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LEGISLATIVE ACTION

Senate

House

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03/30/2010 04:57 PM

Senator Deutch moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (5) of section 25.241, Florida
Statutes, is amended to read:

25.241 Clerk of Supreme Court; compensation; assistants;
filing fees, etc.—

(5) The Clerk of the Supreme Court is hereby required to
prepare a statement of all fees collected each month and remit
such statement, together with all fees collected by him or her,
to the Chief Financial Officer. The Chief Financial Officer
shall deposit \$250 of each \$300 filing fee and all other fees



883424

14 collected into the General Revenue Fund. The Chief Financial
15 Officer shall deposit \$50 of each filing fee collected into the
16 State Courts Revenue ~~state court's Operating~~ Trust Fund to fund
17 court operations ~~improvement projects~~ as authorized in the
18 General Appropriations Act.

19 Section 2. Section 25.3844, Florida Statutes, is amended to
20 read:

21 25.3844 Administrative ~~Operating~~ Trust Fund.—

22 (1) The Administrative ~~Operating~~ Trust Fund is created
23 within the state courts system.

24 (2) The fund is established ~~for use as a depository of fees~~
25 ~~and related revenue~~ for the purpose of supporting the ~~program~~
26 operations of the judicial branch and for such other purposes as
27 may be appropriate, and shall be expended only pursuant to
28 legislative appropriation or an approved amendment to the
29 agency's operating budget pursuant to the provisions of chapter
30 216.

31 Section 3. Section 25.386, Florida Statutes, is amended to
32 read:

33 25.386 Foreign language court interpreters.—The Supreme
34 Court shall establish minimum standards and procedures for
35 qualifications, certification, professional conduct, discipline,
36 and training of foreign language court interpreters who are
37 appointed by a court of competent jurisdiction. The Supreme
38 Court shall set fees to be charged to applicants for
39 certification and renewal of certification as a foreign language
40 court interpreter. The revenues generated from such fees shall
41 be used to offset the costs of administration of the
42 certification program and shall be deposited into the



883424

43 Administrative ~~Operating~~ Trust Fund within the state courts
44 system. The Supreme Court may appoint or employ such personnel
45 as are necessary to assist the court in administering this
46 section.

47 Section 4. Section 27.366, Florida Statutes, is amended to
48 read:

49 27.366 Legislative intent and policy in cases meeting
50 criteria of s. 775.087(2) and (3); ~~report.~~

51 ~~(1)~~ It is the intent of the Legislature that convicted
52 criminal offenders who meet the criteria in s. 775.087(2) and
53 (3) be sentenced to the minimum mandatory prison terms provided
54 herein. It is the intent of the Legislature to establish zero
55 tolerance of criminals who use, threaten to use, or avail
56 themselves of firearms in order to commit crimes and thereby
57 demonstrate their lack of value for human life. It is also the
58 intent of the Legislature that prosecutors should appropriately
59 exercise their discretion in those cases in which the offenders'
60 possession of the firearm is incidental to the commission of a
61 crime and not used in furtherance of the crime, used in order to
62 commit the crime, or used in preparation to commit the crime.
63 ~~For every case in which the offender meets the criteria in this~~
64 ~~act and does not receive the mandatory minimum prison sentence,~~
65 ~~the state attorney must explain the sentencing deviation in~~
66 ~~writing and place such explanation in the case file maintained~~
67 ~~by the state attorney. On a quarterly basis, each state attorney~~
68 ~~shall submit copies of deviation memoranda regarding offenses~~
69 ~~committed on or after the effective date of this act to the~~
70 ~~President of the Florida Prosecuting Attorneys Association, Inc.~~
71 ~~The association must maintain such information and make such~~



883424

72 ~~information available to the public upon request for at least a~~
73 ~~10-year period.~~

74 ~~(2) Effective July 1, 2000, each state attorney shall~~
75 ~~annually report to the Speaker of the House of Representatives,~~
76 ~~the President of the Senate, and the Executive Office of the~~
77 ~~Governor regarding the prosecution and sentencing of offenders~~
78 ~~who met the criteria in s. 775.087(2) and (3). The report must~~
79 ~~categorize the defendants by age, gender, race, and ethnicity.~~
80 ~~Cases in which a final disposition has not yet been reached~~
81 ~~shall be reported in a subsequent annual report.~~

82 Section 5. Subsection (7) of section 27.40, Florida
83 Statutes, is amended to read:

84 27.40 Court-appointed counsel; circuit registries; minimum
85 requirements; appointment by court.-

86 (7) (a) A private attorney appointed by the court from the
87 registry to represent a client is entitled to payment as
88 provided in s. 27.5304. An attorney appointed by the court who
89 is not on the registry list may be compensated under s. 27.5304
90 if the court finds in the order of appointment that there were
91 no registry attorneys available for representation for that
92 case.

93 (b) 1. The attorney shall maintain appropriate
94 documentation, including contemporaneous and detailed hourly
95 accounting of time spent representing the client. If the
96 attorney fails to maintain such contemporaneous and detailed
97 hourly records, the attorney waives the right to seek
98 compensation in excess of the flat fee established in s. 27.5304
99 and the General Appropriations Act. These records and documents
100 are subject to review by the Justice Administrative Commission,



883424

101 subject to the attorney-client privilege and work-product
102 privilege. The attorney shall maintain the records and documents
103 in a manner that enables the attorney to redact information
104 subject to a privilege in order to facilitate and not impede the
105 commission's review of the records and documents. The attorney
106 may redact information from the records and documents only to
107 the extent necessary to comply with the privilege.

108 2. If an attorney fails, refuses, or declines to permit the
109 commission to review documentation for a case as provided in
110 this paragraph, the attorney waives the right to seek, and the
111 commission may not pay, compensation in excess of the flat fee
112 established in s. 27.5304 and the General Appropriations Act for
113 that case.

114 3. A finding by the commission that an attorney waives the
115 right to seek compensation in excess of the flat fee established
116 in s. 27.5304 and the General Appropriations Act, as provided in
117 this paragraph, is presumed to be valid, unless a court
118 concludes that the commission's finding is not supported by
119 competent and substantial evidence.

120 Section 6. Section 27.425, Florida Statutes, is amended to
121 read:

122 27.425 Due process service rates; responsibilities of chief
123 judge.—

124 (1) The maximum chief judge of each circuit shall recommend
125 compensation rates for state-funded due process service
126 providers in cases in which the court has appointed private
127 counsel or declared a person indigent for costs shall be
128 specified annually in the General Appropriations Act. For
129 purposes of this section, due process compensation rates do not



883424

130 include attorney's fees for legal representation of the client.

131 ~~(2) Annually, the chief judge shall submit proposed due~~
132 ~~process compensation rates to the Office of the State Courts~~
133 ~~Administrator for inclusion in the legislative budget request~~
134 ~~for the state courts system.~~

135 ~~(3) The maximum rates shall be specified annually in the~~
136 ~~General Appropriations Act. For the 2007-2008 fiscal year, the~~
137 ~~maximum rates shall be the rates in effect on June 30, 2007.~~

138 (2)~~(4)~~ The total amount expended for providers of due
139 process services in eligible cases may not exceed the amount
140 budgeted in the General Appropriations Act for the particular
141 due process service.

142 (3) The Justice Administrative Commission shall approve
143 uniform contract forms for use in procuring due process services
144 and uniform procedures for use by a due process provider, or a
145 private attorney on behalf of a due process provider, in support
146 of billing for due process services to demonstrate completion of
147 the specified services.

148 Section 7. Subsections (5) and (6) of section 27.511,
149 Florida Statutes, are amended to read:

150 27.511 Offices of criminal conflict and civil regional
151 counsel; legislative intent; qualifications; appointment;
152 duties.—

153 (5) ~~Effective October 1, 2007,~~ When the Office of the
154 Public Defender, at any time during the representation of two or
155 more defendants, determines that the interests of those accused
156 are so adverse or hostile that they cannot all be counseled by
157 the public defender or his or her staff without a conflict of
158 interest, or that none can be counseled by the public defender



883424

159 or his or her staff because of a conflict of interest, and the
160 court grants the public defender's motion to withdraw, the
161 office of criminal conflict and civil regional counsel shall be
162 appointed and shall provide legal services, without additional
163 compensation, to any person determined to be indigent under s.
164 27.52, who is:

165 (a) Under arrest for, or charged with, a felony;

166 (b) Under arrest for, or charged with:

167 1. A misdemeanor authorized for prosecution by the state
168 attorney;

169 2. A violation of chapter 316 punishable by imprisonment;

170 3. Criminal contempt; or

171 4. A violation of a special law or county or municipal
172 ordinance ancillary to a state charge or, if not ancillary to a
173 state charge, only if the office of criminal conflict and civil
174 regional counsel contracts with the county or municipality to
175 provide representation pursuant to ss. 27.54 and 125.69.

176

177 The office of criminal conflict and civil regional counsel may
178 not provide representation pursuant to this paragraph if the
179 court, prior to trial, files in the cause an order of no
180 imprisonment as provided in s. 27.512;

181 (c) Alleged to be a delinquent child pursuant to a petition
182 filed before a circuit court;

183 (d) Sought by petition filed in such court to be
184 involuntarily placed as a mentally ill person under part I of
185 chapter 394, involuntarily committed as a sexually violent
186 predator under part V of chapter 394, or involuntarily admitted
187 to residential services as a person with developmental



883424

188 disabilities under chapter 393;

189 (e) Convicted and sentenced to death, for purposes of
190 handling an appeal to the Supreme Court; ~~or~~

191 (f) ~~Is~~ Appealing a matter in a case arising under
192 paragraphs (a)-(d); or-

193 (g) Seeking correction, reduction, or modification of a
194 sentence under Rule 3.800 or seeking postconviction relief under
195 Rule 3.850 of the Florida Rules of Criminal Procedure if, in
196 either case, the court determines that appointment of counsel is
197 necessary to protect a person's due process rights.

198 (6) (a) ~~Effective October 1, 2007,~~ The office of criminal
199 conflict and civil regional counsel has primary responsibility
200 for representing persons entitled to court-appointed counsel
201 under the Federal or State Constitution or as authorized by
202 general law in civil proceedings, including, but not limited to,
203 proceedings under s. 393.12 and chapters 39, ~~390,~~ 392, 397, 415,
204 743, 744, and 984 and proceedings to terminate parental rights
205 under chapter 63. Private court-appointed counsel eligible under
206 s. 27.40 have primary responsibility for representing minors who
207 request counsel under s. 390.01114, the Parental Notice of
208 Abortion Act. The office of criminal conflict and civil regional
209 counsel may represent a minor under that section if the court
210 finds that no private court-appointed attorney is available.

211 (b) If constitutional principles or general law provide for
212 court-appointed counsel in civil proceedings, the court shall
213 first appoint the regional counsel unless general law
214 specifically provides for appointment of the public defender, in
215 which case the court shall appoint the regional counsel if the
216 public defender has a conflict of interest.



883424

217 (c) Notwithstanding paragraph (b) or any provision of
218 chapter 744 to the contrary, when chapter 744 provides for
219 appointment of counsel, the court, in consultation with the
220 clerk of court and prior to appointing counsel, shall determine,
221 if possible, whether the person entitled to representation is
222 indigent, using the best available evidence.

223 1. If the person is indigent, the court shall appoint the
224 regional counsel. If at any time after appointment the regional
225 counsel determines that the person is not indigent and that
226 there are sufficient assets available for the payment of legal
227 representation under s. 744.108, the regional counsel shall move
228 the court to reassign the case to a private attorney.

229 2. If the person is not indigent or if the court and the
230 clerk are not able to determine whether the person is indigent
231 at the time of appointment, the court shall appoint a private
232 attorney. If at any time after appointment the private attorney
233 determines that the person is indigent and that there are not
234 sufficient assets available for the payment of legal
235 representation under s. 744.108, the private attorney shall move
236 the court to reassign the case to the regional counsel. When a
237 case is reassigned, the private attorney may seek compensation
238 from the Justice Administrative Commission for representation
239 not recoverable from any assets of the person in an amount
240 approved by the court as a pro rata portion of the compensation
241 limits prescribed in the General Appropriations Act.

242 (d) The regional counsel may not represent any plaintiff in
243 a civil action brought under the Florida Rules of Civil
244 Procedure, the Federal Rules of Civil Procedure, or federal
245 statutes, and may not represent a petitioner in a rule challenge



883424

246 under chapter 120, unless specifically authorized by law.

247 Section 8. Section 27.52, Florida Statutes, is amended to
248 read:

249 27.52 Determination of indigent status.—

250 (1) APPLICATION TO THE CLERK.—A person seeking appointment
251 of a public defender under s. 27.51 based upon an inability to
252 pay must apply to the clerk of the court for a determination of
253 indigent status using an application form developed by the
254 Florida Clerks of Court Operations Corporation with final
255 approval by the Supreme Court.

256 (a) The application must include, at a minimum, the
257 following financial information:

258 1. Net income, consisting of total salary and wages, minus
259 deductions required by law, including court-ordered support
260 payments.

261 2. Other income, including, but not limited to, social
262 security benefits, union funds, veterans' benefits, workers'
263 compensation, other regular support from absent family members,
264 public or private employee pensions, unemployment compensation,
265 dividends, interest, rent, trusts, and gifts.

266 3. Assets, including, but not limited to, cash, savings
267 accounts, bank accounts, stocks, bonds, certificates of deposit,
268 equity in real estate, and equity in a boat or a motor vehicle
269 or in other tangible property.

270 4. All liabilities and debts.

271 5. If applicable, the amount of any bail paid for the
272 applicant's release from incarceration and the source of the
273 funds.

274



883424

275 The application must include a signature by the applicant which
276 attests to the truthfulness of the information provided. The
277 application form developed by the corporation must include
278 notice that the applicant may seek court review of a clerk's
279 determination that the applicant is not indigent, as provided in
280 this section.

281 (b) An applicant shall pay a \$50 application fee to the
282 clerk for each application for court-appointed counsel filed.
283 The applicant shall pay the fee within 7 days after submitting
284 the application. If the applicant does not pay the fee prior to
285 the disposition of the case, the clerk shall notify the court,
286 and the court shall:

287 1. Assess the application fee as part of the sentence or as
288 a condition of probation; or

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

290 (c) Notwithstanding any provision of law, court rule, or
291 administrative order, the clerk shall assign the first \$50 of
292 any fees or costs paid by an indigent person as payment of the
293 application fee. A person found to be indigent may not be
294 refused counsel or other required due process services for
295 failure to pay the fee.

296 (d) All application fees collected by the clerk under this
297 section shall be transferred monthly by the clerk to the
298 Department of Revenue for deposit in the Indigent Criminal
299 Defense Trust Fund administered by the Justice Administrative
300 Commission, to be used to as appropriated by the Legislature.
301 The clerk may retain 2 percent of application fees collected
302 monthly for administrative costs prior to remitting the
303 remainder to the Department of Revenue.



883424

304 (e)1. The clerk shall assist a person who appears before
305 the clerk and requests assistance in completing the application,
306 and the clerk shall notify the court if a person is unable to
307 complete the application after the clerk has provided
308 assistance.

309 2. If the person seeking appointment of a public defender
310 is incarcerated, the public defender is responsible for
311 providing the application to the person and assisting him or her
312 in its completion and is responsible for submitting the
313 application to the clerk on the person's behalf. The public
314 defender may enter into an agreement for jail employees,
315 pretrial services employees, or employees of other criminal
316 justice agencies to assist the public defender in performing
317 functions assigned to the public defender under this
318 subparagraph.

319 (2) DETERMINATION BY THE CLERK.—The clerk of the court
320 shall determine whether an applicant seeking appointment of a
321 public defender is indigent based upon the information provided
322 in the application and the criteria prescribed in this
323 subsection.

324 (a)1. An applicant, including an applicant who is a minor
325 or an adult tax-dependent person, is indigent if the applicant's
326 income is equal to or below 200 percent of the then-current
327 federal poverty guidelines prescribed for the size of the
328 household of the applicant by the United States Department of
329 Health and Human Services or if the person is receiving
330 Temporary Assistance for Needy Families-Cash Assistance,
331 poverty-related veterans' benefits, or Supplemental Security
332 Income (SSI).



883424

333 2.a. There is a presumption that the applicant is not
334 indigent if the applicant owns, or has equity in, any intangible
335 or tangible personal property or real property or the expectancy
336 of an interest in any such property having a net equity value of
337 \$2,500 or more, excluding the value of the person's homestead
338 and one vehicle having a net value not exceeding \$5,000.

339 b. Notwithstanding the information that the applicant
340 provides, the clerk shall conduct a review of the property
341 records for the county in which the applicant resides and the
342 motor vehicle title records of the state to identify any
343 property interests of the applicant under this subparagraph. The
344 clerk shall evaluate and consider the results of the review in
345 making its determination under this subsection. The clerk shall
346 maintain the results of the review in a file with the
347 application and provide the file to the court if the applicant
348 seeks review under subsection (4) of the clerk's determination
349 of indigent status.

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

- 352 1. The applicant is not indigent.
353 2. The applicant is indigent.

354 (c)1. If the clerk determines that the applicant is
355 indigent, the clerk shall submit the determination to the office
356 of the public defender and immediately file the determination in
357 the case file.

358 2. If the public defender is unable to provide
359 representation due to a conflict pursuant to s. 27.5303, the
360 public defender shall move the court for withdrawal from
361 representation and appointment of the office of criminal



883424

362 conflict and civil regional counsel.

363 (d) The duty of the clerk in determining whether an
364 applicant is indigent shall be limited to receiving the
365 application and comparing the information provided in the
366 application to the criteria prescribed in this subsection. The
367 determination of indigent status is a ministerial act of the
368 clerk and not a decision based on further investigation or the
369 exercise of independent judgment by the clerk. The clerk may
370 contract with third parties to perform functions assigned to the
371 clerk under this section.

372 (e) The applicant may seek review of the clerk's
373 determination that the applicant is not indigent in the court
374 having jurisdiction over the matter at the next scheduled
375 hearing. If the applicant seeks review of the clerk's
376 determination of indigent status, the court shall make a final
377 determination as provided in subsection (4).

378 (3) APPOINTMENT OF COUNSEL ON INTERIM BASIS.—If the clerk
379 of the court has not made a determination of indigent status at
380 the time a person requests appointment of a public defender, the
381 court shall make a preliminary determination of indigent status,
382 pending further review by the clerk, and may, by court order,
383 appoint a public defender, the office of criminal conflict and
384 civil regional counsel, or private counsel on an interim basis.

385 (4) REVIEW OF CLERK'S DETERMINATION.—

386 (a) If the clerk of the court determines that the applicant
387 is not indigent, and the applicant seeks review of the clerk's
388 determination, the court shall make a final determination of
389 indigent status by reviewing the information provided in the
390 application against the criteria prescribed in subsection (2)



883424

391 and by considering the following additional factors:

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

394 2. Whether a bond has been posted, the type of bond, and
395 who paid the bond.

396 3. Whether paying for private counsel in an amount that
397 exceeds the limitations in s. 27.5304, or other due process
398 services creates a substantial hardship for the applicant or the
399 applicant's family.

400 4. Any other relevant financial circumstances of the
401 applicant or the applicant's family.

402 (b) Based upon its review, the court shall make one of the
403 following determinations and, if the applicant is indigent,
404 shall appoint a public defender, the office of criminal conflict
405 and civil regional counsel, or, if appropriate, private counsel:

406 1. The applicant is not indigent.

407 2. The applicant is indigent.

408 (5) INDIGENT FOR COSTS.—A person who is ~~eligible to be~~
409 ~~represented by a public defender under s. 27.51 but who is~~
410 represented by private counsel not appointed by the court for a
411 reasonable fee as approved by the court, or on a pro bono basis,
412 or who is proceeding pro se, may move the court for a
413 determination that he or she is indigent for costs and eligible
414 for the provision of due process services, as prescribed by ss.
415 29.006 and 29.007, funded by the state.

416 (a) The person must file a written motion with the court
417 and submit to the court:

418 1. The completed application prescribed in subsection (1).

419 2. In the case of a person represented by counsel, an



883424

420 affidavit attesting to the estimated amount of attorney's fees
421 and the source of payment for these fees.

422 (b) The person shall arrange for service of a copy of the
423 motion and attachments on the Justice Administrative Commission.
424 The commission has standing to appear before the court to
425 contest any motion to declare a person indigent for costs and
426 may participate in a hearing on the motion by use of telephonic
427 or other communication equipment.

428 (c) If the person did not apply for a determination of
429 indigent status under subsection (1) in the same case and is not
430 already liable for the application fee required under that
431 subsection, he or she becomes liable for payment of the fee upon
432 filing the motion with the court.

433 (d) ~~(b)~~ In reviewing the motion, the court shall consider:

434 1. Whether the applicant applied for a determination of
435 indigent status under subsection (1) and the outcome of such
436 application.

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

439 3. The additional factors prescribed in subsection (4).

440 4. Whether the applicant is proceeding pro se.

441 5. When the applicant retained private counsel.

442 6. The amount of any attorney's fees and who is paying the
443 fees. There is a presumption that the applicant is not indigent
444 for costs if the amount of attorney's fees exceeds \$5,000 for a
445 noncapital case or \$25,000 for a capital case in which the state
446 is seeking the death penalty. To overcome this presumption, the
447 applicant has the burden to show through clear and convincing
448 evidence that the fees are reasonable based on the nature and



883424

449 complexity of the case. In determining the reasonableness of the
450 fees, the court shall consider the amount that a private court-
451 appointed attorney paid by the state would receive for providing
452 representation for the type of case.

453 (e)~~(e)~~ Based upon its review, the court shall make one of
454 the following determinations:

455 1. The applicant is not indigent for costs.

456 2. The applicant is indigent for costs.

457 (f)~~(d)~~ The provision of due process services based upon a
458 determination that a person is indigent for costs under this
459 subsection must be effectuated pursuant to a court order, a copy
460 of which the clerk shall provide to counsel representing the
461 person, or to the person directly if he or she is proceeding pro
462 se, for use in requesting payment of due process expenses
463 through the Justice Administrative Commission. Private counsel
464 representing a person declared indigent for costs shall execute
465 the Justice Administrative Commission's contract for counsel
466 representing persons determined to be indigent for costs.
467 Private counsel representing a person declared indigent for
468 costs may not receive state funds, either directly or on behalf
469 of due process providers, unless the attorney has executed the
470 contract required under this paragraph.

471 (g) Costs shall be reimbursed at the rates established
472 under ss. 27.425 and 27.5305. To receive reimbursement of costs,
473 either directly or on behalf of due process providers, private
474 counsel representing a person declared indigent for costs shall
475 comply with the procedures and requirements under this chapter
476 governing billings by and compensation of private court-
477 appointed counsel.



883424

478 (h) The court may not appoint an attorney paid by the state
479 based on a finding that the defendant is indigent for costs if
480 the defendant has privately retained and paid counsel.

481 (i) A defendant who is found guilty of a criminal act by a
482 court or jury or enters a plea of guilty or nolo contendere and
483 who received due process services after being found indigent for
484 costs under this subsection is liable for payment of due process
485 costs expended by the state.

486 1. The attorney representing the defendant, or the
487 defendant if he or she is proceeding pro se, shall provide an
488 accounting to the court delineating all costs paid or to be paid
489 by the state within 90 days after disposition of the case
490 notwithstanding any appeals.

491 2. The court shall issue an order determining the amount of
492 all costs paid by the state and any costs for which prepayment
493 was waived under this section or s. 57.081. The clerk shall
494 cause a certified copy of the order to be recorded in the
495 official records of the county, at no cost. The recording
496 constitutes a lien against the person in favor of the state in
497 the county in which the order is recorded. The lien may be
498 enforced in the same manner prescribed in s. 938.29.

499 3. If the attorney or the pro se defendant fails to provide
500 a complete accounting of costs expended by the state and
501 consequently costs are omitted from the lien, the attorney or
502 pro se defendant may not receive reimbursement or any other form
503 of direct or indirect payment for those costs if the state has
504 not paid the costs. The attorney or pro se defendant shall repay
505 the state for those costs if the state has already paid the
506 costs. The clerk of the court may establish a payment plan under



883424

507 s. 28.246 and may charge the attorney or pro se defendant a one-
508 time administrative processing charge under s. 28.24(26)(c).

509 (6) DUTIES OF PARENT OR LEGAL GUARDIAN.—A nonindigent
510 parent or legal guardian of an applicant who is a minor or an
511 adult tax-dependent person shall furnish the minor or adult tax-
512 dependent person with the necessary legal services and costs
513 incident to a delinquency proceeding or, upon transfer of such
514 person for criminal prosecution as an adult pursuant to chapter
515 985, a criminal prosecution in which the person has a right to
516 legal counsel under the Constitution of the United States or the
517 Constitution of the State of Florida. The failure of a parent or
518 legal guardian to furnish legal services and costs under this
519 section does not bar the appointment of legal counsel pursuant
520 to this section, s. 27.40, or s. 27.5303. When the public
521 defender, the office of criminal conflict and civil regional
522 counsel, a private court-appointed conflict counsel, or a
523 private attorney is appointed to represent a minor or an adult
524 tax-dependent person in any proceeding in circuit court or in a
525 criminal proceeding in any other court, the parents or the legal
526 guardian shall be liable for payment of the fees, charges, and
527 costs of the representation even if the person is a minor being
528 tried as an adult. Liability for the fees, charges, and costs of
529 the representation shall be imposed in the form of a lien
530 against the property of the nonindigent parents or legal
531 guardian of the minor or adult tax-dependent person. The lien is
532 enforceable as provided in s. 27.561 or s. 938.29.

533 (7) FINANCIAL DISCREPANCIES; FRAUD; FALSE INFORMATION.—

534 (a) If the court learns of discrepancies between the
535 application or motion and the actual financial status of the



883424

536 person found to be indigent or indigent for costs, the court
537 shall determine whether the public defender, office of criminal
538 conflict and civil regional counsel, or private attorney shall
539 continue representation or whether the authorization for any
540 other due process services previously authorized shall be
541 revoked. The person may be heard regarding the information
542 learned by the court. If the court, based on the information,
543 determines that the person is not indigent or indigent for
544 costs, the court shall order the public defender, office of
545 criminal conflict and civil regional counsel, or private
546 attorney to discontinue representation and revoke the provision
547 of any other authorized due process services.

548 (b) If the court has reason to believe that any applicant,
549 through fraud or misrepresentation, was improperly determined to
550 be indigent or indigent for costs, the matter shall be referred
551 to the state attorney. Twenty-five percent of any amount
552 recovered by the state attorney as reasonable value of the
553 services rendered, including fees, charges, and costs paid by
554 the state on the person's behalf, shall be remitted to the
555 Department of Revenue for deposit into the Grants and Donations
556 Trust Fund within the Justice Administrative Commission.
557 Seventy-five percent of any amount recovered shall be remitted
558 to the Department of Revenue for deposit into the General
559 Revenue Fund.

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

564 Section 9. Subsection (4) of section 27.5304, Florida



883424

565 Statutes, is amended to read:

566 27.5304 Private court-appointed counsel; compensation.—

567 (4) (a) The attorney shall submit a bill for attorney's
568 fees, costs, and related expenses within 90 days after the
569 disposition of the case at the lower court level,
570 notwithstanding any appeals. The Justice Administrative
571 Commission shall provide by contract with the attorney for
572 imposition of a penalty of:

573 1. Fifteen ~~15~~ percent of the allowable attorney's fees,
574 costs, and related expenses for a bill that is submitted more
575 than 90 days after the disposition of the case at the lower
576 court level, notwithstanding any appeals; ~~;~~

577 2. For cases for which disposition occurs on or after July
578 1, 2010, 50 percent of the allowable attorney's fees, costs, and
579 related expenses for a bill that is submitted more than 1 year
580 after the disposition of the case at the lower court level,
581 notwithstanding any appeals; and

582 3. For cases for which disposition occurs on or after July
583 1, 2010, 75 percent of the allowable attorney's fees, costs, and
584 related expenses for a bill that is submitted more than 2 years
585 after the disposition of the case at the lower court level,
586 notwithstanding any appeals.

587 (b) For purposes of this subsection, the term "disposition"
588 means:

589 1. At the trial court level, that the court has entered a
590 final appealable judgment, unless rendition of judgment is
591 stayed by the filing of a timely motion for rehearing. The
592 filing of a notice of appeal does not stay the time for
593 submission of an intended billing; and



883424

594 2. At the appellate court level, that the court has issued
595 its mandate.

596 Section 10. Section 27.5305, Florida Statutes, is created
597 to read:

598 27.5305 Attorney or provider compensation; conditions;
599 requirements.—The provisions of this section apply to the
600 payment by the state through the Justice Administrative
601 Commission of legal fees and due process costs in an eligible
602 criminal or civil matter when a person receives the services of
603 a private court-appointed attorney or is declared indigent for
604 costs under s. 27.52 or s. 57.082.

605 (1) ELECTRONIC FUNDS TRANSFER.—A person, as defined in s.
606 1.01, requesting compensation from the state through the Justice
607 Administrative Commission for the provision of criminal or civil
608 legal representation or other due process services must, as a
609 condition for compensation, participate in a direct-deposit
610 program under which the person authorizes the transfer of funds
611 electronically to an account in the person's name at a federal-
612 or state-chartered financial institution.

613 (a) The Justice Administrative Commission may exempt a
614 person from compliance with this section if the commission finds
615 that participation in a direct-deposit program creates a
616 financial hardship for the person.

617 (b) This subsection applies to compensation for services
618 that are provided on or after January 1, 2011.

619 (2) TRANSCRIPTS.—

620 (a) The state may pay for the cost of preparing a
621 transcript of a deposition only if the private court-appointed
622 attorney secures an order from the court finding that



883424

623 preparation of the transcript is necessary, in which case the
624 state may pay for one original and one copy only.

625 (b) The state may pay for the cost of one original
626 transcript of any deposition, hearing, or other proceeding. Any
627 other payment for a transcript of that same deposition, hearing,
628 or other proceeding, regardless of whether the transcript is an
629 additional original transcript or a copy, shall be at the rate
630 paid for a copy of a transcript. This paragraph applies
631 regardless of which state agency pays for the first original
632 transcript.

633 (3) COURT REPORTERS; INVESTIGATORS.—Beginning with the
634 2010-2011 fiscal year, and applicable to services performed
635 starting in that year, uniform statewide rates shall be
636 prescribed annually in the General Appropriations Act for the
637 payment of:

638 (a) Court reporting services that are not provided through
639 the state courts system; and

640 (b) Private investigation services.

641 (4) EXPERT WITNESSES; MITIGATION SPECIALISTS.—A private
642 court-appointed attorney must obtain authorization from the
643 court to employ an out-of-state expert or mitigation specialist
644 upon a showing that an expert or mitigation specialist who has
645 appropriate skills or expertise is not available from within the
646 county in which the case was filed or from elsewhere in the
647 state. An order authorizing the employment must be in writing
648 and contain specific findings regarding the unavailability of a
649 qualified in-state expert or mitigation specialist. The attorney
650 shall submit a copy of the order to the Justice Administrative
651 Commission.



883424

652 (5) RIGHT TO DISCOVERY.—The Justice Administrative
653 Commission has a right to engage in discovery in accordance with
654 the Florida Rules of Civil Procedure on a motion to the court
655 seeking payment of attorney's fees, costs, or other expenses.
656 This right includes a reasonable opportunity to obtain discovery
657 prior to a hearing on the motion.

658 Section 11. Subsection (12) of section 28.24, Florida
659 Statutes, is amended to read:

660 28.24 Service charges by clerk of the circuit court.—The
661 clerk of the circuit court shall charge for services rendered by
662 the clerk's office in recording documents and instruments and in
663 performing the duties enumerated in amounts not to exceed those
664 specified in this section. Notwithstanding any other provision
665 of this section, the clerk of the circuit court shall provide
666 without charge to the state attorney, public defender, guardian
667 ad litem, public guardian, attorney ad litem, criminal conflict
668 and civil regional counsel, and private court-appointed counsel
669 paid by the state, and to the authorized staff acting on behalf
670 of each, access to and a copy of any public record, if the
671 requesting party is entitled by law to view the exempt or
672 confidential record, as maintained by and in the custody of the
673 clerk of the circuit court as provided in general law and the
674 Florida Rules of Judicial Administration. The clerk of the
675 circuit court may provide the requested public record in an
676 electronic format in lieu of a paper format when capable of
677 being accessed by the requesting entity.

678
679 Charges
680 (12) For recording, indexing, and filing any instrument not



883424

681 more than 14 inches by 8 1/2 inches, including required notice
682 to property appraiser where applicable:

683 (a) First page or fraction thereof.....5.00

684 (b) Each additional page or fraction thereof.....4.00

685 (c) For indexing instruments recorded in the official
686 records which contain more than four names, per additional
687 name.....1.00

688 (d) An additional service charge shall be paid to the clerk
689 of the circuit court to be deposited in the Public Records
690 Modernization Trust Fund for each instrument listed in s.

691 28.222, except judgments received from the courts and notices of
692 lis pendens, recorded in the official records:

693 1. First page.....1.00

694 2. Each additional page.....0.50

695
696 Said fund shall be held in trust by the clerk and used
697 exclusively for equipment and maintenance of equipment,
698 personnel training, and technical assistance in modernizing the
699 public records system of the office. In a county where the duty
700 of maintaining official records exists in an office other than
701 the office of the clerk of the circuit court, the clerk of the
702 circuit court is entitled to 25 percent of the moneys deposited
703 into the trust fund for equipment, maintenance of equipment,
704 training, and technical assistance in modernizing the system for
705 storing records in the office of the clerk of the circuit court.
706 The fund may not be used for the payment of travel expenses,
707 membership dues, bank charges, staff-recruitment costs, salaries
708 or benefits of employees, construction costs, general operating
709 expenses, or other costs not directly related to obtaining and



883424

710 maintaining equipment for public records systems or for the
711 purchase of furniture or office supplies and equipment not
712 related to the storage of records. On or before December 1,
713 1995, and on or before December 1 of each year immediately
714 preceding each year during which the trust fund is scheduled for
715 legislative review under s. 19(f)(2), Art. III of the State
716 Constitution, each clerk of the circuit court shall file a
717 report on the Public Records Modernization Trust Fund with the
718 President of the Senate and the Speaker of the House of
719 Representatives. The report must itemize each expenditure made
720 from the trust fund since the last report was filed; each
721 obligation payable from the trust fund on that date; and the
722 percentage of funds expended for each of the following:
723 equipment, maintenance of equipment, personnel training, and
724 technical assistance. The report must indicate the nature of the
725 system each clerk uses to store, maintain, and retrieve public
726 records and the degree to which the system has been upgraded
727 since the creation of the trust fund.

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

733 1. If the counties maintain legal responsibility for the
734 costs of the court-related technology needs as defined in s.
735 29.008(1)(f)2. and (h), 10 cents shall be distributed to the
736 Florida Association of Court Clerks and Comptroller, Inc., for
737 the cost of development, implementation, operation, and
738 maintenance of the clerks' Comprehensive Case Information



883424

739 System, in which system all clerks shall participate on or
740 before January 1, 2006; \$1.90 shall be retained by the clerk to
741 be deposited in the Public Records Modernization Trust Fund and
742 used exclusively for funding court-related technology needs of
743 the clerk as defined in s. 29.008(1)(f)2. and (h); and \$2 shall
744 be distributed to the board of county commissioners to be used
745 exclusively to fund court-related technology, and court
746 technology needs as defined in s. 29.008(1)(f)2. and (h) for the
747 state trial courts, state attorney, public defender, and, at the
748 board's discretion, criminal conflict and civil regional counsel
749 in that county. If the counties maintain legal responsibility
750 for the costs of the court-related technology needs as defined
751 in s. 29.008(1)(f)2. and (h), notwithstanding any other
752 provision of law, the county is not required to provide
753 additional funding beyond that provided herein for the court-
754 related technology needs of the clerk as defined in s.
755 29.008(1)(f)2. and (h). All court records and official records
756 are the property of the State of Florida, including any records
757 generated as part of the Comprehensive Case Information System
758 funded pursuant to this paragraph and the clerk of court is
759 designated as the custodian of such records, except in a county
760 where the duty of maintaining official records exists in a
761 county office other than the clerk of court or comptroller, such
762 county office is designated the custodian of all official
763 records, and the clerk of court is designated the custodian of
764 all court records. The clerk of court or any entity acting on
765 behalf of the clerk of court, including an association, shall
766 not charge a fee to any agency as defined in s. 119.011, the
767 Legislature, or the State Court System for copies of records



883424

768 generated by the Comprehensive Case Information System or held
769 by the clerk of court or any entity acting on behalf of the
770 clerk of court, including an association.

771 2. If the state becomes legally responsible for the costs
772 of court-related technology needs as defined in s.
773 29.008(1)(f)2. and (h), whether by operation of general law or
774 by court order, \$4 shall be remitted to the Department of
775 Revenue for deposit into the General Revenue Fund.

776 Section 12. Paragraph (a) of subsection (1) of section
777 28.241, Florida Statutes, is amended, and subsection (7) is
778 added to that section, to read:

779 28.241 Filing fees for trial and appellate proceedings.—

780 (1)(a)1.a. Except as provided in sub-subparagraph b. and
781 subparagraph 2., the party instituting any civil action, suit,
782 or proceeding in the circuit court shall pay to the clerk of
783 that court a filing fee of up to \$395 in all cases in which
784 there are not more than five defendants and an additional filing
785 fee of up to \$2.50 for each defendant in excess of five. Of the
786 first \$265 in filing fees, \$80 must be remitted by the clerk to
787 the Department of Revenue for deposit into the General Revenue
788 Fund, \$180 must be remitted to the Department of Revenue for
789 deposit into the State Courts Revenue Trust Fund, \$3.50 must be
790 remitted to the Department of Revenue for deposit into the
791 Clerks of the Court Trust Fund within the Justice Administrative
792 Commission and used to fund the Florida Clerks of Court
793 Operations Corporation created in s. 28.35, and \$1.50 shall be
794 remitted to the Department of Revenue for deposit into the
795 Administrative Trust Fund within the Department of Financial
796 Services to fund clerk budget reviews conducted by the



883424

797 Department of Financial Services. The next \$15 of the filing fee
798 collected shall be deposited in the state courts' Mediation and
799 Arbitration Trust Fund. One third of any filing fees collected
800 by the clerk of the circuit court in excess of \$100 shall be
801 remitted to the Department of Revenue for deposit into the
802 Clerks of the Court Trust Fund within the Justice Administrative
803 Commission.

804 b. Except where the assessment of a filing fee is otherwise
805 prohibited by law, the party instituting any civil action, suit,
806 or proceeding in the circuit court under chapter 39, chapter 61,
807 chapter 741, chapter 742, chapter 747, chapter 752, or chapter
808 753 shall pay to the clerk of that court a filing fee of up to
809 \$295 in all cases in which there are not more than five
810 defendants and an additional filing fee of up to \$2.50 for each
811 defendant in excess of five. Of the first \$165 in filing fees,
812 \$80 must be remitted by the clerk to the Department of Revenue
813 for deposit into the General Revenue Fund, \$80 must be remitted
814 to the Department of Revenue for deposit into the State Courts
815 Revenue Trust Fund, \$3.50 must be remitted to the Department of
816 Revenue for deposit into the Clerks of the Court Trust Fund
817 within the Justice Administrative Commission and used to fund
818 the Florida Clerks of Court Operations Corporation created in s.
819 28.35, and \$1.50 shall be remitted to the Department of Revenue
820 for deposit into the Administrative Trust Fund within the
821 Department of Financial Services to fund clerk budget reviews
822 conducted by the Department of Financial Services. The next \$15
823 of the filing fee collected shall be deposited in the state
824 courts' Mediation and Arbitration Trust Fund.

825 c. An additional filing fee of \$4 shall be paid to the



883424

826 clerk. The clerk shall remit \$3.50 to the Department of Revenue
827 for deposit into the Court Education Trust Fund and shall remit
828 50 cents to the Department of Revenue for deposit into the
829 Clerks of the Court Trust Fund within the Justice Administrative
830 Commission to fund clerk education. An additional filing fee of
831 up to \$18 shall be paid by the party seeking each severance that
832 is granted. The clerk may impose an additional filing fee of up
833 to \$85 for all proceedings of garnishment, attachment, replevin,
834 and distress. Postal charges incurred by the clerk of the
835 circuit court in making service by certified or registered mail
836 on defendants or other parties shall be paid by the party at
837 whose instance service is made. No additional fees, charges, or
838 costs shall be added to the filing fees imposed under this
839 section, except as authorized in this section or by general law.

840 2.a. Notwithstanding the fees prescribed in subparagraph
841 1., a party instituting a civil action in circuit court relating
842 to real property or mortgage foreclosure shall pay a graduated
843 filing fee based on the value of the claim.

844 b. A party shall estimate in writing the amount in
845 controversy of the claim upon filing the action. For purposes of
846 this subparagraph, the value of a mortgage foreclosure action is
847 based upon the principal due on the note secured by the
848 mortgage, plus interest owed on the note and any moneys advanced
849 by the lender for property taxes, insurance, and other advances
850 secured by the mortgage, at the time of filing the foreclosure.
851 The value shall also include the value of any tax certificates
852 related to the property. In stating the value of a mortgage
853 foreclosure claim, a party shall declare in writing the total
854 value of the claim, as well as the individual elements of the



883424

855 value as prescribed in this sub-subparagraph.

856 c. In its order providing for the final disposition of the
857 matter, the court shall identify the actual value of the claim.
858 The clerk shall adjust the filing fee if there is a difference
859 between the estimated amount in controversy and the actual value
860 of the claim and collect any additional filing fee owed or
861 provide a refund of excess filing fee paid.

862 d. The party shall pay a filing fee of:

863 (I) Three hundred and ninety-five dollars in all cases in
864 which the value of the claim is \$50,000 or less and in which
865 there are not more than five defendants. The party shall pay an
866 additional filing fee of up to \$2.50 for each defendant in
867 excess of five. Of the first \$265 in filing fees, \$80 must be
868 remitted by the clerk to the Department of Revenue for deposit
869 into the General Revenue Fund, \$180 must be remitted to the
870 Department of Revenue for deposit into the State Courts Revenue
871 Trust Fund, \$3.50 must be remitted to the Department of Revenue
872 for deposit into the Clerks of the Court Trust Fund within the
873 Justice Administrative Commission and used to fund the Florida
874 Clerks of Court Operations Corporation created in s. 28.35, and
875 \$1.50 shall be remitted to the Department of Revenue for deposit
876 into the Administrative Trust Fund within the Department of
877 Financial Services to fund clerk budget reviews conducted by the
878 Department of Financial Services. The next \$15 of the filing fee
879 collected shall be deposited in the state courts' Mediation and
880 Arbitration Trust Fund;

881 (II) Nine hundred dollars in all cases in which the value
882 of the claim is more than \$50,000 but less than \$250,000 and in
883 which there are not more than five defendants. The party shall



883424

884 pay an additional filing fee of up to \$2.50 for each defendant
885 in excess of five. Of the first \$770 in filing fees, \$80 must be
886 remitted by the clerk to the Department of Revenue for deposit
887 into the General Revenue Fund, \$685 must be remitted to the
888 Department of Revenue for deposit into the State Courts Revenue
889 Trust Fund, \$3.50 must be remitted to the Department of Revenue
890 for deposit into the Clerks of the Court Trust Fund within the
891 Justice Administrative Commission and used to fund the Florida
892 Clerks of Court Operations Corporation described in s. 28.35,
893 and \$1.50 shall be remitted to the Department of Revenue for
894 deposit into the Administrative Trust Fund within the Department
895 of Financial Services to fund clerk budget reviews conducted by
896 the Department of Financial Services. The next \$15 of the filing
897 fee collected shall be deposited in the state courts' Mediation
898 and Arbitration Trust Fund; or

899 (III) One thousand nine hundred dollars in all cases in
900 which the value of the claim is \$250,000 or more and in which
901 there are not more than five defendants. The party shall pay an
902 additional filing fee of up to \$2.50 for each defendant in
903 excess of five. Of the first \$1,770 in filing fees, \$80 must be
904 remitted by the clerk to the Department of Revenue for deposit
905 into the General Revenue Fund, \$1,685 must be remitted to the
906 Department of Revenue for deposit into the State Courts Revenue
907 Trust Fund, \$3.50 must be remitted to the Department of Revenue
908 for deposit into the Clerks of the Court Trust Fund within the
909 Justice Administrative Commission to fund the Florida Clerks of
910 Court Operations Corporation created in s. 28.35, and \$1.50
911 shall be remitted to the Department of Revenue for deposit into
912 the Administrative Trust Fund within the Department of Financial



883424

913 Services to fund clerk budget reviews conducted by the
914 Department of Financial Services. The next \$15 of the filing fee
915 collected shall be deposited in the state courts' Mediation and
916 Arbitration Trust Fund.

917 e. An additional filing fee of \$4 shall be paid to the
918 clerk. The clerk shall remit \$3.50 to the Department of Revenue
919 for deposit into the Court Education Trust Fund and shall remit
920 50 cents to the Department of Revenue for deposit into the
921 Clerks of the Court Trust Fund within the Justice Administrative
922 Commission to fund clerk education. An additional filing fee of
923 up to \$18 shall be paid by the party seeking each severance that
924 is granted. The clerk may impose an additional filing fee of up
925 to \$85 for all proceedings of garnishment, attachment, replevin,
926 and distress. Postal charges incurred by the clerk of the
927 circuit court in making service by certified or registered mail
928 on defendants or other parties shall be paid by the party at
929 whose instance service is made. No additional fees, charges, or
930 costs shall be added to the filing fees imposed under this
931 section, except as authorized in this section or by general law.

932 (7) Nothing in this section or in the revisions made to it
933 by chapters 2009-61 and 2009-204, Laws of Florida, authorizes
934 the assessment of a filing fee if the assessment is otherwise
935 prohibited by law.

936 Section 13. Subsection (10) of section 28.36, Florida
937 Statutes, is amended to read:

938 28.36 Budget procedure.—There is established a budget
939 procedure for preparing budget requests for funding for the
940 court-related functions of the clerks of the court.

941 (10) For the 2010-2011 ~~2009-2010~~ fiscal year, the



883424

942 corporation shall release appropriations in an amount equal to
943 one-twelfth of each clerk's approved budget each month. The
944 statewide total appropriation for the 2010-2011 ~~2009-2010~~ fiscal
945 year shall be set in the General Appropriations Act. The
946 corporation shall determine the amount of each clerk of court
947 budget, but the statewide total of such amounts may not exceed
948 the amount listed in the General Appropriations Act. Beginning
949 in the 2011-2012 ~~2010-2011~~ fiscal year, the corporation shall
950 release appropriations to each clerk quarterly. The amount of
951 the release shall be based on the prior quarter's performance of
952 service units identified in the four core services and the
953 established unit costs for each clerk.

954 Section 14. Subsection (1) of section 29.001, Florida
955 Statutes, is amended to read:

956 29.001 State courts system elements and definitions.—

957 (1) For the purpose of implementing s. 14, Art. V of the
958 State Constitution, the state courts system is defined to
959 include the enumerated elements of the Supreme Court, district
960 courts of appeal, circuit courts, county courts, and certain
961 supports thereto. The offices of public defenders and state
962 attorneys are defined to include the enumerated elements of the
963 20 state attorneys' offices and the enumerated elements of the
964 20 public defenders' offices ~~and five offices of criminal~~
965 ~~conflict and civil regional counsel~~. Court-appointed counsel are
966 defined to include the enumerated elements for counsel appointed
967 to ensure due process in criminal and civil proceedings in
968 accordance with state and federal constitutional guarantees.
969 Funding for the state courts system, the state attorneys'
970 offices, the public defenders' offices, the offices of criminal



883424

971 conflict and civil regional counsel, and other court-appointed
972 counsel shall be provided from state revenues appropriated by
973 general law.

974 Section 15. Section 29.008, Florida Statutes, is amended to
975 read:

976 29.008 County funding of court-related functions.—

977 (1) Counties are required by s. 14, Art. V of the State
978 Constitution to fund the cost of communications services,
979 existing radio systems, existing multiagency criminal justice
980 information systems, and the cost of construction or lease,
981 maintenance, utilities, and security of facilities for the
982 circuit and county courts, public defenders' offices, state
983 attorneys' offices, guardian ad litem offices, and the offices
984 of the clerks of the circuit and county courts performing court-
985 related functions. For purposes of this section, the term
986 "circuit and county courts" includes the offices and staffing of
987 the guardian ad litem programs, ~~and the term "public defenders'~~
988 ~~offices" includes the offices of criminal conflict and civil~~
989 ~~regional counsel.~~ The county designated under s. 35.05(1) as the
990 headquarters for each appellate district shall fund these costs
991 for the appellate division of the public defender's office in
992 that county. For purposes of implementing these requirements,
993 the term:

994 (a) "Facility" means reasonable and necessary buildings and
995 office space and appurtenant equipment and furnishings,
996 structures, real estate, easements, and related interests in
997 real estate, including, but not limited to, those for the
998 purpose of housing legal materials for use by the general public
999 and personnel, equipment, or functions of the circuit or county



883424

1000 courts, public defenders' offices, state attorneys' offices, and
1001 court-related functions of the office of the clerks of the
1002 circuit and county courts and all storage. The term "facility"
1003 includes all wiring necessary for court reporting services. The
1004 term also includes access to parking for such facilities in
1005 connection with such court-related functions that may be
1006 available free or from a private provider or a local government
1007 for a fee. The office space provided by a county may not be less
1008 than the standards for space allotment adopted by the Department
1009 of Management Services, except this requirement applies only to
1010 facilities that are leased, or on which construction commences,
1011 after June 30, 2003. County funding must include physical
1012 modifications and improvements to all facilities as are required
1013 for compliance with the Americans with Disabilities Act. Upon
1014 mutual agreement of a county and the affected entity in this
1015 paragraph, the office space provided by the county may vary from
1016 the standards for space allotment adopted by the Department of
1017 Management Services.

1018 1. As of July 1, 2005, equipment and furnishings shall be
1019 limited to that appropriate and customary for courtrooms,
1020 hearing rooms, jury facilities, and other public areas in
1021 courthouses and any other facility occupied by the courts, state
1022 attorneys, public defenders, and guardians ad litem, ~~and~~
1023 ~~criminal conflict and civil regional counsel~~. Court reporting
1024 equipment in these areas or facilities is not a responsibility
1025 of the county.

1026 2. Equipment and furnishings under this paragraph in
1027 existence and owned by counties on July 1, 2005, except for that
1028 in the possession of the clerks, for areas other than



883424

1029 courtrooms, hearing rooms, jury facilities, and other public
1030 areas in courthouses and any other facility occupied by the
1031 courts, state attorneys, and public defenders, shall be
1032 transferred to the state at no charge. This provision does not
1033 apply to any communications services as defined in paragraph
1034 (f).

1035 (b) "Construction or lease" includes, but is not limited
1036 to, all reasonable and necessary costs of the acquisition or
1037 lease of facilities for all judicial officers, staff, jurors,
1038 volunteers of a tenant agency, and the public for the circuit
1039 and county courts, the public defenders' offices, state
1040 attorneys' offices, and for performing the court-related
1041 functions of the offices of the clerks of the circuit and county
1042 courts. This includes expenses related to financing such
1043 facilities and the existing and future cost and bonded
1044 indebtedness associated with placing the facilities in use.

1045 (c) "Maintenance" includes, but is not limited to, all
1046 reasonable and necessary costs of custodial and groundskeeping
1047 services and renovation and reconstruction as needed to
1048 accommodate functions for the circuit and county courts, the
1049 public defenders' offices, and state attorneys' offices and for
1050 performing the court-related functions of the offices of the
1051 clerks of the circuit and county court and for maintaining the
1052 facilities in a condition appropriate and safe for the use
1053 intended.

1054 (d) "Utilities" means all electricity services for light,
1055 heat, and power; natural or manufactured gas services for light,
1056 heat, and power; water and wastewater services and systems,
1057 stormwater or runoff services and systems, sewer services and



883424

1058 systems, all costs or fees associated with these services and
1059 systems, and any costs or fees associated with the mitigation of
1060 environmental impacts directly related to the facility.

1061 (e) "Security" includes but is not limited to, all
1062 reasonable and necessary costs of services of law enforcement
1063 officers or licensed security guards and all electronic,
1064 cellular, or digital monitoring and screening devices necessary
1065 to ensure the safety and security of all persons visiting or
1066 working in a facility; to provide for security of the facility,
1067 including protection of property owned by the county or the
1068 state; and for security of prisoners brought to any facility.
1069 This includes bailiffs while providing courtroom and other
1070 security for each judge and other quasi-judicial officers.

1071 (f) "Communications services" are defined as any reasonable
1072 and necessary transmission, emission, and reception of signs,
1073 signals, writings, images, and sounds of intelligence of any
1074 nature by wire, radio, optical, audio equipment, or other
1075 electromagnetic systems and includes all facilities and
1076 equipment owned, leased, or used by judges, clerks, public
1077 defenders, state attorneys, guardians ad litem, ~~criminal~~
1078 ~~conflict and civil regional counsel~~, and all staff of the state
1079 courts system, state attorneys' offices, public defenders'
1080 offices, and clerks of the circuit and county courts performing
1081 court-related functions. Such system or services shall include,
1082 but not be limited to:

1083 1. Telephone system infrastructure, including computer
1084 lines, telephone switching equipment, and maintenance, and
1085 facsimile equipment, wireless communications, cellular
1086 telephones, pagers, and video teleconferencing equipment and



883424

1087 line charges. Each county shall continue to provide access to a
1088 local carrier for local and long distance service and shall pay
1089 toll charges for local and long distance service.

1090 2. All computer networks, systems and equipment, including
1091 computer hardware and software, modems, printers, wiring,
1092 network connections, maintenance, support staff or services
1093 including any county-funded support staff located in the offices
1094 of the circuit court, county courts, state attorneys, public
1095 defenders, and guardians ad litem, ~~and criminal conflict and~~
1096 ~~civil regional counsel~~; training, supplies, and line charges
1097 necessary for an integrated computer system to support the
1098 operations and management of the state courts system, the
1099 offices of the public defenders, the offices of the state
1100 attorneys, the guardian ad litem offices, ~~the offices of~~
1101 ~~eriminal conflict and civil regional counsel~~, and the offices of
1102 the clerks of the circuit and county courts; and the capability
1103 to connect those entities and reporting data to the state as
1104 required for the transmission of revenue, performance
1105 accountability, case management, data collection, budgeting, and
1106 auditing purposes. The integrated computer system shall be
1107 operational by July 1, 2006, and, at a minimum, permit the
1108 exchange of financial, performance accountability, case
1109 management, case disposition, and other data across multiple
1110 state and county information systems involving multiple users at
1111 both the state level and within each judicial circuit and be
1112 able to electronically exchange judicial case background data,
1113 sentencing scoresheets, and video evidence information stored in
1114 integrated case management systems over secure networks. Once
1115 the integrated system becomes operational, counties may reject



883424

1116 requests to purchase communications services included in this
1117 subparagraph not in compliance with standards, protocols, or
1118 processes adopted by the board established pursuant to former s.
1119 29.0086.

1120 3. Courier messenger and subpoena services.

1121 4. Auxiliary aids and services for qualified individuals
1122 with a disability which are necessary to ensure access to the
1123 courts. Such auxiliary aids and services include, but are not
1124 limited to, sign language interpretation services required under
1125 the federal Americans with Disabilities Act other than services
1126 required to satisfy due-process requirements and identified as a
1127 state funding responsibility pursuant to ss. 29.004, 29.005,
1128 29.006, and 29.007, real-time transcription services for
1129 individuals who are hearing impaired, and assistive listening
1130 devices and the equipment necessary to implement such
1131 accommodations.

1132 (g) "Existing radio systems" includes, but is not limited
1133 to, law enforcement radio systems that are used by the circuit
1134 and county courts, the offices of the public defenders, the
1135 offices of the state attorneys, and for court-related functions
1136 of the offices of the clerks of the circuit and county courts.
1137 This includes radio systems that were operational or under
1138 contract at the time Revision No. 7, 1998, to Art. V of the
1139 State Constitution was adopted and any enhancements made
1140 thereafter, the maintenance of those systems, and the personnel
1141 and supplies necessary for operation.

1142 (h) "Existing multiagency criminal justice information
1143 systems" includes, but is not limited to, those components of
1144 the multiagency criminal justice information system as defined



883424

1145 in s. 943.045, supporting the offices of the circuit or county
1146 courts, the public defenders' offices, the state attorneys'
1147 offices, or those portions of the offices of the clerks of the
1148 circuit and county courts performing court-related functions
1149 that are used to carry out the court-related activities of those
1150 entities. This includes upgrades and maintenance of the current
1151 equipment, maintenance and upgrades of supporting technology
1152 infrastructure and associated staff, and services and expenses
1153 to assure continued information sharing and reporting of
1154 information to the state. The counties shall also provide
1155 additional information technology services, hardware, and
1156 software as needed for new judges and staff of the state courts
1157 system, state attorneys' offices, public defenders' offices,
1158 guardian ad litem offices, and the offices of the clerks of the
1159 circuit and county courts performing court-related functions.

1160 (2) Counties shall pay reasonable and necessary salaries,
1161 costs, and expenses of the state courts system, including
1162 associated staff and expenses, to meet local requirements.

1163 (a) Local requirements are those specialized programs,
1164 nonjudicial staff, and other expenses associated with
1165 specialized court programs, specialized prosecution needs,
1166 specialized defense needs, or resources required of a local
1167 jurisdiction as a result of special factors or circumstances.
1168 Local requirements exist:

1169 1. When imposed pursuant to an express statutory directive,
1170 based on such factors as provided in paragraph (b); or

1171 2. When:

1172 a. The county has enacted an ordinance, adopted a local
1173 program, or funded activities with a financial or operational



883424

1174 impact on the circuit or a county within the circuit; or
1175 b. Circumstances in a given circuit or county result in or
1176 necessitate implementation of specialized programs, the
1177 provision of nonjudicial staff and expenses to specialized court
1178 programs, special prosecution needs, specialized defense needs,
1179 or the commitment of resources to the court's jurisdiction.

1180 (b) Factors and circumstances resulting in the
1181 establishment of a local requirement include, but are not
1182 limited to:

- 1183 1. Geographic factors;
- 1184 2. Demographic factors;
- 1185 3. Labor market forces;
- 1186 4. The number and location of court facilities; or
- 1187 5. The volume, severity, complexity, or mix of court cases.

1188 (c) Local requirements under subparagraph (a)2. must be
1189 determined by the following method:

1190 1. The chief judge of the circuit, in conjunction with the
1191 state attorney and, the public defender, ~~and the criminal~~
1192 ~~conflict and civil regional counsel only~~ on matters that impact
1193 only their offices, shall identify all local requirements within
1194 the circuit or within each county in the circuit and shall
1195 identify the reasonable and necessary salaries, costs, and
1196 expenses to meet these local requirements.

1197 2. On or before June 1 of each year, the chief judge shall
1198 submit to the board of county commissioners a tentative budget
1199 request for local requirements for the ensuing fiscal year. The
1200 tentative budget must certify a listing of all local
1201 requirements and the reasonable and necessary salaries, costs,
1202 and expenses for each local requirement. The board of county



883424

1203 commissioners may, by resolution, require the certification to
1204 be submitted earlier.

1205 3. The board of county commissioners shall thereafter treat
1206 the certification in accordance with the county's budgetary
1207 procedures. A board of county commissioners may:

1208 a. Determine whether to provide funding, and to what extent
1209 it will provide funding, for salaries, costs, and expenses under
1210 this section;

1211 b. Require a county finance officer to conduct a preaudit
1212 review of any county funds provided under this section prior to
1213 disbursement;

1214 c. Require review or audit of funds expended under this
1215 section by the appropriate county office; and

1216 d. Provide additional financial support for the courts
1217 system, state attorneys, public defenders, or criminal conflict
1218 and civil regional counsel.

1219 (d) Counties may satisfy these requirements by entering
1220 into interlocal agreements for the collective funding of these
1221 reasonable and necessary salaries, costs, and expenses.

1222 (3) The following shall be considered a local requirement
1223 pursuant to subparagraph (2)(a)1.:

1224 (a) Legal aid programs, which shall be funded at a level
1225 equal to or greater than the amount provided from filing fees
1226 and surcharges to legal aid programs from October 1, 2002, to
1227 September 30, 2003.

1228 (b) Alternative sanctions coordinators pursuant to ss.
1229 984.09 and 985.037.

1230 (4)(a) The Department of Financial Services shall review
1231 county expenditure reports required under s. 29.0085 for the



1232 purpose of ensuring that counties fulfill the responsibilities
1233 of this section. The department shall compare county fiscal
1234 reports to determine if expenditures for the items specified in
1235 paragraphs (1)(a)-(h) and subsection (3) have increased by 1.5
1236 percent over the prior county fiscal year. The initial review
1237 must compare county fiscal year 2005-2006 to county fiscal year
1238 2004-2005. If the department finds that expenditures for the
1239 items specified in paragraphs (1)(a)-(h) and subsection (3) have
1240 not increased by 1.5 percent over the prior county fiscal year,
1241 the department shall notify the President of the Senate and the
1242 Speaker of the House of Representatives and the respective
1243 county. The Legislature may determine that a county has met its
1244 obligations for items specified in this section if the prior
1245 county fiscal year included nonrecurring expenditures for
1246 facilities or information technology that is not needed in the
1247 next county fiscal year or expenditures or actions that enable a
1248 county to attain efficiencies in providing services to the court
1249 system. The Legislature may direct the Department of Revenue to
1250 withhold revenue-sharing receipts distributed pursuant to part
1251 II of chapter 218, except for revenues used for paying the
1252 principal or interest on bonds, tax anticipation certificates,
1253 or any other form of indebtedness allowed under s. 218.25(1),
1254 (2), or (4), from any county that is not in compliance with the
1255 funding obligations in this section by an amount equal to the
1256 difference between the amount spent and the amount that would
1257 have been spent had the county increased expenditures by 1.5
1258 percent per year.

1259 (b) The department shall transfer the withheld payments to
1260 the General Revenue Fund by March 31 of each year for the



1261 previous county fiscal year. These payments are appropriated to
1262 the Department of Revenue to pay for these responsibilities on
1263 behalf of the county.

1264 Section 16. Section 29.0095, Florida Statutes, is repealed.

1265 Section 17. Section 29.0195, Florida Statutes, is amended
1266 to read:

1267 29.0195 Recovery of expenditures for state-funded
1268 services.—The trial court administrator of each circuit shall
1269 recover expenditures for state-funded services when those
1270 services have been furnished to a user of the state court system
1271 who possesses the present ability to pay. The rate of
1272 compensation for such services shall be the actual cost of the
1273 services, including the cost of recovery. The trial court
1274 administrator shall deposit moneys recovered under this section
1275 in the Administrative ~~Operating~~ Trust Fund within the state
1276 courts ~~court~~ system. The trial court administrator shall recover
1277 the costs of court reporter services and transcription; court
1278 interpreter services, including translation; and any other
1279 service for which state funds were used to provide a product or
1280 service within the circuit. This section does not authorize cost
1281 recovery from entities described in ss. 29.005, 29.006, and
1282 29.007.

1283 Section 18. Paragraph (a) of subsection (1) of section
1284 34.041, Florida Statutes, is amended to read:

1285 34.041 Filing fees.—

1286 (1) (a) Upon the institution of any civil action, suit, or
1287 proceeding in county court, the party shall pay the following
1288 filing fee, not to exceed:

1289 1. For all claims less than \$100.....\$50.



883424

- 1290 2. For all claims of \$100 or more but not more than \$500\$75.
- 1291 3. For all claims of more than \$500 but not more than
- 1292 \$2,500.....\$170.
- 1293 4. For all claims of more than \$2,500.....\$295.
- 1294 5. In addition, for all proceedings of garnishment,
- 1295 attachment, replevin, and distress.....\$85.
- 1296 6. Notwithstanding subparagraphs 3. and 5., for all claims
- 1297 of not more than \$1,000 filed simultaneously with an action for
- 1298 replevin of property that is the subject of the claim.....\$125.
- 1299 7. For removal of tenant action.....\$180.

1300
1301 The filing fee prescribed in subparagraph 6. is the total fee
1302 due under this paragraph for that type of filing. No other
1303 filing fee under this paragraph shall be assessed against such a
1304 filing.

1305 Section 19. Subsection (6) of section 35.22, Florida
1306 Statutes, is amended to read:

1307 35.22 Clerk of district court; appointment; compensation;
1308 assistants; filing fees; teleconferencing.-

1309 (6) The clerk of each district court of appeal is required
1310 to deposit all fees collected in the State Treasury to the
1311 credit of the General Revenue Fund, except that \$50 of each \$300
1312 filing fee collected shall be deposited into the State Courts
1313 Revenue ~~state court's Operating~~ Trust Fund to fund court
1314 operations ~~improvement projects~~ as authorized in the General
1315 Appropriations Act. The clerk shall retain an accounting of each
1316 such remittance.

1317 Section 20. Section 39.0134, Florida Statutes, is amended
1318 to read:



883424

1319 39.0134 Appointed counsel; compensation.—

1320 (1) If counsel is entitled to receive compensation for
1321 representation pursuant to a court appointment in a dependency
1322 proceeding or a termination of parental rights proceeding
1323 pursuant to this chapter, compensation shall be paid in
1324 accordance with s. 27.5304. The state may acquire and enforce a
1325 lien upon court-ordered payment of attorney's fees and costs in
1326 the same manner prescribed in s. 938.29 ~~accordance with s.~~
1327 ~~984.08.~~

1328 (2) (a) A parent whose child is dependent, whether or not
1329 adjudication was withheld, or whose parental rights are
1330 terminated and who has received the assistance of the office of
1331 criminal conflict and civil regional counsel, or any other
1332 court-appointed attorney, or who has received due process
1333 services after being found indigent for costs under s. 57.082,
1334 shall be liable for payment of the assessed application fee
1335 under s. 57.082, together with reasonable attorney's fees and
1336 costs as determined by the court.

1337 (b) If reasonable attorney's fees or costs are assessed,
1338 the court, at its discretion, may make payment of the fees or
1339 costs part of any case plan in dependency proceedings. However,
1340 a case plan may not remain open for the sole issue of payment of
1341 attorney's fees or costs. At the court's discretion, a lien upon
1342 court-ordered payment of attorney's fees and costs may be
1343 ordered by the court and enforced in the same manner prescribed
1344 in s. 938.29.

1345 (c) The clerk of the court shall transfer monthly all
1346 attorney's fees and costs collected under this subsection to the
1347 Department of Revenue for deposit into the Indigent Civil



883424

1348 Defense Trust Fund, to be used as appropriated by the
1349 Legislature and consistent with s. 27.5111.

1350 Section 21. Subsection (1) of section 39.821, Florida
1351 Statutes, is amended to read:

1352 39.821 Qualifications of guardians ad litem.—

1353 (1) Because of the special trust or responsibility placed
1354 in a guardian ad litem, the Guardian Ad Litem Program may use
1355 any private funds collected by the program, or any state funds
1356 so designated, to conduct a security background investigation
1357 before certifying a volunteer to serve. A security background
1358 investigation must include, but need not be limited to,
1359 employment history checks, checks of references, local criminal
1360 records checks through local law enforcement agencies, and
1361 statewide criminal records checks through the Department of Law
1362 Enforcement. Upon request, an employer shall furnish a copy of
1363 the personnel record for the employee or former employee who is
1364 the subject of a security background investigation conducted
1365 under this section. The information contained in the personnel
1366 record may include, but need not be limited to, disciplinary
1367 matters and the reason why the employee was terminated from
1368 employment. An employer who releases a personnel record for
1369 purposes of a security background investigation is presumed to
1370 have acted in good faith and is not liable for information
1371 contained in the record without a showing that the employer
1372 maliciously falsified the record. A security background
1373 investigation conducted under this section must ensure that a
1374 person is not certified as a guardian ad litem if the person has
1375 been convicted of, regardless of adjudication, or entered a plea
1376 of nolo contendere or guilty to, any offense prohibited under



883424

1377 the provisions listed in s. 435.04 of the Florida Statutes
1378 specified in s. 435.04(2) or under any similar law in another
1379 jurisdiction. Effective July 1, 2010, all applicants must
1380 undergo a level 2 background screening pursuant to chapter 435
1381 before being certified ~~Before certifying an applicant to serve~~
1382 as a guardian ad litem, and the Guardian Ad Litem Program may
1383 request a federal criminal records check of the applicant
1384 through the Federal Bureau of Investigation. In analyzing and
1385 evaluating the information obtained in the security background
1386 investigation, the program must give particular emphasis to past
1387 activities involving children, including, but not limited to,
1388 child-related criminal offenses or child abuse. The program has
1389 the sole discretion in determining whether to certify a person
1390 based on his or her security background investigation. The
1391 information collected pursuant to the security background
1392 investigation is confidential and exempt from s. 119.07(1).

1393 Section 22. Subsections (1) and (5) of section 57.082,
1394 Florida Statutes, are amended to read:

1395 57.082 Determination of civil indigent status.—

1396 (1) APPLICATION TO THE CLERK.—A person seeking appointment
1397 of an attorney in a civil case eligible for court-appointed
1398 counsel, or seeking relief from payment of filing fees and
1399 prepayment of costs under s. 57.081, based upon an inability to
1400 pay must apply to the clerk of the court for a determination of
1401 civil indigent status using an application form developed by the
1402 Florida Clerks of Court Operations Corporation with final
1403 approval by the Supreme Court.

1404 (a) The application must include, at a minimum, the
1405 following financial information:



883424

1406 1. Net income, consisting of total salary and wages, minus
1407 deductions required by law, including court-ordered support
1408 payments.

1409 2. Other income, including, but not limited to, social
1410 security benefits, union funds, veterans' benefits, workers'
1411 compensation, other regular support from absent family members,
1412 public or private employee pensions, unemployment compensation,
1413 dividends, interest, rent, trusts, and gifts.

1414 3. Assets, including, but not limited to, cash, savings
1415 accounts, bank accounts, stocks, bonds, certificates of deposit,
1416 equity in real estate, and equity in a boat or a motor vehicle
1417 or in other tangible property.

1418 4. All liabilities and debts.

1419
1420 The application must include a signature by the applicant which
1421 attests to the truthfulness of the information provided. The
1422 application form developed by the corporation must include
1423 notice that the applicant may seek court review of a clerk's
1424 determination that the applicant is not indigent, as provided in
1425 this section.

1426 (b) The clerk shall assist a person who appears before the
1427 clerk and requests assistance in completing the application, and
1428 the clerk shall notify the court if a person is unable to
1429 complete the application after the clerk has provided
1430 assistance.

1431 (c) The clerk shall accept an application that is signed by
1432 the applicant and submitted on his or her behalf by a private
1433 attorney who is representing the applicant in the applicable
1434 matter.



883424

1435 (d) A person who seeks appointment of an attorney in a
1436 proceeding case under chapter 39, at shelter hearings or during
1437 the adjudicatory process, during the judicial review process,
1438 upon the filing of a petition to terminate parental rights, or
1439 upon the filing of any appeal, or if the person seeks
1440 appointment of an attorney in a reopened proceeding ~~the trial or~~
1441 appellate level, for which an indigent person is eligible for
1442 court-appointed representation ~~must, shall~~ pay a \$50 application
1443 fee to the clerk for each application filed. A person is not
1444 required to pay more than one application fee per case. However,
1445 an appeal or the reopening of a proceeding shall be deemed to be
1446 a distinct case. The applicant ~~shall~~ must pay the fee within 7
1447 days after submitting the application. If the applicant has not
1448 paid the fee within 7 days, the court shall enter an order
1449 requiring payment, and the clerk shall pursue collection under
1450 s. 28.246. The clerk shall transfer monthly all application fees
1451 collected under this paragraph to the Department of Revenue for
1452 deposit into the Indigent Civil Defense Trust Fund, to be used
1453 as appropriated by the Legislature. The clerk may retain 10
1454 percent of application fees collected monthly for administrative
1455 costs prior to remitting the remainder to the Department of
1456 Revenue. ~~A person found to be indigent may not be refused~~
1457 counsel. If the person cannot pay the application fee, the clerk
1458 shall enroll the person in a payment plan pursuant to s. 28.246.

1459 (5) APPOINTMENT OF COUNSEL.—In appointing counsel after a
1460 determination that a person is indigent under this section, the
1461 court shall first appoint the office of criminal conflict and
1462 civil regional counsel, as provided in s. 27.511, unless
1463 specific provision is made in law for the appointment of the



883424

1464 public defender in the particular civil proceeding. The court
1465 shall also order the person to pay the application fee under
1466 subsection (1), or enroll in a payment plan if he or she is
1467 unable to pay the fee, if the fee remains unpaid or if the
1468 person has not enrolled in a payment plan at the time the court
1469 appoints counsel. However, a person who is found to be indigent
1470 may not be refused counsel.

1471 Section 23. Subsection (2) of section 316.192, Florida
1472 Statutes, is amended to read:

1473 316.192 Reckless driving.—

1474 (2) Except as provided in subsection (3), any person
1475 convicted of reckless driving shall be punished:

1476 (a) Upon a first conviction, by imprisonment for a period
1477 of not more than 90 days or by fine of not less than \$100 ~~\$25~~
1478 nor more than \$500, or by both such fine and imprisonment.

1479 (b) On a second or subsequent conviction, by imprisonment
1480 for not more than 6 months or by a fine of not less than \$200
1481 ~~\$50~~ nor more than \$1,000, or by both such fine and imprisonment.

1482 Section 24. Effective October 1, 2010, subsection (4) of
1483 section 320.02, Florida Statutes, is amended to read:

1484 320.02 Registration required; application for registration;
1485 forms.—

1486 (4) The owner of any motor vehicle registered in the state
1487 shall notify the department in writing of any change of address
1488 within 60 ~~20~~ days after ~~of~~ such change. The notification shall
1489 include the registration license plate number, the vehicle
1490 identification number (VIN) or title certificate number, year of
1491 vehicle make, and the owner's full name.

1492 Section 25. Effective October 1, 2010, section 320.061,



883424

1493 Florida Statutes, is amended to read:

1494 320.061 Unlawful to alter motor vehicle registration
1495 certificates, license plates, mobile home stickers, or
1496 validation stickers or to obscure license plates; penalty.—No
1497 person shall alter the original appearance of any registration
1498 license plate, mobile home sticker, validation sticker, or
1499 vehicle registration certificate issued for and assigned to any
1500 motor vehicle or mobile home, whether by mutilation, alteration,
1501 defacement, or change of color or in any other manner. No person
1502 shall apply or attach any substance, reflective matter,
1503 illuminated device, spray, coating, covering, or other material
1504 onto or around any license plate that interferes with the
1505 legibility, angular visibility, or detectability of any feature
1506 or detail on the license plate or interferes with the ability to
1507 record any feature or detail on the license plate. Any person
1508 who violates this section commits a noncriminal traffic
1509 infraction, punishable as a moving violation as provided in
1510 chapter 318 ~~misdemeanor of the second degree, punishable as~~
1511 ~~provided in s. 775.082 or s. 775.083.~~

1512 Section 26. Effective October 1, 2010, subsection (3) of
1513 section 320.131, Florida Statutes, is amended to read:

1514 320.131 Temporary tags.—

1515 (3) Any person or corporation who unlawfully issues or uses
1516 a temporary tag or violates this section or any rule adopted by
1517 the department to implement this section is guilty of a
1518 noncriminal infraction, punishable as a moving violation as
1519 provided in chapter 318 ~~misdemeanor of the second degree~~
1520 ~~punishable as provided in s. 775.082 or s. 775.083~~ in addition
1521 to other administrative action by the department., ~~except that~~



883424

1522 Using a temporary tag that has been expired for a period of 7
1523 days or less is a noncriminal infraction, and is a nonmoving
1524 violation punishable as provided for in chapter 318.

1525 Section 27. Effective October 1, 2010, section 320.38,
1526 Florida Statutes, is amended to read:

1527 320.38 When nonresident exemption not allowed.—The
1528 provisions of s. 320.37 authorizing the operation of motor
1529 vehicles over the roads of this state by nonresidents of this
1530 state when such vehicles are duly registered or licensed under
1531 the laws of some other state or foreign country do not apply to
1532 any nonresident who accepts employment or engages in any trade,
1533 profession, or occupation in this state, except a nonresident
1534 migrant or seasonal farm worker as defined in s. 316.003(61). In
1535 every case in which a nonresident, except a nonresident migrant
1536 or seasonal farm worker as defined in s. 316.003(61), accepts
1537 employment or engages in any trade, profession, or occupation in
1538 this state or enters his or her children to be educated in the
1539 public schools of this state, such nonresident shall, within 60
1540 ~~10~~ days after the commencement of such employment or education,
1541 register his or her motor vehicles in this state if such motor
1542 vehicles are proposed to be operated on the roads of this state.
1543 Any person who is enrolled as a student in a college or
1544 university and who is a nonresident but who is in this state for
1545 a period of up to 6 months engaged in a work-study program for
1546 which academic credits are earned from a college whose credits
1547 or degrees are accepted for credit by at least three accredited
1548 institutions of higher learning, as defined in s. 1005.02, is
1549 not required to have a Florida registration for the duration of
1550 the work-study program if the person's vehicle is properly



883424

1551 registered in another jurisdiction. Any nonresident who is
1552 enrolled as a full-time student in such institution of higher
1553 learning is also exempt for the duration of such enrollment.

1554 Section 28. Effective October 1, 2010, subsections (1) and
1555 (5) of section 322.03, Florida Statutes, are amended to read:

1556 322.03 Drivers must be licensed; penalties.—

1557 (1) Except as otherwise authorized in this chapter, a
1558 person may not drive any motor vehicle upon a highway in this
1559 state unless such person has a valid driver's license issued
1560 under this chapter.

1561 (a) A person who drives a commercial motor vehicle may not
1562 receive a driver's license unless and until he or she surrenders
1563 to the department all driver's licenses in his or her possession
1564 issued to him or her by any other jurisdiction or makes an
1565 affidavit that he or she does not possess a driver's license.
1566 Any such person who fails to surrender such licenses commits a
1567 noncriminal infraction punishable as a moving violation as set
1568 forth in chapter 318. Any such person ~~or~~ who makes a false
1569 affidavit concerning such licenses commits a misdemeanor of the
1570 first degree, punishable as provided in s. 775.082 or s.
1571 775.083.

1572 (b) All surrendered licenses may be returned by the
1573 department to the issuing jurisdiction together with information
1574 that the licensee is now licensed in a new jurisdiction or may
1575 be destroyed by the department, which shall notify the issuing
1576 jurisdiction of such destruction. A person may not have more
1577 than one valid driver's license at any time.

1578 (c) Part-time residents of this state issued a license that
1579 is valid within this state only under paragraph (b) as that



883424

1580 paragraph existed before November 1, 2009, may continue to hold
1581 such license until the next issuance of a Florida driver's
1582 license or identification card. Licenses that are identified as
1583 "Valid in Florida Only" may not be issued or renewed effective
1584 November 1, 2009. This paragraph expires June 30, 2017.

1585 (5) It is a violation of this section for any person whose
1586 driver's license has been expired for more than 6 4 months to
1587 operate a motor vehicle on the highways of this state.

1588 Section 29. Effective October 1, 2010, subsections (5) and
1589 (6) of section 322.16, Florida Statutes, are amended to read:

1590 322.16 License restrictions.—

1591 ~~(5) It is a misdemeanor of the second degree, punishable as~~
1592 ~~provided in s. 775.082 or s. 775.083, for any person to operate~~
1593 ~~a motor vehicle in any manner in violation of the restrictions~~
1594 ~~imposed in a license issued to him or her except for a violation~~
1595 ~~of paragraph (1)(d), subsection (2), or subsection (3).~~

1596 (5)(6) Any person who operates a motor vehicle in violation
1597 of the restrictions imposed in this section ~~subsection (2) or~~
1598 ~~subsection (3)~~ will be charged with a moving violation and fined
1599 in accordance with chapter 318.

1600 Section 30. Paragraph (a) of subsection (2) of section
1601 394.4599, Florida Statutes, is amended to read:

1602 394.4599 Notice.—

1603 (2) INVOLUNTARY PATIENTS.—

1604 (a) Whenever notice is required to be given under this
1605 part, such notice shall be given to the patient and the
1606 patient's guardian, guardian advocate, attorney, and
1607 representative.

1608 1. When notice is required to be given to a patient, it



883424

1609 shall be given both orally and in writing, in the language and
1610 terminology that the patient can understand, and, if needed, the
1611 facility shall provide an interpreter for the patient.

1612 2. Notice to a patient's guardian, guardian advocate,
1613 attorney, and representative shall be given by United States
1614 mail and by registered or certified mail with the receipts
1615 attached to the patient's clinical record. Hand delivery by a
1616 facility employee may be used as an alternative, with delivery
1617 documented in the clinical record. If notice is given by a ~~state~~
1618 ~~attorney~~ or an attorney for the department, a certificate of
1619 service shall be sufficient to document service.

1620 Section 31. Subsection (3) of section 394.4615, Florida
1621 Statutes, is amended to read:

1622 394.4615 Clinical records; confidentiality.—

1623 (3) Information from the clinical record may be released in
1624 the following circumstances:

1625 (a) When a patient has declared an intention to harm other
1626 persons. When such declaration has been made, the administrator
1627 may authorize the release of sufficient information to provide
1628 adequate warning to the person threatened with harm by the
1629 patient.

1630 (b) When the administrator of the facility or secretary of
1631 the department deems release to a qualified researcher as
1632 defined in administrative rule, an aftercare treatment provider,
1633 or an employee or agent of the department is necessary for
1634 treatment of the patient, maintenance of adequate records,
1635 compilation of treatment data, aftercare planning, or evaluation
1636 of programs.

1637



883424

1638 For the purpose of determining whether a person meets the
1639 criteria for involuntary outpatient placement or for preparing
1640 the proposed treatment plan pursuant to s. 394.4655, the
1641 clinical record may be released to ~~the state attorney,~~ the
1642 public defender or the patient's private legal counsel, the
1643 court, and to the appropriate mental health professionals,
1644 including the service provider identified in s.
1645 394.4655(6)(b)2., in accordance with state and federal law.

1646 Section 32. Paragraph (c) of subsection (3), paragraph (a)
1647 of subsection (6), and paragraph (a) of subsection (7) of
1648 section 394.4655, Florida Statutes, are amended to read:

1649 394.4655 Involuntary outpatient placement.—

1650 (3) PETITION FOR INVOLUNTARY OUTPATIENT PLACEMENT.—

1651 (c) The petition for involuntary outpatient placement must
1652 be filed in the county where the patient is located, unless the
1653 patient is being placed from a state treatment facility, in
1654 which case the petition must be filed in the county where the
1655 patient will reside. When the petition has been filed, the clerk
1656 of the court shall provide copies of the petition and the
1657 proposed treatment plan to the department, the patient, the
1658 patient's guardian or representative, ~~the state attorney,~~ and
1659 the public defender or the patient's private counsel. A fee may
1660 not be charged for filing a petition under this subsection.

1661 (6) HEARING ON INVOLUNTARY OUTPATIENT PLACEMENT.—

1662 (a)1. The court shall hold the hearing on involuntary
1663 outpatient placement within 5 working days after the filing of
1664 the petition, unless a continuance is granted. The hearing shall
1665 be held in the county where the petition is filed, shall be as
1666 convenient to the patient as is consistent with orderly



883424

1667 procedure, and shall be conducted in physical settings not
1668 likely to be injurious to the patient's condition. If the court
1669 finds that the patient's attendance at the hearing is not
1670 consistent with the best interests of the patient and if the
1671 patient's counsel does not object, the court may waive the
1672 presence of the patient from all or any portion of the hearing.
1673 ~~The state attorney for the circuit in which the patient is~~
1674 ~~located shall represent the state, rather than the petitioner,~~
1675 ~~as the real party in interest in the proceeding.~~

1676 2. The court may appoint a master to preside at the
1677 hearing. One of the professionals who executed the involuntary
1678 outpatient placement certificate shall be a witness. The patient
1679 and the patient's guardian or representative shall be informed
1680 by the court of the right to an independent expert examination.
1681 If the patient cannot afford such an examination, the court
1682 shall provide for one. The independent expert's report shall be
1683 confidential and not discoverable, unless the expert is to be
1684 called as a witness for the patient at the hearing. The court
1685 shall allow testimony from individuals, including family
1686 members, deemed by the court to be relevant under state law,
1687 regarding the person's prior history and how that prior history
1688 relates to the person's current condition. The testimony in the
1689 hearing must be given under oath, and the proceedings must be
1690 recorded. The patient may refuse to testify at the hearing.

1691 (7) PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT
1692 PLACEMENT.—

1693 (a)1. If the person continues to meet the criteria for
1694 involuntary outpatient placement, the service provider shall,
1695 before the expiration of the period during which the treatment



883424

1696 is ordered for the person, file in the circuit court a petition
1697 for continued involuntary outpatient placement.

1698 2. The existing involuntary outpatient placement order
1699 remains in effect until disposition on the petition for
1700 continued involuntary outpatient placement.

1701 3. A certificate shall be attached to the petition which
1702 includes a statement from the person's physician or clinical
1703 psychologist justifying the request, a brief description of the
1704 patient's treatment during the time he or she was involuntarily
1705 placed, and an individualized plan of continued treatment.

1706 4. The service provider shall develop the individualized
1707 plan of continued treatment in consultation with the patient or
1708 the patient's guardian advocate, if appointed. When the petition
1709 has been filed, the clerk of the court shall provide copies of
1710 the certificate and the individualized plan of continued
1711 treatment to the department, the patient, the patient's guardian
1712 advocate, ~~the state attorney,~~ and the patient's private counsel
1713 or the public defender.

1714 Section 33. Subsection (3) and paragraph (a) of subsection
1715 (6) of section 394.467, Florida Statutes, are amended to read:

1716 394.467 Involuntary inpatient placement.—

1717 (3) PETITION FOR INVOLUNTARY INPATIENT PLACEMENT.—The
1718 administrator of the facility shall file a petition for
1719 involuntary inpatient placement in the court in the county where
1720 the patient is located. Upon filing, the clerk of the court
1721 shall provide copies to the department, the patient, the
1722 patient's guardian or representative, ~~and the state attorney~~ and
1723 public defender of the judicial circuit in which the patient is
1724 located. No fee shall be charged for the filing of a petition



883424

1725 under this subsection.

1726 (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

1727 (a)1. The court shall hold the hearing on involuntary
1728 inpatient placement within 5 days, unless a continuance is
1729 granted. The hearing shall be held in the county where the
1730 patient is located and shall be as convenient to the patient as
1731 may be consistent with orderly procedure and shall be conducted
1732 in physical settings not likely to be injurious to the patient's
1733 condition. If the court finds that the patient's attendance at
1734 the hearing is not consistent with the best interests of the
1735 patient, and the patient's counsel does not object, the court
1736 may waive the presence of the patient from all or any portion of
1737 the hearing. ~~The state attorney for the circuit in which the~~
1738 ~~patient is located shall represent the state, rather than the~~
1739 ~~petitioning facility administrator, as the real party in~~
1740 ~~interest in the proceeding.~~

1741 2. The court may appoint a general or special magistrate to
1742 preside at the hearing. One of the professionals who executed
1743 the involuntary inpatient placement certificate shall be a
1744 witness. The patient and the patient's guardian or
1745 representative shall be informed by the court of the right to an
1746 independent expert examination. If the patient cannot afford
1747 such an examination, the court shall provide for one. The
1748 independent expert's report shall be confidential and not
1749 discoverable, unless the expert is to be called as a witness for
1750 the patient at the hearing. The testimony in the hearing must be
1751 given under oath, and the proceedings must be recorded. The
1752 patient may refuse to testify at the hearing.

1753 Section 34. Paragraph (d) of subsection (9) of section



883424

1754 775.082, Florida Statutes, is amended to read:

1755 775.082 Penalties; applicability of sentencing structures;
1756 mandatory minimum sentences for certain reoffenders previously
1757 released from prison.—

1758 (9)

1759 (d)~~1~~. It is the intent of the Legislature that offenders
1760 previously released from prison who meet the criteria in
1761 paragraph (a) be punished to the fullest extent of the law and
1762 as provided in this subsection, unless the state attorney
1763 determines that extenuating circumstances exist which preclude
1764 the just prosecution of the offender, including whether the
1765 victim recommends that the offender not be sentenced as provided
1766 in this subsection.

1767 ~~2. For every case in which the offender meets the criteria~~
1768 ~~in paragraph (a) and does not receive the mandatory minimum~~
1769 ~~prison sentence, the state attorney must explain the sentencing~~
1770 ~~deviation in writing and place such explanation in the case file~~
1771 ~~maintained by the state attorney. On an annual basis, each state~~
1772 ~~attorney shall submit copies of deviation memoranda regarding~~
1773 ~~offenses committed on or after the effective date of this~~
1774 ~~subsection, to the president of the Florida Prosecuting~~
1775 ~~Attorneys Association, Inc. The association must maintain such~~
1776 ~~information, and make such information available to the public~~
1777 ~~upon request, for at least a 10-year period.~~

1778 Section 35. Subsection (1) of section 775.083, Florida
1779 Statutes, is amended to read:

1780 775.083 Fines.—

1781 (1) A person who has been convicted of an offense other
1782 than a capital felony may be sentenced to pay a fine in addition



883424

1783 to any punishment described in s. 775.082; when specifically
1784 authorized by statute, he or she may be sentenced to pay a fine
1785 in lieu of any punishment described in s. 775.082. A person who
1786 has been convicted of a noncriminal violation may be sentenced
1787 to pay a fine. Fines for designated crimes and for noncriminal
1788 violations shall not exceed:

1789 (a) \$15,000, when the conviction is of a life felony.
1790 (b) \$10,000, when the conviction is of a felony of the
1791 first or second degree.
1792 (c) \$5,000, when the conviction is of a felony of the third
1793 degree.
1794 (d) \$1,000, when the conviction is of a misdemeanor of the
1795 first degree.
1796 (e) \$500, when the conviction is of a misdemeanor of the
1797 second degree or a noncriminal violation.
1798 (f) Any higher amount equal to double the pecuniary gain
1799 derived from the offense by the offender or double the pecuniary
1800 loss suffered by the victim.
1801 (g) Any higher amount specifically authorized by statute.
1802

1803 Fines imposed in this subsection shall be deposited by the clerk
1804 of the court in the fine and forfeiture fund established
1805 pursuant to s. 142.01, except that the clerk shall remit fines
1806 imposed when adjudication is withheld to the Department of
1807 Revenue for deposit ~~shall be deposited~~ in the General Revenue
1808 Fund State Courts Revenue Trust Fund, and such fines imposed
1809 ~~when adjudication is withheld are not revenue for purposes of s.~~
1810 ~~28.36 and may not be used in establishing the budget of the~~
1811 ~~clerk of the court under that section or s. 28.35.~~ If a



883424

1812 defendant is unable to pay a fine, the court may defer payment
1813 of the fine to a date certain. As used in this subsection, the
1814 term "convicted" or "conviction" means a determination of guilt
1815 which is the result of a trial or the entry of a plea of guilty
1816 or nolo contendere, regardless of whether adjudication is
1817 withheld.

1818 Section 36. Section 775.08401, Florida Statutes, is
1819 repealed.

1820 Section 37. Subsection (5) of section 775.087, Florida
1821 Statutes, is repealed.

1822 Section 38. Subsection (5) of section 775.0843, Florida
1823 Statutes, is amended to read:

1824 775.0843 Policies to be adopted for career criminal cases.-

1825 (5) Each career criminal apprehension program shall
1826 concentrate on the identification and arrest of career criminals
1827 and the support of subsequent prosecution. The determination of
1828 which suspected felony offenders shall be the subject of career
1829 criminal apprehension efforts shall be made in accordance with
1830 written target selection criteria selected by the individual law
1831 enforcement agency and state attorney consistent with the
1832 provisions of this section and s. ss. ~~775.08401 and 775.0842.~~

1833 Section 39. Section 938.06, Florida Statutes, is amended to
1834 read:

1835 938.06 ~~Additional~~ Cost for crime stoppers programs.-

1836 (1) In addition to any fine prescribed by law, when a
1837 person is convicted of ~~for~~ any criminal offense, the county or
1838 circuit court shall assess ~~there is hereby assessed as a court~~
1839 cost ~~an additional surcharge of \$20 on such fine, which shall be~~
1840 imposed by all county and circuit courts and collected by the



883424

1841 ~~clerks of the courts together with such fine.~~

1842 (2) The clerk of the court shall collect and forward, on a
1843 monthly basis, all costs assessed under this section, less \$3
1844 per assessment as a service charge to be retained by the clerk,
1845 to the Department of Revenue for deposit in the Crime Stoppers
1846 Trust Fund, to be used as provided in s. 16.555.

1847 (3) As used in this section, the term "convicted" means a
1848 determination of guilt which is the result of a trial or the
1849 entry of a plea of guilty or nolo contendere, regardless of
1850 whether adjudication is withheld.

1851 Section 40. Section 939.08, Florida Statutes, is amended to
1852 read:

1853 939.08 Costs to be certified before audit.—In all cases
1854 wherein is claimed the payment of applicable bills of costs,
1855 fees, or expenses of the state courts system as provided in s.
1856 29.004, other than juror and witness fees, in the adjudication
1857 of any case payable by the state, the trial court administrator
1858 or the administrator's designee shall review the itemized bill.
1859 The bill shall not be paid until the trial court administrator
1860 or the administrator's designee has approved it and certified
1861 that it is just, correct, and reasonable and contains no
1862 unnecessary or illegal item.

1863 Section 41. Paragraph (a) of subsection (1) of section
1864 939.185, Florida Statutes, is amended to read:

1865 939.185 Assessment of additional court costs and
1866 surcharges.—

1867 (1) (a) The board of county commissioners may adopt by
1868 ordinance an additional court cost, not to exceed \$65, to be
1869 imposed by the court when a person pleads guilty or nolo



883424

1870 contendere to, or is found guilty of, or adjudicated delinquent
1871 for, any felony, misdemeanor, delinquent act, or criminal
1872 traffic offense under the laws of this state. Such additional
1873 assessment shall be accounted for separately by the county in
1874 which the offense occurred and be used only in the county
1875 imposing this cost, to be allocated as follows:

1876 1. Twenty-five percent of the amount collected shall be
1877 allocated to fund innovations, as determined by the chief judge
1878 of the circuit, to supplement state funding for the elements of
1879 the state courts system identified in s. 29.004 and county
1880 funding for local requirements under s. 29.008(2)(a)2.

1881 2. Twenty-five percent of the amount collected shall be
1882 allocated to assist counties in providing legal aid programs
1883 required under s. 29.008(3)(a).

1884 3. Twenty-five percent of the amount collected shall be
1885 allocated to fund personnel and legal materials for the public
1886 as part of a law library.

1887 4. Twenty-five percent of the amount collected shall be
1888 used as determined by the board of county commissioners to
1889 support teen court programs, except as provided in s. 938.19(7),
1890 juvenile assessment centers, and other juvenile alternative
1891 programs.

1892
1893 Each county receiving funds under this section shall report the
1894 amount of funds collected pursuant to this section and an
1895 itemized list of expenditures for all authorized programs and
1896 activities. The report shall be submitted in a format developed
1897 by the Supreme Court to the Governor, the Chief Financial
1898 Officer, the President of the Senate, and the Speaker of the



883424

1899 House of Representatives on a quarterly basis beginning with the
1900 quarter ending September 30, 2004. Quarterly reports shall be
1901 submitted no later than 30 days after the end of the quarter.
1902 Any unspent funds at the close of the county fiscal year
1903 allocated under subparagraphs 2., 3., and 4., shall be
1904 transferred for use pursuant to subparagraph 1.

1905 Section 42. Subsection (15) is added to section 943.03,
1906 Florida Statutes, to read:

1907 943.03 Department of Law Enforcement.—

1908 (15) The Department of Law Enforcement, in consultation
1909 with the Criminal and Juvenile Justice Information Systems
1910 Council established in s. 943.06, shall modify the existing
1911 statewide uniform statute table in its criminal history system
1912 to meet the business requirements of state and local criminal
1913 justice and law enforcement agencies. In order to accomplish
1914 this objective, the department shall:

1915 (a) Define the minimum business requirements necessary for
1916 successful implementation;

1917 (b) Consider the charging and booking requirements of
1918 sheriffs' offices and police departments and the business
1919 requirements of state attorneys, public defenders, criminal
1920 conflict and civil regional counsel, clerks of court, judges,
1921 and state law enforcement agencies; and

1922 (c) Adopt rules establishing the necessary technical and
1923 business process standards required to implement, operate, and
1924 ensure uniform system use and compliance.

1925
1926 The required system modifications and adopted rules shall be
1927 implemented by December 31, 2011.



883424

1928 Section 43. Paragraph (b) of subsection (3) of section
1929 943.053, Florida Statutes, is amended to read:

1930 943.053 Dissemination of criminal justice information;
1931 fees.—

1932 (3)

1933 (b) The fee per record for criminal history information
1934 provided pursuant to this subsection and s. 943.0542 is \$24 per
1935 name submitted, except that the fee for the guardian ad litem
1936 program and vendors of the Department of Children and Family
1937 Services, the Department of Juvenile Justice, and the Department
1938 of Elderly Affairs shall be \$8 for each name submitted; the fee
1939 for a state criminal history provided for application processing
1940 as required by law to be performed by the Department of
1941 Agriculture and Consumer Services shall be \$15 for each name
1942 submitted; and the fee for requests under s. 943.0542, which
1943 implements the National Child Protection Act, shall be \$18 for
1944 each volunteer name submitted. The state offices of the Public
1945 Defender shall not be assessed a fee for Florida criminal
1946 history information or wanted person information.

1947 Section 44. Subsection (2) of section 943.0585, Florida
1948 Statutes, is amended to read:

1949 943.0585 Court-ordered expunction of criminal history
1950 records.—The courts of this state have jurisdiction over their
1951 own procedures, including the maintenance, expunction, and
1952 correction of judicial records containing criminal history
1953 information to the extent such procedures are not inconsistent
1954 with the conditions, responsibilities, and duties established by
1955 this section. Any court of competent jurisdiction may order a
1956 criminal justice agency to expunge the criminal history record



883424

1957 of a minor or an adult who complies with the requirements of
1958 this section. The court shall not order a criminal justice
1959 agency to expunge a criminal history record until the person
1960 seeking to expunge a criminal history record has applied for and
1961 received a certificate of eligibility for expunction pursuant to
1962 subsection (2). A criminal history record that relates to a
1963 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
1964 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
1965 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
1966 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
1967 any violation specified as a predicate offense for registration
1968 as a sexual predator pursuant to s. 775.21, without regard to
1969 whether that offense alone is sufficient to require such
1970 registration, or for registration as a sexual offender pursuant
1971 to s. 943.0435, may not be expunged, without regard to whether
1972 adjudication was withheld, if the defendant was found guilty of
1973 or pled guilty or nolo contendere to the offense, or if the
1974 defendant, as a minor, was found to have committed, or pled
1975 guilty or nolo contendere to committing, the offense as a
1976 delinquent act. The court may only order expunction of a
1977 criminal history record pertaining to one arrest or one incident
1978 of alleged criminal activity, except as provided in this
1979 section. The court may, at its sole discretion, order the
1980 expunction of a criminal history record pertaining to more than
1981 one arrest if the additional arrests directly relate to the
1982 original arrest. If the court intends to order the expunction of
1983 records pertaining to such additional arrests, such intent must
1984 be specified in the order. A criminal justice agency may not
1985 expunge any record pertaining to such additional arrests if the



883424

1986 order to expunge does not articulate the intention of the court
1987 to expunge a record pertaining to more than one arrest. This
1988 section does not prevent the court from ordering the expunction
1989 of only a portion of a criminal history record pertaining to one
1990 arrest or one incident of alleged criminal activity.

1991 Notwithstanding any law to the contrary, a criminal justice
1992 agency may comply with laws, court orders, and official requests
1993 of other jurisdictions relating to expunction, correction, or
1994 confidential handling of criminal history records or information
1995 derived therefrom. This section does not confer any right to the
1996 expunction of any criminal history record, and any request for
1997 expunction of a criminal history record may be denied at the
1998 sole discretion of the court.

1999 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to
2000 petitioning the court to expunge a criminal history record, a
2001 person seeking to expunge a criminal history record shall apply
2002 to the department for a certificate of eligibility for
2003 expunction. The department shall, by rule adopted pursuant to
2004 chapter 120, establish procedures pertaining to the application
2005 for and issuance of certificates of eligibility for expunction.
2006 A certificate of eligibility for expunction is valid for 12
2007 months after the date stamped on the certificate when issued by
2008 the department. After that time, the petitioner must reapply to
2009 the department for a new certificate of eligibility. Eligibility
2010 for a renewed certification of eligibility must be based on the
2011 status of the applicant and the law in effect at the time of the
2012 renewal application. The department shall issue a certificate of
2013 eligibility for expunction to a person who is the subject of a
2014 criminal history record if that person:



883424

2015 (a) Provides a written, certified documentation of the
2016 following ~~Has obtained, and submitted to the department, a~~
2017 ~~written, certified statement from the appropriate state attorney~~
2018 ~~or statewide prosecutor which indicates:~~

2019 1. That an indictment, information, or other charging
2020 document was not filed or issued in the case.

2021 2. That an indictment, information, or other charging
2022 document, if filed or issued in the case, was dismissed or nolle
2023 prosequi by the state attorney or statewide prosecutor, or was
2024 dismissed by a court of competent jurisdiction, and that none of
2025 the charges related to the arrest or alleged criminal activity
2026 to which the petition to expunge pertains resulted in a trial,
2027 without regard to whether the outcome of the trial was other
2028 than an adjudication of guilt.

2029 3. That the criminal history record does not relate to a
2030 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
2031 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
2032 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
2033 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
2034 any violation specified as a predicate offense for registration
2035 as a sexual predator pursuant to s. 775.21, without regard to
2036 whether that offense alone is sufficient to require such
2037 registration, or for registration as a sexual offender pursuant
2038 to s. 943.0435, where the defendant was found guilty of, or pled
2039 guilty or nolo contendere to any such offense, or that the
2040 defendant, as a minor, was found to have committed, or pled
2041 guilty or nolo contendere to committing, such an offense as a
2042 delinquent act, without regard to whether adjudication was
2043 withheld.



883424

2044 (b) Remits a \$75 processing fee to the department for
2045 placement in the Department of Law Enforcement Operating Trust
2046 Fund, unless such fee is waived by the executive director.

2047 (c) Has submitted to the department a certified copy of the
2048 disposition of the charge to which the petition to expunge
2049 pertains.

2050 (d) Has never, prior to the date on which the application
2051 for a certificate of eligibility is filed, been adjudicated
2052 guilty of a criminal offense or comparable ordinance violation,
2053 or been adjudicated delinquent for committing any felony or a
2054 misdemeanor specified in s. 943.051(3)(b).

2055 (e) Has not been adjudicated guilty of, or adjudicated
2056 delinquent for committing, any of the acts stemming from the
2057 arrest or alleged criminal activity to which the petition to
2058 expunge pertains.

2059 (f) Has never secured a prior sealing or expunction of a
2060 criminal history record under this section, former s. 893.14,
2061 former s. 901.33, or former s. 943.058, unless expunction is
2062 sought of a criminal history record previously sealed for 10
2063 years pursuant to paragraph (h) and the record is otherwise
2064 eligible for expunction.

2065 (g) Is no longer under court supervision applicable to the
2066 disposition of the arrest or alleged criminal activity to which
2067 the petition to expunge pertains.

2068 (h) Has previously obtained a court order sealing the
2069 record under this section, former s. 893.14, former s. 901.33,
2070 or former s. 943.058 for a minimum of 10 years because
2071 adjudication was withheld or because all charges related to the
2072 arrest or alleged criminal activity to which the petition to



883424

2073 expunge pertains were not dismissed prior to trial, without
2074 regard to whether the outcome of the trial was other than an
2075 adjudication of guilt. The requirement for the record to have
2076 previously been sealed for a minimum of 10 years does not apply
2077 when a plea was not entered or all charges related to the arrest
2078 or alleged criminal activity to which the petition to expunge
2079 pertains were dismissed prior to trial.

2080 Section 45. Subsection (4) of section 985.557, Florida
2081 Statutes, is repealed.

2082 Section 46. The unexpended funds in the Operating Trust
2083 Fund from revenues collected pursuant to ss. 25.241 and 35.22,
2084 Florida Statutes, are transferred to the State Courts Revenue
2085 Trust Fund. All other unexpended funds in the Operating Trust
2086 Fund are transferred to the Administrative Trust Fund within the
2087 state courts system.

2088 Section 47. Except as otherwise expressly provided in this
2089 act, this act shall take effect July 1, 2010.

2090
2091 ===== T I T L E A M E N D M E N T =====

2092 And the title is amended as follows:

2093 Delete everything before the enacting clause
2094 and insert:

2095 A bill to be entitled
2096 An act relating to the state judicial system; amending
2097 s. 25.241, F.S.; requiring that \$50 from the Supreme
2098 Court filing fee be deposited into the State Courts
2099 Revenue Trust Fund; amending s. 25.3844, F.S.;
2100 renaming the Operating Trust Fund in the state courts
2101 system as the "Administrative Trust Fund"; amending s.



883424

2102 25.386, F.S.; directing that fees from the foreign
2103 language court interpreters program be deposited into
2104 the Administrative Trust Fund within the state courts
2105 system; amending s. 27.366, F.S.; deleting a provision
2106 requiring that each state attorney report to the
2107 Florida Prosecuting Attorneys Association, Inc., why a
2108 defendant did not receive the mandatory minimum prison
2109 sentence in cases involving possession or use of a
2110 weapon; deleting a provision requiring a report to the
2111 Governor and Legislature regarding the prosecution and
2112 sentencing of such offenders; amending s. 27.40, F.S.;
2113 requiring private court-appointed counsel compensated
2114 by the state to maintain records and documents in a
2115 prescribed manner; providing for waiver of the right
2116 to seek fees in excess of prescribed limits if the
2117 attorney refuses to allow the Justice Administrative
2118 Commission to review the documentation; providing that
2119 the commission's finding of a valid waiver of fees may
2120 be overcome by competent and substantial evidence;
2121 amending s. 27.425, F.S.; eliminating a requirement
2122 for the chief judge of the judicial circuit to
2123 recommend and submit compensation rates for state-
2124 funded due process service providers; requiring the
2125 Justice Administrative Commission to approve forms and
2126 procedures governing billings for the provision of due
2127 process services; amending s. 27.511, F.S.; providing
2128 for the appointment of criminal conflict and civil
2129 regional counsel in certain proceedings under the
2130 Florida Rules of Criminal Procedure and in certain



883424

2131 adoption proceedings; providing for private court-
2132 appointed counsel, rather than criminal conflict and
2133 civil regional counsel, to have primary responsibility
2134 for representing minors in proceedings under the
2135 Parental Notice of Abortion Act; amending s. 27.52,
2136 F.S.; requiring the clerk of the court to review
2137 certain property records in evaluating an application
2138 from a criminal defendant for a determination of
2139 indigency; providing that the Justice Administrative
2140 Commission has standing in a motion seeking to have a
2141 person declared indigent for purposes of state payment
2142 of due process costs; providing a presumption that a
2143 person is not indigent for costs if the person's
2144 attorney's fees are being paid from private funds at a
2145 specified level; providing that the presumption may be
2146 overcome through clear and convincing evidence;
2147 providing requirements and rates for reimbursement of
2148 due process costs; providing that a person who
2149 receives state-funded due process services after being
2150 deemed indigent for costs is liable for repayment to
2151 the state; requiring the person to submit an
2152 accounting to the court of state-paid costs; providing
2153 for the court to issue an order determining the amount
2154 of the costs; providing for creation and enforcement
2155 of a repayment lien; amending s. 27.5304, F.S.;;
2156 providing for a reduction in the amount paid for an
2157 attorney's fees, costs, and related expenses as
2158 increased penalties for submitting a bill to the state
2159 after prescribed periods; creating s. 27.5305, F.S.;



883424

2160 prescribing conditions and requirements related to
2161 payment by the state of legal fees and the costs of
2162 due process services in certain criminal and civil
2163 cases; prescribing conditions and requirements
2164 governing electronic funds transfer, transcripts,
2165 court reporters and investigators, expert witnesses
2166 and mitigation specialists, and discovery; amending s.
2167 28.24, F.S.; clarifying that counties are not required
2168 to spend certain funds on court-related technology for
2169 the criminal conflict and civil regional counsel;
2170 amending s. 28.241, F.S.; providing an exception to
2171 the imposition of filing fees in certain family law
2172 cases; amending s. 28.36, F.S.; delaying the
2173 implementation date of unit-cost budgeting for the
2174 clerks of court; amending s. 29.001, F.S.; eliminating
2175 the offices of criminal conflict and civil regional
2176 counsel from inclusion in the defined elements of the
2177 "offices of public defenders" for purposes of certain
2178 state courts system funding; amending s. 29.008, F.S.;
2179 removing criminal conflict and civil regional counsel
2180 from the definition of the term "public defender
2181 offices" in the context of county responsibility for
2182 funding court-related functions; eliminating
2183 requirements for county funding of criminal conflict
2184 and civil regional counsel; repealing s. 29.0095,
2185 F.S., relating to a requirement for chief judges,
2186 state attorneys, and public defenders to submit budget
2187 expenditure reports; amending s. 29.0195, F.S.;
2188 providing for moneys from the recovery of expenditures



883424

2189 for state-funded services to be deposited into the
2190 Administrative Trust Fund within the state courts
2191 system; amending s. 34.041, F.S.; specifying that the
2192 prescribed filing fee for an action involving claims
2193 of not more than \$1,000 filed along with an action for
2194 replevin is the total filing fee; amending s. 35.22,
2195 F.S.; requiring that \$50 from the District Court of
2196 Appeals filing fee be deposited into the State Courts
2197 Revenue Trust Fund; amending s. 39.0134, F.S.;

2198 providing that certain parents in proceedings related
2199 to children are liable for fees and costs after
2200 receiving legal representation or due process services
2201 funded by the state; authorizing the court to make
2202 payment of attorney's fees and costs part of a case
2203 plan in dependency proceedings; authorizing and
2204 providing for enforcement of a lien upon court-ordered
2205 payment of fees and costs; providing for deposit of
2206 fees and costs into the Indigent Civil Defense Trust
2207 Fund; amending s. 39.821, F.S.; requiring certain
2208 background screenings for persons certified as a
2209 guardian ad litem; amending s. 57.082, F.S.;

2210 prescribing circumstances for payment of an
2211 application fee when a person seeks to be determined
2212 indigent and eligible for appointment of counsel in
2213 proceedings relating to children; providing for the
2214 court to order payment of the fee and the clerk of the
2215 court to pursue collection of the fee; amending s.
2216 316.192, F.S.; increasing the minimum fine for
2217 reckless driving; amending s. 320.02, F.S.; extending



883424

2218 the time within which the owner of a motor vehicle
2219 registered within the state is required to notify the
2220 Department of Highway Safety and Motor Vehicles of a
2221 change of address; amending s. 320.061, F.S.; creating
2222 a noncriminal infraction for altering or obscuring a
2223 license plate or mobile home sticker; deleting the
2224 second-degree misdemeanor penalty imposed for the
2225 offense; amending s. 320.131, F.S.; creating a
2226 noncriminal traffic infraction for the unlawful use of
2227 a temporary tag; deleting the second-degree
2228 misdemeanor penalty imposed for the offense; amending
2229 s. 320.38, F.S.; extending the time within which a
2230 nonresident of the state is required to register his
2231 or her motor vehicle with the Department of Highway
2232 Safety and Motor Vehicles after commencing employment
2233 or education in the state; amending s. 322.03, F.S.;
2234 creating a noncriminal traffic infraction for a
2235 commercial motor vehicle driver who fails to surrender
2236 driver's licenses from other jurisdictions prior to
2237 issuance of a license by the Department of Highway
2238 Safety and Motor Vehicles; extending the period
2239 allowed for operating a motor vehicle following
2240 expiration of a driver's license; amending s. 322.16,
2241 F.S.; creating a noncriminal traffic infraction for
2242 persons who fail to abide by driver's license
2243 restrictions; deleting the second-degree misdemeanor
2244 penalty imposed for the offense; amending s. 394.4599,
2245 F.S., relating to the notice given to various parties
2246 upon a person's involuntary admission to a mental



883424

2247 health facility; removing reference to the state
2248 attorney providing notice; amending s. 394.4615, F.S.,
2249 relating to clinical records in cases of involuntary
2250 placement; removing the state attorney from the list
2251 of parties who are entitled to receive clinical
2252 records; amending s. 394.4655, F.S., relating to
2253 involuntary outpatient placement; removing the
2254 requirement for the clerk to provide a copy of the
2255 petition for involuntary outpatient placement to the
2256 state attorney; removing the requirement for the state
2257 attorney for the circuit in which the patient is
2258 located to represent the state in the proceeding;
2259 removing the requirement for the clerk of the court to
2260 provide copies of the certificate and treatment plan
2261 to the state attorney; amending s. 394.467, F.S.,
2262 relating to involuntary inpatient placement; removing
2263 the requirement for the clerk of the court to provide
2264 a copy of the petition for involuntary inpatient
2265 placement to the state attorney; removing the
2266 requirement for the state attorney for the circuit in
2267 which the patient is located to represent the state at
2268 the hearing; amending s. 775.082, F.S.; deleting a
2269 provision requiring each state attorney to report to
2270 the Florida Prosecuting Attorneys Association, Inc.,
2271 certain deviations in the sentencing of reoffenders;
2272 amending s. 775.083, F.S.; redirecting revenues from
2273 certain criminal fines from the State Courts Revenue
2274 Trust Fund into the General Revenue Fund; repealing s.
2275 775.08401, F.S., relating to criteria to be used by



883424

2276 state attorneys when pursuing sanctions against
2277 habitual felony offenders and habitual violent felony
2278 offenders; repealing s. 775.087(5), F.S., relating to
2279 a provision requiring each state attorney to place in
2280 the court file a report explaining why a defendant did
2281 not receive the mandatory minimum prison sentence in
2282 cases involving certain specified offenses; amending
2283 s. 775.0843, F.S.; removing a cross-reference to
2284 conform to the repeal of the referenced statute;
2285 amending s. 938.06, F.S.; requiring the assessment of
2286 a court cost following conviction of a criminal
2287 offense; defining the term "convicted" for purposes of
2288 the assessed cost; amending s. 939.08, F.S.;
2289 authorizing a designee of the trial court
2290 administrator to review, approve, and certify certain
2291 bills related to costs, fees, or expenses of the state
2292 courts system; amending s. 939.185, F.S.; authorizing
2293 the chief judge of the circuit to determine
2294 innovations eligible for funding from a county-
2295 assessed court cost; amending s. 943.03, F.S.;
2296 requiring the Department of Law Enforcement to modify
2297 the statewide uniform statute table in its criminal
2298 history system; amending s. 943.053, F.S.; providing
2299 for a discounted fee for criminal history record
2300 checks for the guardian ad litem program; amending s.
2301 943.0585, F.S., relating to court-ordered expunction
2302 of criminal history records; removing the requirement
2303 for the state attorney or statewide prosecutor to
2304 provide written certified documentation to a person



883424

2305 seeking a certificate of eligibility to expunge a
2306 criminal record; repealing s. 985.557(4), F.S.,
2307 relating to a requirement for state attorneys to
2308 develop direct-file policies and guidelines for
2309 juveniles and report to the Governor and Legislature;
2310 transferring certain funds from the Operating Trust
2311 Fund to the State Courts Revenue Trust Fund and the
2312 Administrative Trust Fund within the state courts
2313 system; providing effective dates.