guardian, in a signed, legibly

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2163 written request specifying the case name, case number, document
 2164 heading, and page number. The request must be delivered by mail,
 2165 facsimile, electronic transmission, or in person to the clerk of
 2166 the circuit court. The clerk of the circuit court does not have
 2167 a duty to inquire beyond the written request to verify the
 2168 identity of a person requesting redaction. A fee may not be
 2169 charged for the redaction of a social security number or a bank
 2170 account, debit, charge, or credit card number pursuant to such
 2171 request.

2172 2. Any person who prepares or files a document to be
 2173 recorded in the official records by the county recorder as
 2174 provided in chapter 28 may not include a person's social
 2175 security number or complete bank account, debit, charge, or
 2176 credit card number in that document unless otherwise expressly
 2177 required by law. Until January 1, 2007 ~~2006~~, if a social
 2178 security number or a complete bank account, debit, charge or
 2179 credit card number is or has been included in a document
 2180 presented to the county recorder for recording in the official
 2181 records of the county, such number may be made available as part
 2182 of the official record available for public inspection and
 2183 copying. Any person, or his or her attorney or legal guardian,
 2184 may request that a county recorder remove from an image or copy
 2185 of an official record placed on a county recorder's publicly
 2186 available Internet website, or a publicly available Internet
 2187 website used by a county recorder to display public records
 2188 outside the office or otherwise made electronically available
 2189 outside the county recorder's office to the general public, his
 2190 or her social security number or complete account, debit,

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2191 charge, or credit card number contained in that official record.
 2192 Such request must be legibly written, signed by the requester,
 2193 and delivered by mail, facsimile, electronic transmission, or in
 2194 person to the county recorder. The request must specify the
 2195 identification page number of the document that contains the
 2196 number to be redacted. The county recorder does not have a duty
 2197 to inquire beyond the written request to verify the identity of
 2198 a person requesting redaction. A fee may not be charged for
 2199 redacting such numbers.

2200 3. Upon the effective date of this act, subsections (3)
 2201 and (4) of s. 119.0721, do not apply to the clerks of the court
 2202 or the county recorder with respect to circuit court records and
 2203 official records.

2204 4. On January 1, 2007 ~~2006~~, and thereafter, the clerk of
 2205 the circuit court and the county recorder must keep complete
 2206 bank account, debit, charge, and credit card numbers exempt as
 2207 provided for in paragraph (dd), and must keep social security
 2208 numbers confidential and exempt as provided for in s. 119.0721,
 2209 without any person having to request redaction.

2210 Section 39. Subsection (4) of section 142.01, Florida
 2211 Statutes, is amended to read:

2212 142.01 Fine and forfeiture fund; clerk of the circuit
 2213 court.--There shall be established by the clerk of the circuit
 2214 court in each county of this state a separate fund to be known
 2215 as the fine and forfeiture fund for use by the clerk of the
 2216 circuit court in performing court-related functions. The fund
 2217 shall consist of the following:

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2218 (4) Proceeds from forfeited bail bonds, unclaimed bonds,
 2219 unclaimed moneys, or recognizances pursuant to ss. 321.05(4)(a),
 2220 372.72(1), and 903.26(3)(a).

2221
 2222 Notwithstanding the provisions of this section, all fines and
 2223 forfeitures arising from operation of the provisions of s.
 2224 318.1215 shall be disbursed in accordance with that section.

2225 Section 40. Subsection (5) is added to section 213.13,
 2226 Florida Statutes, to read:

2227 213.13 Electronic remittance and distribution of funds
 2228 collected by clerks of the court.--

2229 (5) All court-related collections, including fees, fines,
 2230 reimbursements, court costs, and other court-related funds that
 2231 the clerks must remit to the state pursuant to law, must be
 2232 transmitted electronically by the 20th day of the month
 2233 immediately following the month in which the funds are
 2234 collected.

2235 Section 41. Section 219.07, Florida Statutes, is amended
 2236 to read:

2237 219.07 Disbursements.--Each officer shall, not later than
 2238 7 working days from the close of the week in which the officer
 2239 received the funds, distribute the money which is required to be
 2240 paid to other officers, agencies, funds, or persons entitled to
 2241 receive the same; provided, that distributions or partial
 2242 distributions may be made more frequently; and provided further,
 2243 that money required by law or court order, or by the purpose for
 2244 which it was collected, to be held and disbursed for a
 2245 particular purpose in a manner different from that set out

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2246 herein shall be held and disbursed accordingly. Further, money
 2247 collected by the county officer on behalf of the state, except
 2248 for money collected by the clerk of the court as part of court-
 2249 related functions, shall be deposited directly to the account of
 2250 the State Treasury not later than 7 working days from the close
 2251 of the week in which the officer received the funds. The clerk
 2252 of the court, when collecting money as part of the clerk's
 2253 court-related functions, must remit that money as required under
 2254 s. 28.245.

2255 Section 42. Subsection (1) of section 219.075, Florida
 2256 Statutes, is amended to read:

2257 219.075 Investment of surplus funds by county officers.--

2258 (1)(a) Except when another procedure is prescribed by law
 2259 or by ordinance as to particular funds, a tax collector or any
 2260 other county officer having, receiving, or collecting any money,
 2261 either for his or her office or on behalf of and subject to
 2262 subsequent distribution to another officer of state or local
 2263 government, while such money is in excess of that required to
 2264 meet current expenses or is pending distribution, shall invest
 2265 such money, without limitation, as provided in s. 218.415.

2266 (b) These investments shall be planned so as not to slow
 2267 the normal distribution of the subject funds. The investment
 2268 earnings shall be reasonably apportioned and allocated and shall
 2269 be credited to the account of, and paid to, the office or
 2270 distributee, together with the principal on which such earnings
 2271 accrued.

2272 (c) This section does not apply to the clerk of the
 2273 circuit court with respect to money collected as part of the

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2274 clerk's court-related functions. The clerk, however, shall remit
 2275 this money as provided under s. 28.245.

2276 Section 43. Section 318.121, Florida Statutes, is amended
 2277 to read:

2278 318.121 Preemption of additional fees, fines, surcharges,
 2279 and costs.--Notwithstanding any general or special law, or
 2280 municipal or county ordinance, additional fees, fines,
 2281 surcharges, or costs other than the court costs and surcharges
 2282 assessed under s. 318.18(11) and (13) may not be added to the
 2283 civil traffic penalties assessed in this chapter.

2284 Section 44. Subsection (13) of section 318.18, Florida
 2285 Statutes, is amended to read:

2286 318.18 Amount of civil penalties.--The penalties required
 2287 for a noncriminal disposition pursuant to s. 318.14 are as
 2288 follows:

2289 (13) In addition to any penalties imposed for noncriminal
 2290 traffic infractions pursuant to this chapter or imposed for
 2291 criminal violations listed in s. 318.17, a board of county
 2292 commissioners or any unit of local government which is
 2293 consolidated as provided by s. 9, Art. VIII of the State
 2294 Constitution of 1885, as preserved by s. 6(e), Art. VIII of the
 2295 Constitution of 1968:

2296 (a) May impose by ordinance a surcharge of up to \$15 for
 2297 any infraction or violation to fund state court facilities. The
 2298 court shall not waive this surcharge. Up to 25 percent of the
 2299 revenue from such surcharge may be used to support local law
 2300 libraries provided that the county or unit of local government
 2301 provides a level of service equal to that provided prior to July

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2302 | 1, 2004, which shall include the continuation of library
 2303 | facilities located in or near the county courthouse or annexes.

2304 | (b) That imposed increased fees or service charges by
 2305 | ordinance under s. 28.2401, s. 28.241, or s. 34.041 for the
 2306 | purpose of securing payment of the principal and interest on
 2307 | bonds issued by the county before July 1, 2003, to finance state
 2308 | court facilities, may impose by ordinance a surcharge for any
 2309 | infraction or violation for the exclusive purpose of securing
 2310 | payment of the principal and interest on bonds issued by the
 2311 | county before July 1, 2003, to fund state court facilities until
 2312 | the date of stated maturity. The court shall not waive this
 2313 | surcharge. Such surcharge may not exceed an amount per violation
 2314 | calculated as the quotient of the maximum annual payment of the
 2315 | principal and interest on the bonds as of July 1, 2003, divided
 2316 | by the number of traffic citations for county fiscal year 2002-
 2317 | 2003 certified as paid by the clerk of the court of the county.
 2318 | Such quotient shall be rounded up to the next highest dollar
 2319 | amount. The bonds may be refunded only if savings will be
 2320 | realized on payments of debt service and the refunding bonds are
 2321 | scheduled to mature on the same date or before the bonds being
 2322 | refunded.

2323 |
 2324 | A county may not impose both of the surcharges authorized under
 2325 | paragraphs (a) and (b) concurrently. The clerk of court shall
 2326 | report, no later than 30 days after the end of the quarter, the
 2327 | amount of funds collected under this subsection during each
 2328 | quarter of the fiscal year. The clerk shall submit the report,
 2329 | in a format developed by the Office of State Courts

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2330 Administrator, to the chief judge of the circuit, the Governor,
 2331 the President of the Senate, and the Speaker of the House of
 2332 Representatives.

2333 Section 45. Paragraph (g) of subsection (2) of section
 2334 318.21, Florida Statutes, is amended to read:

2335 318.21 Disposition of civil penalties by county
 2336 courts.--All civil penalties received by a county court pursuant
 2337 to the provisions of this chapter shall be distributed and paid
 2338 monthly as follows:

2339 (2) Of the remainder:

2340 (g)1. If the violation occurred within a special
 2341 improvement district of the Seminole Indian Tribe or Miccosukee
 2342 Indian Tribe, 56.4 percent shall be paid to that special
 2343 improvement district.

2344 2. If the violation occurred within a municipality, 50.8
 2345 percent shall be paid to that municipality and 5.6 percent shall
 2346 be deposited into the fine and forfeiture trust fund established
 2347 pursuant to s. 142.01.

2348 3. If the violation occurred within the unincorporated
 2349 area of a county, including the unincorporated areas, if any, of
 2350 a government created pursuant to s. 6(e), Article VIII of the
 2351 State Constitution, that is not within a special improvement
 2352 district of the Seminole Indian Tribe or Miccosukee Indian
 2353 Tribe, 56.4 percent shall be deposited into the fine and
 2354 forfeiture fund established pursuant to s. 142.01.

2355 Section 46. Section 318.31, Florida Statutes, is amended
 2356 to read:

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2357 318.31 Objectives.--The Supreme Court is hereby requested
 2358 to adopt rules and procedures for the establishment and
 2359 operation of Civil Traffic Infraction Hearing Officer Programs
 2360 under ss. 318.30-318.38. ~~However, the appointment of a hearing~~
 2361 ~~officer shall be at the option of the county electing to~~
 2362 ~~establish such a program, upon recommendation by the county~~
 2363 ~~court judge or judges, as the case may be, and the Chief Judge~~
 2364 ~~of the Circuit and approval by the Chief Justice of the Supreme~~
 2365 ~~Court.~~

2366 Section 47. Section 318.325, Florida Statutes, is amended
 2367 to read:

2368 318.325 Jurisdiction and procedure for parking
 2369 infractions.--Any county or municipality may adopt an ordinance
 2370 that allows the county or municipality to refer cases involving
 2371 the violation of a county or municipal parking ordinance to a
 2372 hearing officer ~~funded by the county or municipality.~~
 2373 Notwithstanding the provisions of ss. 318.14 and 775.08(3), any
 2374 parking violation shall be deemed to be an infraction as defined
 2375 in s. 318.13(3). However, the violation must be enforced and
 2376 disposed of in accordance with the provisions of general law
 2377 applicable to parking violations and with the charter or code of
 2378 the county or municipality where the violation occurred. The
 2379 clerk of the court or the designated traffic violations bureau
 2380 must collect and distribute the fines, forfeitures, and court
 2381 costs assessed under this section.

2382 Section 48. Subsection (2) of section 322.29, Florida
 2383 Statutes, is amended to read:

2384 322.29 Surrender and return of license.--

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2385 (2) The provisions of subsection (1) to the contrary
 2386 notwithstanding, no examination is required for the return of a
 2387 license suspended under s. 318.15 or s. 322.245 unless an
 2388 examination is otherwise required by this chapter. Every person
 2389 applying for the return of a license suspended under s. 318.15
 2390 or s. 322.245 shall present to the department certification from
 2391 the court that he or she has complied with all obligations and
 2392 penalties imposed on him or her pursuant to s. 318.15 or, in the
 2393 case of a suspension pursuant to s. 322.245, that he or she has
 2394 complied with all directives of the court and the requirements
 2395 of s. 322.245 and shall pay to the department a nonrefundable
 2396 service fee of \$47.50 ~~\$35~~, of which \$37.50 ~~\$25~~ shall be
 2397 deposited into the General Revenue Fund and \$10 shall be
 2398 deposited into the Highway Safety Operating Trust Fund. If
 2399 reinstated by the clerk of the court or tax collector, \$37.50
 2400 ~~\$25~~ shall be retained and \$10 shall be remitted to the
 2401 Department of Revenue for deposit into the Highway Safety
 2402 Operating Trust Fund. However, the service fee is not required
 2403 if the person is required to pay a \$35 fee or \$60 fee under the
 2404 provisions of s. 322.21.

2405 Section 49. Subsection (1) of section 372.72, Florida
 2406 Statutes, is amended to read:

2407 372.72 Disposition of fines, penalties, and forfeitures.--

2408 (1) All moneys collected from fines, penalties, proceeds
 2409 from unclaimed bonds, or forfeitures of bail of persons
 2410 convicted under this chapter shall be deposited in the fine and
 2411 forfeiture fund established pursuant to s. 142.01 where such

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2412 convictions are had, except for the disposition of moneys as
2413 provided in subsection (2).

2414 Section 50. Subsection (8) of section 903.26, Florida
2415 Statutes, is amended to read:

2416 903.26 Forfeiture of the bond; when and how directed;
2417 discharge; how and when made; effect of payment.--

2418 (8) If the defendant is arrested and returned to the
2419 county of jurisdiction of the court prior to judgment, the
2420 clerk, upon affirmation by the sheriff or the chief correctional
2421 officer, shall, without further order of the court, discharge
2422 the forfeiture of the bond. However, if the surety agent fails
2423 to pay the costs and expenses incurred in returning the
2424 defendant to the county of jurisdiction, the clerk shall not
2425 discharge the forfeiture of the bond. If the surety agent and
2426 the sheriff ~~state attorney~~ fail to agree on the amount of said
2427 costs, then the court, after notice to the sheriff and the state
2428 attorney, shall determine the amount of the costs.

2429 Section 51. Section 903.28, Florida Statutes, is amended
2430 to read:

2431 903.28 Remission of forfeiture; conditions.--

2432 (1) On application within 2 years from forfeiture, the
2433 court shall order remission of the forfeiture if it determines
2434 that there was no breach of the bond.

2435 (2) If the defendant surrenders or is apprehended within
2436 90 days after forfeiture, the court, on motion at a hearing upon
2437 notice having been given to the clerk of the circuit court
2438 ~~county attorney~~ and the state attorney as required in subsection
2439 (8), shall direct remission of up to, but not more than, 100

2440 percent of a forfeiture if the surety apprehended and
 2441 surrendered the defendant or if the apprehension or surrender of
 2442 the defendant was substantially procured or caused by the
 2443 surety, or the surety has substantially attempted to procure or
 2444 cause the apprehension or surrender of the defendant, and the
 2445 delay has not thwarted the proper prosecution of the defendant.
 2446 In addition, remission shall be granted when the surety did not
 2447 substantially participate or attempt to participate in the
 2448 apprehension or surrender of the defendant when the costs of
 2449 returning the defendant to the jurisdiction of the court have
 2450 been deducted from the remission and when the delay has not
 2451 thwarted the proper prosecution of the defendant.

2452 (3) If the defendant surrenders or is apprehended within
 2453 180 days after forfeiture, the court, on motion at a hearing
 2454 upon notice having been given to the clerk of the circuit court
 2455 ~~county attorney~~ and the state attorney as required in subsection
 2456 (8), shall direct remission of up to, but not more than, 95
 2457 percent of a forfeiture if the surety apprehended and
 2458 surrendered the defendant or if the apprehension or surrender of
 2459 the defendant was substantially procured or caused by the
 2460 surety, or the surety has substantially attempted to procure or
 2461 cause the apprehension or surrender of the defendant, and the
 2462 delay has not thwarted the proper prosecution of the defendant.
 2463 In addition, remission shall be granted when the surety did not
 2464 substantially participate or attempt to participate in the
 2465 apprehension or surrender of the defendant when the costs of
 2466 returning the defendant to the jurisdiction of the court have

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2467 | been deducted from the remission and when the delay has not
2468 | thwarted the proper prosecution of the defendant.

2469 | (4) If the defendant surrenders or is apprehended within
2470 | 270 days after forfeiture, the court, on motion at a hearing
2471 | upon notice having been given to the clerk of the circuit court
2472 | ~~county attorney~~ and the state attorney as required in subsection
2473 | (8), shall direct remission of up to, but not more than, 90
2474 | percent of a forfeiture if the surety apprehended and
2475 | surrendered the defendant or if the apprehension or surrender of
2476 | the defendant was substantially procured or caused by the
2477 | surety, or the surety has substantially attempted to procure or
2478 | cause the apprehension or surrender of the defendant, and the
2479 | delay has not thwarted the proper prosecution of the defendant.
2480 | In addition, remission shall be granted when the surety did not
2481 | substantially participate or attempt to participate in the
2482 | apprehension or surrender of the defendant when the costs of
2483 | returning the defendant to the jurisdiction of the court have
2484 | been deducted from the remission and when the delay has not
2485 | thwarted the proper prosecution of the defendant.

2486 | (5) If the defendant surrenders or is apprehended within 1
2487 | year after forfeiture, the court, on motion at a hearing upon
2488 | notice having been given to the clerk of the circuit court
2489 | ~~county attorney~~ and the state attorney as required in subsection
2490 | (8), shall direct remission of up to, but not more than, 85
2491 | percent of a forfeiture if the surety apprehended and
2492 | surrendered the defendant or if the apprehension or surrender of
2493 | the defendant was substantially procured or caused by the
2494 | surety, or the surety has substantially attempted to procure or

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2495 | cause the apprehension or surrender of the defendant, and the
 2496 | delay has not thwarted the proper prosecution of the defendant.
 2497 | In addition, remission shall be granted when the surety did not
 2498 | substantially participate or attempt to participate in the
 2499 | apprehension or surrender of the defendant when the costs of
 2500 | returning the defendant to the jurisdiction of the court have
 2501 | been deducted from the remission and when the delay has not
 2502 | thwarted the proper prosecution of the defendant.

2503 | (6) If the defendant surrenders or is apprehended within 2
 2504 | years after forfeiture, the court, on motion at a hearing upon
 2505 | notice having been given to the clerk of the circuit court
 2506 | ~~county attorney~~ and the state attorney as required in subsection
 2507 | (8), shall direct remission of up to, but not more than, 50
 2508 | percent of a forfeiture if the surety apprehended and
 2509 | surrendered the defendant or if the apprehension or surrender of
 2510 | the defendant was substantially procured or caused by the
 2511 | surety, or the surety has substantially attempted to procure or
 2512 | cause the apprehension or surrender of the defendant, and the
 2513 | delay has not thwarted the proper prosecution of the defendant.
 2514 | In addition, remission shall be granted when the surety did not
 2515 | substantially participate or attempt to participate in the
 2516 | apprehension or surrender of the defendant when the costs of
 2517 | returning the defendant to the jurisdiction of the court have
 2518 | been deducted from the remission and when the delay has not
 2519 | thwarted the proper prosecution of the defendant.

2520 | (7) The remission of a forfeiture may not be ordered for
 2521 | any reason other than as specified herein.

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2522 (8) An application for remission must be accompanied by
 2523 affidavits setting forth the facts on which it is founded;
 2524 however, the surety must establish by further documentation or
 2525 other evidence any claimed attempt at procuring or causing the
 2526 apprehension or surrender of the defendant before the court may
 2527 order remission based upon an attempt to procure or cause such
 2528 apprehension or surrender. The clerk of the circuit court and
 2529 the state attorney must be given 20 days' notice before a
 2530 hearing on an application and be furnished copies of all papers,
 2531 applications, and affidavits. Remission shall be granted on the
 2532 condition of payment of costs, unless the ground for remission
 2533 is that there was no breach of the bond.

2534 (9) The clerk of the circuit court may enter into a
 2535 contract with a private attorney or into an interagency
 2536 agreement with a governmental agency to represent the clerk of
 2537 the court in an action for the remission of a forfeiture under
 2538 this section.

2539 (10) The clerk of the circuit court is the real party in
 2540 interest for all appeals arising from an action for the
 2541 remission of a forfeiture under this section.

2542 (11) Upon remission of bond pursuant to this section, the
 2543 clerk of the circuit court shall withhold any unpaid fines,
 2544 fees, service charges, and court costs imposed as a matter of
 2545 law or ordered by the court.

2546 Section 52. Section 916.115, Florida Statutes, is amended
 2547 to read:

2548 916.115 Appointment of experts.--

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2549 (1)(a) Annually, the department shall provide the courts
2550 with a list of mental health professionals who have completed
2551 approved training as experts.

2552 (b) The court may appoint no more than three ~~nor fewer~~
2553 ~~than two~~ experts to determine issues of the mental condition of
2554 a defendant in a criminal case, including the issues of
2555 competency to proceed, insanity, and involuntary hospitalization
2556 or placement. An expert ~~The panel of experts~~ may evaluate the
2557 defendant in jail or in another appropriate local facility.

2558 (c) To the extent possible, an ~~the~~ appointed expert
2559 ~~experts~~ shall have completed forensic evaluator training
2560 approved by the department and be either a psychiatrist,
2561 licensed psychologist, or physician.

2562 (2) Expert witnesses appointed by the court to evaluate
2563 the mental condition of a defendant in a criminal case shall be
2564 allowed reasonable fees for services rendered as evaluators of
2565 competence or sanity and as witnesses, ~~which shall be paid by~~
2566 ~~the county in which the indictment was found or the information~~
2567 ~~or affidavit was filed.~~

2568 (a)1. The court shall pay for any expert that it appoints
2569 by court order, upon motion of counsel for the defendant or the
2570 state or upon its own motion. If the defense or the state
2571 retains an expert and waives the confidentiality of the expert's
2572 report, the court may pay for no more than two additional
2573 experts appointed by court order. If an expert appointed by the
2574 court upon motion of counsel for the defendant specifically to
2575 evaluate the competence of the defendant to proceed also
2576 addresses in his or her evaluation issues related to sanity as

2577 an affirmative defense, the court shall pay only for that
 2578 portion of the experts' fees relating to the evaluation on
 2579 competency to proceed and the balance of the fees shall be
 2580 chargeable to the defense.

2581 2. Pursuant to s. 29.006, the office of the public
 2582 defender shall pay for any expert retained by the office.

2583 3. Pursuant to s. 29.005, the office of the state attorney
 2584 shall pay for any expert retained by the office. Notwithstanding
 2585 subparagraph 1., the office of the state attorney shall pay for
 2586 any expert whom the office retains and whom the office moves the
 2587 court to appoint in order to ensure that the expert has access
 2588 to the defendant.

2589 4. An expert retained by the defendant who is represented
 2590 by private counsel appointed under s. 27.5303 shall be paid by
 2591 the Justice Administrative Commission.

2592 5. An expert retained by a defendant who is indigent for
 2593 costs as determined by the court and who is represented by
 2594 private counsel, other than private counsel appointed under s.
 2595 27.5303, on a fee or pro bono basis, or who is representing
 2596 himself or herself, shall be paid by the Justice Administrative
 2597 Commission from funds specifically appropriated for these
 2598 expenses.

2599 (b) State employees shall be paid expenses pursuant to s.
 2600 112.061.

2601 (c) The fees shall be taxed as costs in the case.

2602 (d) In order for an expert ~~the experts~~ to be paid for the
 2603 services rendered, the expert's report ~~reports~~ and testimony
 2604 must explicitly address each of the factors and follow the

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2605 | procedures set out in this chapter and in the Florida Rules of
2606 | Criminal Procedure.

2607 | Section 53. Subsections (2), (3), and (4) of section
2608 | 916.12, Florida Statutes, are amended to read:

2609 | 916.12 Mental competence to proceed.--

2610 | (2) An expert ~~The experts~~ shall first determine whether
2611 | the person is mentally ill and, if so, consider the factors
2612 | related to the issue of whether the defendant meets the criteria
2613 | for competence to proceed; that is, whether the defendant has
2614 | sufficient present ability to consult with counsel with a
2615 | reasonable degree of rational understanding and whether the
2616 | defendant has a rational, as well as factual, understanding of
2617 | the pending proceedings. A defendant must be evaluated by no
2618 | fewer than two experts before the court commits the defendant or
2619 | takes other action authorized by this chapter or the Florida
2620 | Rules of Criminal Procedure, except if one expert finds that the
2621 | defendant is incompetent to proceed and the parties stipulate to
2622 | that finding, the court may commit the defendant or take other
2623 | action authorized by this chapter or the rules without further
2624 | evaluation or hearing, or the court may appoint no more than two
2625 | additional experts to evaluate the defendant. Notwithstanding
2626 | any stipulation by the state and the defendant, the court may
2627 | require a hearing with testimony from the expert or experts
2628 | before ordering the commitment of a defendant.

2629 | (3) In considering the issue of competence to proceed, an
2630 | ~~the~~ examining expert ~~experts~~ shall first consider and
2631 | specifically include in his or her ~~their~~ report the defendant's
2632 | capacity to:

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- 2633 (a) Appreciate the charges or allegations against the
 2634 defendant;
- 2635 (b) Appreciate the range and nature of possible penalties,
 2636 if applicable, that may be imposed in the proceedings against
 2637 the defendant;
- 2638 (c) Understand the adversarial nature of the legal
 2639 process;
- 2640 (d) Disclose to counsel facts pertinent to the proceedings
 2641 at issue;
- 2642 (e) Manifest appropriate courtroom behavior; and
- 2643 (f) Testify relevantly;
- 2644
- 2645 and include in his or her ~~their~~ report any other factor deemed
 2646 relevant by the expert ~~experts~~.
- 2647 (4) If an expert finds ~~the experts should find~~ that the
 2648 defendant is incompetent to proceed, the expert ~~experts~~ shall
 2649 report on any recommended treatment for the defendant to attain
 2650 competence to proceed. In considering the issues relating to
 2651 treatment, the examining expert ~~experts~~ shall specifically
 2652 report on:
- 2653 (a) The mental illness causing the incompetence;
- 2654 (b) The treatment or treatments appropriate for the mental
 2655 illness of the defendant and an explanation of each of the
 2656 possible treatment alternatives in order of choices;
- 2657 (c) The availability of acceptable treatment and, if
 2658 treatment is available in the community, the expert shall so
 2659 state in the report; and

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2660 (d) The likelihood of the defendant's attaining competence
 2661 under the treatment recommended, an assessment of the probable
 2662 duration of the treatment required to restore competence, and
 2663 the probability that the defendant will attain competence to
 2664 proceed in the foreseeable future.

2665 Section 54. Subsection (7) of section 916.301, Florida
 2666 Statutes, is amended to read:

2667 916.301 Appointment of experts.--

2668 (7) Expert witnesses appointed by the court to evaluate
 2669 the mental condition of a defendant in a criminal case shall be
 2670 allowed reasonable fees for services rendered as evaluators and
 2671 as witnesses, which shall be paid by the court ~~county in which~~
 2672 ~~the indictment was found or the information or affidavit was~~
 2673 ~~filed~~. State employees shall be paid expenses pursuant to s.
 2674 112.061. The fees shall be taxed as costs in the case. In order
 2675 for the experts to be paid for the services rendered, the
 2676 reports and testimony must explicitly address each of the
 2677 factors and follow the procedures set out in this chapter and in
 2678 the Florida Rules of Criminal Procedure.

2679 Section 55. Paragraph (b) of subsection (2) of section
 2680 938.29, Florida Statutes, is amended to read:

2681 938.29 Legal assistance; lien for payment of attorney's
 2682 fees or costs.--

2683 (2)

2684 (b) A judgment showing the name and residence of the
 2685 defendant-recipient or parent shall be recorded in the public
 2686 record, without cost, by ~~filed for record in the office of the~~
 2687 clerk of the circuit court in the county where the defendant-

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2688 recipient or parent resides and in each county in which such
 2689 defendant-recipient or parent then owns or later acquires any
 2690 property. Such judgments shall be enforced on behalf of the
 2691 state by the clerk of the circuit court of the county in which
 2692 assistance was rendered.

2693 Section 56. Section 939.06, Florida Statutes, is amended
 2694 to read:

2695 939.06 Acquitted defendant not liable for costs.--

2696 (1) A ~~No~~ defendant in a criminal prosecution who is
 2697 acquitted or discharged is not ~~shall be~~ liable for any costs or
 2698 fees of the court or any ministerial office, or for any charge
 2699 of subsistence while detained in custody. If the defendant has
 2700 ~~shall have~~ paid any taxable costs, or fees required under s.
 2701 27.52(1)(b), in the case, the clerk or judge shall give him or
 2702 her a certificate of the payment of such costs, with the items
 2703 thereof, which, when audited and approved according to law,
 2704 shall be refunded to the defendant.

2705 (2) To receive a refund under this section, a defendant
 2706 must submit a request for the refund to the Justice
 2707 Administrative Commission on a form and in a manner prescribed
 2708 by the commission. The defendant must attach to the form an
 2709 order from the court demonstrating the defendant's right to the
 2710 refund and the amount of the refund.

2711 Section 57. Subsection (2) of section 985.05, Florida
 2712 Statutes, is amended to read:

2713 985.05 Court records.--

2714 (2) The clerk shall keep all official records required by
 2715 this section separate from other records of the circuit court,

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2716 | except those records pertaining to motor vehicle violations,
 2717 | which shall be forwarded to the Department of Highway Safety and
 2718 | Motor Vehicles. Except as provided in ss. 943.053 and 985.04(4),
 2719 | official records required by this part are not open to
 2720 | inspection by the public, but may be inspected only upon order
 2721 | of the court by persons deemed by the court to have a proper
 2722 | interest therein, except that a child and the parents,
 2723 | guardians, or legal custodians of the child and their attorneys,
 2724 | law enforcement agencies, the Department of Juvenile Justice and
 2725 | its designees, the Parole Commission, ~~and~~ the Department of
 2726 | Corrections, and the Justice Administrative Commission shall
 2727 | always have the right to inspect and copy any official record
 2728 | pertaining to the child. The court may permit authorized
 2729 | representatives of recognized organizations compiling statistics
 2730 | for proper purposes to inspect, and make abstracts from,
 2731 | official records under whatever conditions upon the use and
 2732 | disposition of such records the court may deem proper and may
 2733 | punish by contempt proceedings any violation of those
 2734 | conditions.

2735 | Section 58. Paragraph (c) of subsection (4) of section
 2736 | 985.201, Florida Statutes, is amended to read:

2737 | 985.201 Jurisdiction.--

2738 | (4)

2739 | (c) The court may retain jurisdiction over a child and the
 2740 | child's parent or legal guardian whom the court has ordered to
 2741 | pay restitution until the restitution order is satisfied ~~or~~
 2742 | ~~until the court orders otherwise.~~ To retain jurisdiction, the
 2743 | court shall enter a restitution order, which is separate from

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2744 any disposition or order of commitment, on or prior to the date
 2745 that ~~If the court retains such jurisdiction after the date upon~~
 2746 ~~which~~ the court's jurisdiction would cease under this section,
 2747 it shall do so solely for the purpose of enforcing the
 2748 restitution order. The contents of the restitution order shall
 2749 be limited to the child's name and address, the name and address
 2750 of the parent or legal guardian, the name and address of the
 2751 payee, the case number, the date and amount of restitution
 2752 ordered, any amount of restitution paid, the amount of
 2753 restitution due and owing, and a notation that costs, interest,
 2754 penalties, and attorney's fees may also be due and owing. The
 2755 terms of the restitution order are subject to the provisions of
 2756 s. 775.089(5).

2757 Section 59. Compensation to traffic court witnesses.--Any
 2758 party who secures the attendance of a witness in traffic court
 2759 shall bear all costs of calling the witness, including witness
 2760 fees. If the witness is required to testify on behalf of the
 2761 prosecution, the office of the state attorney of the respective
 2762 judicial circuit shall pay the fees and costs of calling the
 2763 witness.

2764 Section 60. Recovery of expenditures for state-funded
 2765 services.--The trial court administrator of each circuit shall
 2766 recover expenditures for state-funded services when those
 2767 services have been furnished to a user of the state court system
 2768 who possesses the present ability to pay. The rate of
 2769 compensation for such services shall be the actual cost of the
 2770 services, including the cost of recovery. The trial court
 2771 administrator shall deposit moneys recovered under this section

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2772 in the Grants and Donations Trust Fund within the state court
 2773 system. The trial court administrator shall recover the costs of
 2774 court-reporter services and transcription; court-interpreter
 2775 services, including translation; and any other service for which
 2776 state funds were used to provide a product or service within the
 2777 circuit. This section does not authorize cost recovery from
 2778 entities described in ss. 29.005, 29.006, and 29.007, Florida
 2779 Statutes.

2780 Section 61. The amendments to ss. 34.191(2) and
 2781 318.21(2)(g)3., Florida Statutes, as made by this act are
 2782 intended to reiterate the original intent of the Legislature in
 2783 enacting such provisions of law.

2784 Section 62. (1) Effective July 1, 2006, section 29.014,
 2785 Florida Statutes, is repealed.

2786 (2) Section 318.37, Florida Statutes, is repealed.

2787 Section 63. Except as otherwise provided herein, this act
 2788 shall take effect July 1, 2005.