

Committee Substitute for
Committee Substitute for Senate Bill No. 192

An act relating to magistrates and masters; amending ss. 26.012, 27.06, 29.004, 34.01, 48.20, 142.09, 316.635, 373.603, 381.0012, 450.121, 560.306, 633.14, 648.44, 817.482, 832.05, 876.42, 893.12, 901.01, 901.02, 901.07, 901.08, 901.09, 901.11, 901.12, 901.25, 902.15, 902.17, 902.20, 902.21, 903.03, 903.32, 903.34, 914.22, 923.01, 933.01, 933.06, 933.07, 933.10, 933.101, 933.13, 933.14, 939.02, 939.14, 941.13, 941.14, 941.15, 941.17, 941.18, 947.141, 948.06, 985.05, F.S., relating to various court procedures; redesignating “magistrates” as “trial court judges”; amending ss. 56.071, 56.29, 61.1826, 64.061, 65.061, 69.051, 70.51, 92.142, 112.41, 112.43, 112.47, 162.03, 162.06, 162.09, 173.09, 173.10, 173.11, 173.12, 194.013, 194.034, 194.035, 206.16, 207.016, 320.411, 393.11, 394.467, 397.311, 397.681, 447.207, 447.403, 447.405, 447.407, 447.409, 475.011, 489.127, 489.531, 496.420, 501.207, 501.618, 559.936, 582.23, 631.182, 631.331, 633.052, 744.369, 760.11, 837.011, 838.014, 839.17, 916.107, 938.30, 945.43, F.S., relating to various administrative and judicial proceedings; redesignating “masters” and “general or special masters” as “general or special magistrates”; providing an effective date.

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

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

26.012 Jurisdiction of circuit court.—

(5) A circuit court is a trial court.

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

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

Section 3. Subsection (8) of section 29.004, Florida Statutes, as amended by section 40 of chapter 2003-402, Laws of Florida, is amended to read:

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

(8) General magistrates, special magistrates, Masters and hearing officers.

Section 4. Subsections (2) and (3) of section 34.01, Florida Statutes, are amended, and subsection (5) is added to that section, to read:

34.01 Jurisdiction of county court.—

(2) The county courts shall have jurisdiction previously exercised by county judges' courts other than that vested in the circuit court by s. 26.012, except that county court judges may hear matters involving dissolution of marriage under the simplified dissolution procedure pursuant to Rule 1.611(e), Florida Family Law Rules of Civil Procedure or may issue a final order for dissolution in cases where the matter is uncontested, and the jurisdiction previously exercised by county courts, the claims court, small claims courts, small claims magistrates courts, magistrates courts, justice of the peace courts, municipal courts, and courts of chartered counties, including but not limited to the counties referred to in ss. 9, 10, 11, and 24, Art. VIII of the State Constitution of 1885, as preserved by s. (6)(e), Art. VIII of the State Constitution of 1968.

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

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

(5) A county court is a trial court.

Section 5. Section 48.20, Florida Statutes, is amended to read:

48.20 Service of process on Sunday.—Service or execution on Sunday of any writ, process, warrant, order, or judgment is void and the person serving or executing, or causing it to be served or executed, is liable to the party aggrieved for damages for so doing as if he or she had done it without any process, writ, warrant, order, or judgment. If affidavit is made by the person requesting service or execution that he or she has good reason to believe that any person liable to have any such writ, process, warrant, order, or judgment served on him or her intends to escape from this state under protection of Sunday, any officer furnished with an order authorizing service or execution by the trial court judge or magistrate of any incorporated town ~~may serve or execute such writ, process, warrant, order, or judgment on Sunday, and it is as valid as if it had been done on any other day.~~

Section 6. Section 142.09, Florida Statutes, is amended to read:

142.09 If defendant is not convicted or dies.—If the defendant is not convicted, or the prosecution is abated by the death of the defendant, or if the costs are imposed on the defendant and execution against him or her is returned no property found, or if a nolle prosequere be entered, in each of these cases the fees of witnesses and officers arising from criminal causes shall be

paid by the county in the manner specified in ss. 142.10-142.12; provided, that when a committing ~~trial court judge~~ ~~magistrate~~ holds to bail or commits a person to answer to a criminal charge and an information is not filed or an indictment found against such person, the costs and fees of such committing trial shall not be paid by the county, except the costs of executing the warrants.

Section 7. Subsection (3) of section 316.635, Florida Statutes, is amended to read:

316.635 Courts having jurisdiction over traffic violations; powers relating to custody and detention of minors.—

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

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

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

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

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

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

Section 8. Section 373.603, Florida Statutes, is amended to read:

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

Section 9. Subsection (4) of section 381.0012, Florida Statutes, is amended to read:

381.0012 Enforcement authority.—

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

Section 10. Subsections (3) and (4) of section 450.121, Florida Statutes, are amended to read:

450.121 Enforcement of Child Labor Law.—

(3) It is the duty of any trial court judge ~~magistrate~~ of any court in the state to issue warrants and try cases made within the limit of any city over which such trial court judge ~~magistrate~~ has jurisdiction in connection with the violation of this law.

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

Section 11. Subsection (2) of section 560.306, Florida Statutes, is amended to read:

560.306 Standards.—

(2) The office may deny registration if it finds that the applicant, or any money transmitter-affiliated party of the applicant, has been convicted of a crime involving moral turpitude in any jurisdiction or of a crime which, if committed in this state, would constitute a crime involving moral turpitude under the laws of this state. For the purposes of this part, a person shall be deemed to have been convicted of a crime if such person has either pleaded guilty to or been found guilty of a charge before a court or a federal magistrate, or by the verdict of a jury, irrespective of the pronouncement of sentence or the suspension thereof. The office may take into consideration the

fact that such plea of guilty, or such decision, judgment, or verdict, has been set aside, reversed, or otherwise abrogated by lawful judicial process or that the person convicted of the crime received a pardon from the jurisdiction where the conviction was entered or received a certificate pursuant to any provision of law which removes the disability under this part because of such conviction.

Section 12. Section 633.14, Florida Statutes, is amended to read:

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

Section 13. Paragraph (e) of subsection (1) and paragraph (c) of subsection (2) of section 648.44, Florida Statutes, are amended to read:

648.44 Prohibitions; penalty.—

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

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

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

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

Section 14. Subsection (3) of section 817.482, Florida Statutes, is amended to read:

817.482 Possessing or transferring device for theft of telecommunications service; concealment of destination of telecommunications service.—

(3) Any such instrument, apparatus, equipment, or device, or plans or instructions therefor, referred to in subsections (1) and (2), may be seized by court order or under a search warrant of a judge ~~or magistrate~~ or incident to a lawful arrest; and upon the conviction of any person for a violation of any provision of this act, or s. 817.481, such instrument, apparatus, equipment, device, plans, or instructions either shall be destroyed as contraband by the sheriff of the county in which such person was convicted or turned

over to the telephone company in whose territory such instrument, apparatus, equipment, device, plans, or instructions were seized.

Section 15. Subsection (8) of section 832.05, Florida Statutes, is amended to read:

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

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

Section 16. Section 876.42, Florida Statutes, is amended to read:

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

Section 17. Paragraph (a) of subsection (1) of section 893.12, Florida Statutes, is amended to read:

893.12 Contraband; seizure, forfeiture, sale.—

(1) All substances controlled by this chapter and all listed chemicals, which substances or chemicals are handled, delivered, possessed, or distributed contrary to any provisions of this chapter, and all such controlled substances or listed chemicals the lawful possession of which is not established or the title to which cannot be ascertained, are declared to be contraband, are subject to seizure and confiscation by any person whose duty it is to enforce the provisions of the chapter, and shall be disposed of as follows:

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

Section 18. Section 901.01, Florida Statutes, is amended to read:

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

Section 19. Subsection (1) of section 901.02, Florida Statutes, is amended to read:

901.02 When warrant of arrest to be issued.—

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

Section 20. Section 901.07, Florida Statutes, is amended to read:

901.07 Admission to bail when arrest occurs in another county.—

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

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

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

901.08 Issue of warrant when offense triable in another county.—

(1) When a complaint before a trial court judge magistrate charges the commission of an offense that is punishable by death or life imprisonment and is triable in another county of the state, but it appears that the person against whom the complaint is made is in the county where the complaint is made, the same proceedings for issuing a warrant shall be used as prescribed in this chapter, except that the warrant shall require the person against whom the complaint is made to be taken before a designated trial court judge magistrate of the county in which the offense is triable.

(2) If the person arrested has a right to bail, the officer making the arrest shall inform the person of his or her right to bail and, on request, shall take

the person before a trial court judge magistrate or other official having authority to admit to bail in the county in which the arrest is made. The official shall admit the person to bail for his or her appearance before the trial court judge magistrate designated in the warrant.

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

Section 22. Section 901.09, Florida Statutes, is amended to read:

901.09 When summons shall be issued.—

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

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

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

Section 23. Section 901.11, Florida Statutes, is amended to read:

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

Section 24. Section 901.12, Florida Statutes, is amended to read:

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

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

901.25 Fresh pursuit; arrest outside jurisdiction.—

(3) If an arrest is made in this state by an officer outside the county within which his or her jurisdiction lies, the officer shall immediately notify the officer in charge of the jurisdiction in which the arrest is made. Such officer in charge of the jurisdiction shall, along with the officer making the arrest, take the person so arrested before a trial court judge ~~or other committing magistrate~~ of the county in which the arrest was made without unnecessary delay.

Section 26. Section 902.15, Florida Statutes, is amended to read:

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

Section 27. Subsections (1), (2), and (3) of section 902.17, Florida Statutes, are amended to read:

902.17 Procedure when witness does not give security.—

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

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

(3) If it appears from examination on oath of the witness or any other person that the witness is unable to give security, the trial court judge ~~magistrate~~ or the court having jurisdiction to try the defendant shall make an order finding that fact, and the witness shall be detained pending application for her or his conditional examination. Within 3 days from the entry of the order, the witness shall be conditionally examined on application of the state or the defendant. The examination shall be by question and answer in the presence of the other party and counsel, and shall be transcribed by a court reporter or stenographer selected by the parties. At the completion of the examination the witness shall be discharged. The deposition of the witness may be introduced in evidence at the trial by the defendant, or, if the prosecuting attorney and the defendant and the defendant's counsel agree, it may be admitted in evidence by stipulation. The deposition shall not be admitted on behalf of the state without the consent of the defendant.

Section 28. Section 902.20, Florida Statutes, is amended to read:

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

Section 29. Section 902.21, Florida Statutes, is amended to read:

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

Section 30. Subsection (1) of section 903.03, Florida Statutes, is amended to read:

903.03 Jurisdiction of trial court to admit to bail; duties and responsibilities of Department of Corrections.—

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

Section 31. Subsection (2) of section 903.32, Florida Statutes, is amended to read:

903.32 Defects in bond.—

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

Section 32. Section 903.34, Florida Statutes, is amended to read:

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

Section 33. Subsection (4) of section 914.22, Florida Statutes, is amended to read:

914.22 Tampering with a witness, victim, or informant.—

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

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

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

Section 34. Section 923.01, Florida Statutes, is amended to read:

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

CRIMINAL REPORT

Date: Name and address of defendant: Age:, If under 18, give name and address of parent, next friend, or guardian: Name of offense, such as murder, assault, robbery, etc.: Date and place where committed: Value of property stolen: Kind of property stolen: Kind of building robbed: Name and address of owner of property stolen or building robbed: Name and address of occupant of building robbed: Name of party assaulted or murdered: Weapon used in assault or murder: Exhibits taken at scene of crime or from defendant: Name of custodian of such exhibits: Location of building or place where offense committed: Previous prison record of defendant: Has defendant been arrested: Does defendant desire to plead guilty: Names and addresses of state witnesses: Name of defendant's lawyer: If defendant is released on bond, names and addresses of sureties: Brief statement of facts: Name of committing trial court judge magistrate: If additional space required, use reverse side of this sheet.

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

Section 35. Section 933.01, Florida Statutes, is amended to read:

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

Section 36. Section 933.06, Florida Statutes, is amended to read:

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

Section 37. Subsection (1) of section 933.07, Florida Statutes, is amended to read:

933.07 Issuance of search warrants.—

(1) The judge, upon examination of the application and proofs submitted, if satisfied that probable cause exists for the issuing of the search warrant, shall thereupon issue a search warrant signed by him or her with his or her name of office, to any sheriff and the sheriff's deputies or any police officer

or other person authorized by law to execute process, commanding the officer or person forthwith to search the property described in the warrant or the person named, for the property specified, and to bring the property and any person arrested in connection therewith before the judge ~~magistrate~~ or some other court having jurisdiction of the offense.

Section 38. Section 933.10, Florida Statutes, is amended to read:

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

Section 39. Section 933.101, Florida Statutes, is amended to read:

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

Section 40. Section 933.13, Florida Statutes, is amended to read:

933.13 Copy of inventory shall be delivered upon request.—~~The judge or magistrate~~ to whom the warrant is returned, upon the request of any claimant or any person from whom said property is taken, or the officer who executed the search warrant, shall deliver to said applicant a true copy of the inventory of the property mentioned in the return on said warrant.

Section 41. Subsections (1), (3), and (4) of section 933.14, Florida Statutes, are amended to read:

933.14 Return of property taken under search warrant.—

(1) If it appears to the ~~magistrate or judge~~ before whom the warrant is returned that the property or papers taken are not the same as that described in the warrant, or that there is no probable cause for believing the existence of the grounds upon which the warrant was issued, or if it appears to the judge ~~magistrate~~ before whom any property is returned that the property was secured by an “unreasonable” search, the ~~judge or magistrate~~ may order a return of the property taken; provided, however, that in no instance shall contraband such as slot machines, gambling tables, lottery tickets, tally sheets, rundown sheets, or other gambling devices, paraphernalia and equipment, or narcotic drugs, obscene prints and literature be returned to anyone claiming an interest therein, it being the specific intent of the Legislature that no one has any property rights subject to be protected by any constitutional provision in such contraband; provided, further, that the claimant of said contraband may upon sworn petition and proof submitted by him or her in the circuit court of the county where seized, show that said contraband articles so seized were held, used or possessed in a lawful manner, for a lawful purpose, and in a lawful place, the burden of proof in all cases being upon the claimant. The sworn affidavit or complaint upon which the search warrant was issued or the testimony of the officers showing probable cause to search without a warrant or incident to a legal arrest, and

the finding of such slot machines, gambling tables, lottery tickets, tally sheets, rundown sheets, scratch sheets, or other gambling devices, paraphernalia, and equipment, including money used in gambling or in furtherance of gambling, or narcotic drugs, obscene prints and literature, or any of them, shall constitute prima facie evidence of the illegal possession of such contraband and the burden shall be upon the claimant for the return thereof, to show that such contraband was lawfully acquired, possessed, held, and used.

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

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

Section 42. Section 939.02, Florida Statutes, is amended to read:

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

Section 43. Section 939.14, Florida Statutes, is amended to read:

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

Section 44. Section 941.13, Florida Statutes, is amended to read:

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

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

Section 45. Section 941.14, Florida Statutes, is amended to read:

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

Section 46. Section 941.15, Florida Statutes, is amended to read:

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

Section 47. Section 941.17, Florida Statutes, is amended to read:

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

Section 48. Section 941.18, Florida Statutes, is amended to read:

941.18 Forfeiture of bail.—If the prisoner is admitted to bail, and fails to appear and surrender himself or herself according to the conditions of his or her bond, the judge, ~~or magistrate by proper order~~, shall declare the bond forfeited and order his or her immediate arrest without warrant if he or she ~~is~~ be within this state. Recovery may be had on such bond in the name of the state as in the case of other bonds given by the accused in criminal proceedings within this state.

Section 49. Subsection (2) of section 947.141, Florida Statutes, is amended to read:

947.141 Violations of conditional release, control release, or conditional medical release or addiction-recovery supervision.—

(2) Upon the arrest on a felony charge of an offender who is on release supervision under s. 947.1405, s. 947.146, s. 947.149, or s. 944.4731, the offender must be detained without bond until the initial appearance of the offender at which a judicial determination of probable cause is made. If the ~~trial court judge~~ magistrate determines that there was no probable cause for the arrest, the offender may be released. If the ~~trial court judge~~ magistrate determines that there was probable cause for the arrest, such determination also constitutes reasonable grounds to believe that the offender violated the conditions of the release. Within 24 hours after the ~~trial court judge's~~ magistrate's finding of probable cause, the detention facility administrator or detective shall notify the commission and the department of the finding and transmit to each a facsimile copy of the probable cause affidavit or the sworn offense report upon which the ~~trial court judge's~~ magistrate's probable cause determination is based. The offender must continue to be detained without bond for a period not exceeding 72 hours excluding weekends and holidays after the date of the probable cause determination, pending a decision by the commission whether to issue a warrant charging the offender with violation of the conditions of release. Upon the issuance of the commission's warrant, the offender must continue to be held in custody pending a revocation hearing held in accordance with this section.

Section 50. Subsection (1) of section 948.06, Florida Statutes, is amended to read:

948.06 Violation of probation or community control; revocation; modification; continuance; failure to pay restitution or cost of supervision.—

(1) Whenever within the period of probation or community control there are reasonable grounds to believe that a probationer or offender in community control has violated his or her probation or community control in a material respect, any law enforcement officer who is aware of the probationary or community control status of the probationer or offender in community control or any parole or probation supervisor may arrest or request any county or municipal law enforcement officer to arrest such probationer or offender without warrant wherever found and forthwith return him or her to the court granting such probation or community control. Any committing ~~trial court judge~~ magistrate may issue a warrant, upon the facts being made known to him or her by affidavit of one having knowledge of such facts, for the arrest of the probationer or offender, returnable forthwith before the

court granting such probation or community control. Any parole or probation supervisor, any officer authorized to serve criminal process, or any peace officer of this state is authorized to serve and execute such warrant. Upon the filing of an affidavit alleging a violation of probation or community control and following issuance of a warrant under s. 901.02, the probationary period is tolled until the court enters a ruling on the violation. Notwithstanding the tolling of probation as provided in this subsection, the court shall retain jurisdiction over the offender for any violation of the conditions of probation or community control that is alleged to have occurred during the tolling period. The probation officer is permitted to continue to supervise any offender who remains available to the officer for supervision until the supervision expires pursuant to the order of probation or community control or until the court revokes or terminates the probation or community control, whichever comes first. The court, upon the probationer or offender being brought before it, shall advise him or her of such charge of violation and, if such charge is admitted to be true, may forthwith revoke, modify, or continue the probation or community control or place the probationer into a community control program. If probation or community control is revoked, the court shall adjudge the probationer or offender guilty of the offense charged and proven or admitted, unless he or she has previously been adjudged guilty, and impose any sentence which it might have originally imposed before placing the probationer on probation or the offender into community control. If such violation of probation or community control is not admitted by the probationer or offender, the court may commit him or her or release him or her with or without bail to await further hearing, or it may dismiss the charge of probation or community control violation. If such charge is not at that time admitted by the probationer or offender and if it is not dismissed, the court, as soon as may be practicable, shall give the probationer or offender an opportunity to be fully heard on his or her behalf in person or by counsel. After such hearing, the court may revoke, modify, or continue the probation or community control or place the probationer into community control. If such probation or community control is revoked, the court shall adjudge the probationer or offender guilty of the offense charged and proven or admitted, unless he or she has previously been adjudged guilty, and impose any sentence which it might have originally imposed before placing the probationer or offender on probation or into community control. Notwithstanding s. 775.082, when a period of probation or community control has been tolled, upon revocation or modification of the probation or community control, the court may impose a sanction with a term that when combined with the amount of supervision served and tolled, exceeds the term permissible pursuant to s. 775.082 for a term up to the amount of the tolled period supervision. If the court dismisses an affidavit alleging a violation of probation or community control, the offender's probation or community control shall continue as previously imposed, and the offender shall receive credit for all tolled time against his or her term of probation or community control.

Section 51. Paragraph (b) of subsection (4) of section 985.05, Florida Statutes, is amended to read:

985.05 Court records.—

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

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

Section 52. Section 56.071, Florida Statutes, is amended to read:

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

Section 53. Subsections (2), (7), and (10) of section 56.29, Florida Statutes, are amended to read:

56.29 Proceedings supplementary.—

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

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

(10) Any person failing to obey any order issued under this section by a judge or general or special magistrate master or failing to attend in response to a subpoena served on him or her may be held in contempt.

Section 54. Subsection (4) of section 61.1826, Florida Statutes, is amended to read:

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

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

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

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

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

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

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

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

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

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

If either the department or the Florida Association of Court Clerks objects to a term of the standard cooperative agreement or contract specified in subsections (2) and (3), the disputed term or terms shall be presented jointly by the parties to the Attorney General or the Attorney General's designee, who shall act as special ~~magistrate master~~. The special ~~magistrate master~~ shall resolve the dispute in writing within 10 days. The resolution of a dispute by the special ~~magistrate master~~ is binding on the department and the Florida Association of Court Clerks.

Section 55. Section 64.061, Florida Statutes, is amended to read:

64.061 Partition of property; commissioners; special magistrate master.—

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

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

(3) EXCEPTIONS TO REPORT AND FINAL JUDGMENT.—Any party may file objections to the report of the commissioners within 10 days after it is served. If no objections are filed or if the court is satisfied on hearing any such objections that they are not well-founded, the report shall be confirmed, and a final judgment entered vesting in the parties the title to the parcels of the lands allotted to them respectively, and giving each of them the possession of and quieting title to their respective shares as against the other parties to the action or those claiming through or under them.

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

Section 56. Subsection (5) of section 65.061, Florida Statutes, is amended to read:

65.061 Quieting title; additional remedy.—

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

Section 57. Section 69.051, Florida Statutes, is amended to read:

69.051 General and special magistrates ~~Masters in chancery~~; compensation.—General and special magistrates appointed by the court ~~Masters in chancery~~ shall be allowed such compensation for any services as the court

deems reasonable, including time consumed in legal research required in preparing and summarizing their findings of fact and law.

Section 58. Section 70.51, Florida Statutes, is amended to read:

70.51 Land use and environmental dispute resolution.—

(1) This section may be cited as the “Florida Land Use and Environmental Dispute Resolution Act.”

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

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

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

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

(d) “Owner” means a person with a legal or equitable interest in real property who filed an application for a development permit for the property at the state, regional, or local level and who received a development order, or who holds legal title to real property that is subject to an enforcement action of a governmental entity.

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

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

(g) “Land” or “real property” means land and includes any appurtenances and improvements to the land, including any other relevant real property in which the owner had a relevant interest.

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

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

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

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

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

(6) The request for relief must contain:

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

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

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

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

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

(8) The special magistrate ~~master~~ may conduct a hearing on whether the request for relief should be dismissed for failing to include the information required in subsection (6). If the special magistrate ~~master~~ dismisses the case, the special magistrate ~~master~~ shall allow the owner to amend the

request and refile. Failure to file an adequate amended request within the time specified shall result in a dismissal with prejudice as to this proceeding.

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

(10)(a) Before initiating a special ~~magistrate master~~ proceeding to review a local development order or local enforcement action, the owner must exhaust all nonjudicial local government administrative appeals if the appeals take no longer than 4 months. Once nonjudicial local administrative appeals are exhausted and the development order or enforcement action is final, or within 4 months after issuance of the development order or notice of the enforcement action if the owner has pursued local administrative appeals even if the appeals have not been concluded, the owner may initiate a proceeding under this section. Initiation of a proceeding tolls the time for seeking judicial review of a local government development order or enforcement action until the special ~~magistrate's master's~~ recommendation is acted upon by the local government. Election by the owner to file for judicial review of a local government development order or enforcement action prior to initiating a proceeding under this section waives any right to a special ~~magistrate master~~ proceeding.

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

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

(12) Within 21 days after receipt of the request for relief, any owner of land contiguous to the owner's property and any substantially affected person who submitted oral or written testimony, sworn or unsworn, of a substantive nature which stated with particularity objections to or support for the development order or enforcement action at issue may request to participate in the proceeding. Those persons may be permitted to participate in the hearing but shall not be granted party or intervenor status. The participation of such persons is limited to addressing issues raised regarding alternatives, variances, and other types of adjustment to the development order or

enforcement action which may impact their substantial interests, including denial of the development order or application of an enforcement action.

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

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

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

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

(16)(a) Fifteen days following the filing of a request for relief, the governmental entity that issued the development order or that is taking the enforcement action shall file a response to the request for relief with the special magistrate ~~master~~ together with a copy to the owner. The response must set forth in reasonable detail the position of the governmental entity regarding the matters alleged by the owner. The response must include a brief statement explaining the public purpose of the regulations on which the development order or enforcement action is based.

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

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

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

(a) The first responsibility of the special magistrate ~~master~~ is to facilitate a resolution of the conflict between the owner and governmental entities to the end that some modification of the owner's proposed use of the property

or adjustment in the development order or enforcement action or regulatory efforts by one or more of the governmental parties may be reached. Accordingly, the special magistrate ~~master~~ shall act as a facilitator or mediator between the parties in an effort to effect a mutually acceptable solution. The parties shall be represented at the mediation by persons with authority to bind their respective parties to a solution, or by persons with authority to recommend a solution directly to the persons with authority to bind their respective parties to a solution.

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

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

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

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

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

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

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

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

(f) The public purpose sought to be achieved by the development order or enforcement action, including the nature and magnitude of the problem addressed by the underlying regulations on which the development order or enforcement action is based; whether the development order or enforcement

action is necessary to the achievement of the public purpose; and whether there are alternative development orders or enforcement action conditions that would achieve the public purpose and allow for reduced restrictions on the use of the property.

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

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

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

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

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

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

2. Increases or modifications in the density, intensity, or use of areas of development.

3. The transfer of development rights.

4. Land swaps or exchanges.

5. Mitigation, including payments in lieu of onsite mitigation.

6. Location on the least sensitive portion of the property.

7. Conditioning the amount of development or use permitted.

8. A requirement that issues be addressed on a more comprehensive basis than a single proposed use or development.

9. Issuance of the development order, a variance, special exception, or other extraordinary relief, including withdrawal of the enforcement action.

10. Purchase of the real property, or an interest therein, by an appropriate governmental entity.

(c) This subsection does not prohibit the owner and governmental entity from entering in to an agreement as to the permissible use of the property prior to the special magistrate ~~master~~ entering a recommendation. An agreement for a permissible use must be incorporated in the special magistrate's ~~master's~~ recommendation.

(20) The special magistrate's ~~master's~~ recommendation is a public record under chapter 119. However, actions or statements of all participants to the special magistrate ~~master~~ proceeding are evidence of an offer to compromise and inadmissible in any proceeding, judicial or administrative.

(21) Within 45 days after receipt of the special magistrate's ~~master's~~ recommendation, the governmental entity responsible for the development order or enforcement action and other governmental entities participating in the proceeding must consult among themselves and each governmental entity must:

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

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

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

(22) If a governmental entity accepts the special magistrate's ~~master's~~ recommendation or modifies it and the owner rejects the acceptance or modification, or if a governmental entity rejects the special magistrate's ~~master's~~ recommendation, the governmental entity must issue a written decision within 30 days that describes as specifically as possible the use or uses available to the subject real property.

(23) The procedure established by this section may not continue longer than 165 days, unless the period is extended by agreement of the parties. A decision describing available uses constitutes the last prerequisite to

judicial action and the matter is ripe or final for subsequent judicial proceedings unless the owner initiates a proceeding under ss. 120.569 and 120.57. If the owner brings a proceeding under ss. 120.569 and 120.57, the matter is ripe when the proceeding culminates in a final order whether further appeal is available or not.

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

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

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

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

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

(29) This section shall be liberally construed to effect fully its obvious purposes and intent, and governmental entities shall direct all available resources and authorities to effect fully the obvious purposes and intent of this section in resolving disputes. Governmental entities are encouraged to expedite notice and time-related provisions to implement resolution of disputes under this section. The procedure established by this section may be used to resolve disputes in pending judicial proceedings, with the agreement of the parties to the judicial proceedings, and subject to the approval of the court in which the judicial proceedings are pending. The provisions of this

section are cumulative, and do not supplant other methods agreed to by the parties and lawfully available for arbitration, mediation, or other forms of alternative dispute resolution.

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

Section 59. Subsection (1) of section 92.142, Florida Statutes, is amended to read:

92.142 Witnesses; pay.—

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

Section 60. Section 112.41, Florida Statutes, is amended to read:

112.41 Contents of order of suspension; Senate select committee; special magistrate examiner.—

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

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

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

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

Section 61. Section 112.43, Florida Statutes, is amended to read:

112.43 Prosecution of suspension before Senate.—All suspensions heard by the Senate, a select committee, or special magistrate ~~master, or examiner~~ in accordance with rules of the Senate shall be prosecuted by the Governor, the Governor's legal staff, or an attorney designated by the Governor. Should the Senate, or the select committee appointed by the Senate to hear the evidence and to make recommendations, desire private counsel, either the Senate or the select committee shall be entitled to employ its own

counsel for this purpose. Nothing herein shall prevent the Senate or its select committee from making its own investigation and presenting such evidence as its investigation may reveal. The Governor may request the advice of the Department of Legal Affairs relative to the suspension order prior to its issuance by the Governor. Following the issuance of the suspension order, either the Senate or the select committee may request the Department of Legal Affairs to provide counsel for the Senate to advise on questions of law or otherwise advise with the Senate or the select committee, but the Department of Legal Affairs shall not be required to prosecute before the Senate or the committee and shall, pursuant to the terms of this section, act as the legal adviser only.

Section 62. Section 112.47, Florida Statutes, is amended to read:

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

Section 63. Subsection (2) of section 162.03, Florida Statutes, is amended to read:

162.03 Applicability.—

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

Section 64. Subsection (5) of section 162.06, Florida Statutes, is amended to read:

162.06 Enforcement procedure.—

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

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

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

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

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

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

Section 65. Paragraph (d) of subsection (2) of section 162.09, Florida Statutes, is amended to read:

162.09 Administrative fines; costs of repair; liens.—

(2)

(d) A county or a municipality having a population equal to or greater than 50,000 may adopt, by a vote of at least a majority plus one of the entire governing body of the county or municipality, an ordinance that gives code enforcement boards or special magistrates ~~masters~~, or both, authority to impose fines in excess of the limits set forth in paragraph (a). Such fines shall not exceed \$1,000 per day per violation for a first violation, \$5,000 per day per violation for a repeat violation, and up to \$15,000 per violation if the code enforcement board or special magistrate ~~master~~ finds the violation to be irreparable or irreversible in nature. In addition to such fines, a code enforcement board or special magistrate ~~master~~ may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs pursuant to subsection (1). Any ordinance imposing such fines shall include criteria to be considered by the code enforcement board or special magistrate ~~master~~ in determining the amount of the fines, including, but not limited to, those factors set forth in paragraph (b).

Section 66. Section 173.09, Florida Statutes, is amended to read:

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

(1) Any such decree shall direct the special magistrate ~~master~~ thereby appointed to sell the several parcels of land separately to the highest and best bidder for cash (or, at the option of complainant, to the extent of special

assessments included in such judgment, for bonds or interest coupons issued by complainant), at public outcry at the courthouse door of the county in which such suit is pending, or at such point or place in the complainant municipality as the court in such final decree may direct, after having advertised such sale (which advertisement may include all lands so ordered sold) once each week for 2 consecutive weeks in some newspaper published in the city or town in which is the complainant is situated or, if there is no such newspaper, in a newspaper published in the county in which the suit is pending, and if all the lands so advertised for sale be not sold on the day specified in such advertisement, such sale shall be continued from day to day until the sale of all such land is completed.

(2) Such sales shall be subject to confirmation by the court, and the said special magistrate master shall, upon confirmation of the sale or sales, deliver to the purchaser or purchasers at said sale a deed of conveyance of the property so sold; provided, however, that in any case where any lands are offered for sale by the special magistrate master and the sum of the tax, tax certificates and special assessments, interest, penalty, costs, and attorney's fee is not bid for the same, the complainant may bid the whole amount due and the special magistrate master shall thereupon convey such parcel or parcels of land to the complainant.

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

Section 67. Section 173.10, Florida Statutes, is amended to read:

173.10 Judgment for complainant; court may order payment of other taxes or sale subject to taxes; special magistrate's master's conveyances.—

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

(2) Any and all conveyances by the special magistrate master shall vest in the purchaser the fee simple title to the property so sold, subject only to such liens for state and county taxes or taxing districts whose liens are of equal dignity, and liens for municipal taxes and special assessments, or installments thereof, as are not directed by the decree of sale to be paid out of the proceeds of said sale.

Section 68. Section 173.11, Florida Statutes, is amended to read:

173.11 Distribution of proceeds of sale.—The proceeds of any foreclosure sale authorized by this chapter shall be distributed by the special magistrate master conducting the sale according to the final decree, and if any surplus

remains after the payment of the full amount of the decree, costs and attorney's fees, and any subsequent tax liens ~~that which~~ may be directed by such decree to be paid from the proceeds of sale, such surplus shall be deposited with the clerk of the court and disbursed under order of the court.

Section 69. Section 173.12, Florida Statutes, is amended to read:

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

Section 70. Subsection (1) of section 194.013, Florida Statutes, is amended to read:

194.013 Filing fees for petitions; disposition; waiver.—

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

Section 71. Paragraph (d) of subsection (1) and subsections (2) and (6) of section 194.034, Florida Statutes, are amended to read:

194.034 Hearing procedures; rules.—

(1)

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

(2) In each case, except when a complaint is withdrawn by the petitioner or is acknowledged as correct by the property appraiser, the value adjustment board shall render a written decision. All such decisions shall be issued within 20 calendar days of the last day the board is in session under s.

194.032. The decision of the board shall contain findings of fact and conclusions of law and shall include reasons for upholding or overturning the determination of the property appraiser. When a special magistrate master has been appointed, the recommendations of the special magistrate master shall be considered by the board. The clerk, upon issuance of the decisions, shall, on a form provided by the Department of Revenue, notify by first-class mail each taxpayer, the property appraiser, and the department of the decision of the board.

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

Section 72. Section 194.035, Florida Statutes, is amended to read:

194.035 Special magistrates masters; property evaluators.—

(1) In counties having a population of more than 75,000, the board shall appoint special magistrates masters for the purpose of taking testimony and making recommendations to the board, which recommendations the board may act upon without further hearing. ~~These~~ Such special magistrates masters may not be elected or appointed officials or employees of the county but shall be selected from a list of those qualified individuals who are willing to serve as special magistrates masters. Employees and elected or appointed officials of a taxing jurisdiction or of the state may not serve as special magistrates masters. The clerk of the board shall annually notify such individuals or their professional associations to make known to them that opportunities to serve as special magistrates masters exist. The Department of Revenue shall provide a list of qualified special magistrates masters to any county with a population of 75,000 or less. Subject to appropriation, the department shall reimburse counties with a population of 75,000 or less for payments made to special magistrates masters appointed for the purpose of taking testimony and making recommendations to the value adjustment board pursuant to this section. The department shall establish a reasonable range for payments per case to special magistrates masters based on such payments in other counties. Requests for reimbursement of payments outside this range shall be justified by the county. If the total of all requests for reimbursement in any year exceeds the amount available pursuant to this section, payments to all counties shall be prorated accordingly. A special magistrate master appointed to hear issues of exemptions and classifications shall be a member of The Florida Bar with no less than 5 years' experience in the area of ad valorem taxation. A special magistrate master appointed to hear issues regarding the valuation of real estate shall be a state certified real estate appraiser with not less than 5 years' experience in real property valuation. A special magistrate master appointed to hear issues regarding the valuation of tangible personal property shall be a designated member of a nationally recognized appraiser's organization with not less than 5 years' experience in tangible personal property valuation. A special magistrate master need not be a resident of the county in which he or she serves. ~~A No special magistrate may not master shall be permitted~~

to represent a person before the board in any tax year during which he or she has served that board as a special ~~magistrate master~~. The board shall appoint special magistrates ~~such masters~~ from the list so compiled prior to convening of the board. The expense of hearings before magistrates ~~masters~~ and any compensation of special ~~magistrates masters~~ shall be borne three-fifths by the board of county commissioners and two-fifths by the school board.

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

Section 73. Section 206.16, Florida Statutes, is amended to read:

206.16 Officer selling property.—

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

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

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

(c) The time and place of sale; and

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

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

Section 74. Section 207.016, Florida Statutes, is amended to read:

207.016 Officer's sale of property or franchise.—

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

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

- (b) The name of the person whose property or franchise is to be sold.
- (c) The time and place of sale.
- (d) The nature of the property and the location of the same.

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

Section 75. Section 320.411, Florida Statutes, is amended to read:

320.411 Officer's sale of property or franchise.—

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

- (a) The name of the plaintiff or party at whose instance or upon whose account the sale is made.
- (b) The name of the motor carrier whose property or franchise is to be sold.
- (c) The time and place of sale.
- (d) The nature of the property and the location of the same.

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

Section 76. Subsection (7) of section 393.11, Florida Statutes, is amended to read:

393.11 Involuntary admission to residential services.—

(7) HEARING.—

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

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

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

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

(e) The person shall have the right to present evidence and to cross-examine all witnesses and other evidence alleging the appropriateness of the person's admission to residential care. Other relevant and material evidence regarding the appropriateness of the person's admission to residential services; the most appropriate, least restrictive residential placement; and the appropriate care, treatment, and habilitation of the person, including written or oral reports, may be introduced at the hearing by any interested person.

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

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

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

Section 77. Subsections (6) and (7) of section 394.467, Florida Statutes, are amended to read:

394.467 Involuntary placement.—

(6) HEARING ON INVOLUNTARY PLACEMENT.—

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

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

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

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

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

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

(7) PROCEDURE FOR CONTINUED INVOLUNTARY PLACEMENT.—

(a) Hearings on petitions for continued involuntary placement shall be administrative hearings and shall be conducted in accordance with the provisions of s. 120.57(1), except that any order entered by the administrative law judge hearing officer shall be final and subject to judicial review in

accordance with s. 120.68. Orders concerning patients committed after successfully pleading not guilty by reason of insanity shall be governed by the provisions of s. 916.15.

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

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

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

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

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

Section 78. Subsection (7) of section 397.311, Florida Statutes, is amended to read:

397.311 Definitions.—As used in this chapter, except part VIII:

(7) "Court" means, with respect to all involuntary proceedings under this chapter, the circuit court of the county in which the judicial proceeding is

pending or where the substance abuse impaired person resides or is located, and includes any general or special magistrate ~~master~~ that may be appointed by the chief judge to preside over all or part of such proceeding. Otherwise, “court” refers to the court of legal jurisdiction in the context in which the term is used in this chapter.

Section 79. Subsection (1) of section 397.681, Florida Statutes, is amended to read:

397.681 Involuntary petitions; general provisions; court jurisdiction and right to counsel.—

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

Section 80. Subsection (5) of section 447.207, Florida Statutes, is amended to read:

447.207 Commission; powers and duties.—

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

Section 81. Subsections (2), (3), and (4) of section 447.403, Florida Statutes, are amended to read:

447.403 Resolution of impasses.—

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

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

(3) The special magistrate ~~master~~ shall hold hearings in order to define the area or areas of dispute, to determine facts relating to the dispute, and

to render a decision on any and all unresolved contract issues. The hearings shall be held at times, dates, and places to be established by the special ~~magistrate master~~ in accordance with rules promulgated by the commission. The special ~~magistrate master~~ shall be empowered to administer oaths and issue subpoenas on behalf of the parties to the dispute or on his or her own behalf. Within 15 calendar days after the close of the final hearing, the special ~~magistrate master~~ shall transmit his or her recommended decision to the commission and to the representatives of both parties by registered mail, return receipt requested. Such recommended decision shall be discussed by the parties, and each recommendation of the special ~~magistrate master~~ shall be deemed approved by both parties unless specifically rejected by either party by written notice filed with the commission within 20 calendar days after the date the party received the special ~~magistrate's master's~~ recommended decision. The written notice shall include a statement of the cause for each rejection and shall be served upon the other party.

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

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

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

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

(d) Thereafter, the legislative body shall take such action as it deems to be in the public interest, including the interest of the public employees involved, to resolve all disputed impasse issues; and

(e) Following the resolution of the disputed impasse issues by the legislative body, the parties shall reduce to writing an agreement which includes those issues agreed to by the parties and those disputed impasse issues resolved by the legislative body's action taken pursuant to paragraph (d). The agreement shall be signed by the chief executive officer and the bargaining agent and shall be submitted to the public employer and to the public employees who are members of the bargaining unit for ratification. If such agreement is not ratified by all parties, pursuant to the provisions of s. 447.309, the legislative body's action taken pursuant to the provisions of paragraph (d) shall take effect as of the date of such legislative body's action for the remainder of the first fiscal year which was the subject of negotiations; however, the legislative body's action shall not take effect with respect

to those disputed impasse issues which establish the language of contractual provisions which could have no effect in the absence of a ratified agreement, including, but not limited to, preambles, recognition clauses, and duration clauses.

Section 82. Section 447.405, Florida Statutes, is amended to read:

447.405 Factors to be considered by the special magistrate ~~master~~.—The special magistrate ~~master~~ shall conduct the hearings and render recommended decisions with the objective of achieving a prompt, peaceful, and just settlement of disputes between the public employee organizations and the public employers. The factors, among others, to be given weight by the special magistrate ~~master~~ in arriving at a recommended decision shall include:

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

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

(3) The interest and welfare of the public.

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

(a) Hazards of employment.

(b) Physical qualifications.

(c) Educational qualifications.

(d) Intellectual qualifications.

(e) Job training and skills.

(f) Retirement plans.

(g) Sick leave.

(h) Job security.

(5) Availability of funds.

Section 83. Section 447.407, Florida Statutes, is amended to read:

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

Section 84. Section 447.409, Florida Statutes, is amended to read:

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

Section 85. Subsection (1) of section 475.011, Florida Statutes, is amended to read:

475.011 Exemptions.—This part does not apply to:

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

Section 86. Paragraphs (d), (f), (g), (h), and (j) of subsection (5) of section 489.127, Florida Statutes, are amended to read:

489.127 Prohibitions; penalties.—

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

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

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

2. Failure of a violator to appeal the decision of the code enforcement officer within the time period set forth in this paragraph shall constitute a

waiver of the violator's right to an administrative hearing. A waiver of the right to an administrative hearing shall be deemed an admission of the violation, and penalties may be imposed accordingly.

3. If the person issued the citation, or his or her designated representative, shows that the citation is invalid or that the violation has been corrected prior to appearing before the enforcement or licensing board or designated special magistrate master, the enforcement or licensing board or designated special magistrate master may dismiss the citation unless the violation is irreparable or irreversible.

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

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

1. The gravity of the violation.
2. Any actions taken by the violator to correct the violation.
3. Any previous violations committed by the violator.

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

(h) A certified copy of an order imposing a civil penalty against an uncertified contractor may be recorded in the public records and thereafter shall constitute a lien against any real or personal property owned by the violator. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state, including a levy against personal property; however, such order shall not be deemed to be a court judgment except for enforcement purposes. A civil penalty imposed pursuant to this part shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this subsection, whichever occurs first. After 3 months from the filing of any such lien which remains unpaid, the enforcement board or licensing board or designated special magistrate master may authorize the local governing body's attorney to foreclose on the lien. No lien created pursuant to the provisions of this part may be foreclosed on real property which is a homestead under s. 4, Art. X of the State Constitution.

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

Section 87. Paragraphs (d), (f), (g), (h), and (j) of subsection (4) of section 489.531, Florida Statutes, are amended to read:

489.531 Prohibitions; penalties.—

(4)

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

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

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

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

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

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

1. The gravity of the violation.

2. Any actions taken by the violator to correct the violation.
3. Any previous violations committed by the violator.

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

(h) A certified copy of an order imposing a civil penalty against an uncertified contractor may be recorded in the public records and thereafter shall constitute a lien against any real or personal property owned by the violator. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state, including a levy against personal property; however, such order shall not be deemed to be a court judgment except for enforcement purposes. A civil penalty imposed pursuant to this part shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever occurs first. After 3 months from the filing of any such lien which remains unpaid, the enforcement or licensing board or designated special magistrate ~~master~~ may authorize the local governing body's attorney to foreclose on the lien. No lien created pursuant to the provisions of this part may be foreclosed on real property which is a homestead under s. 4, Art. X of the State Constitution.

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

Section 88. Subsection (1) of section 496.420, Florida Statutes, is amended to read:

496.420 Civil remedies and enforcement.—

(1) In addition to other remedies authorized by law, the department may bring a civil action in circuit court to enforce ss. 496.401-496.424 or s. 496.426. Upon a finding that any person has violated any of these sections, a court may make any necessary order or enter a judgment including, but not limited to, a temporary or permanent injunction, a declaratory judgment, the appointment of a general or special magistrate ~~master~~ or receiver, the sequestration of assets, the reimbursement of persons from whom contributions have been unlawfully solicited, the distribution of contributions in accordance with the charitable or sponsor purpose expressed in the registration statement or in accordance with the representations made to the person solicited, the reimbursement of the department for investigative

costs, attorney's fees and costs, and any other equitable relief the court finds appropriate. Upon a finding that any person has violated any provision of ss. 496.401-496.424 or s. 496.426 with actual knowledge or knowledge fairly implied on the basis of objective circumstances, a court may enter an order imposing a civil penalty in an amount not to exceed \$10,000 per violation.

Section 89. Subsection (3) of section 501.207, Florida Statutes, is amended to read:

501.207 Remedies of enforcing authority.—

(3) Upon motion of the enforcing authority or any interested party in any action brought under subsection (1), the court may make appropriate orders, including, but not limited to, appointment of a general or special magistrate master or receiver or sequestration or freezing of assets, to reimburse consumers or governmental entities found to have been damaged; to carry out a transaction in accordance with the reasonable expectations of consumers or governmental entities; to strike or limit the application of clauses of contracts to avoid an unconscionable result; to order any defendant to divest herself or himself of any interest in any enterprise, including real estate; to impose reasonable restrictions upon the future activities of any defendant to impede her or him from engaging in or establishing the same type of endeavor; to order the dissolution or reorganization of any enterprise; or to grant legal, equitable, or other appropriate relief. The court may assess the expenses of a general or special magistrate master or receiver against a person who has violated, is violating, or is otherwise likely to violate this part. Any injunctive order, whether temporary or permanent, issued by the court shall be effective throughout the state unless otherwise provided in the order.

Section 90. Section 501.618, Florida Statutes, is amended to read:

501.618 General civil remedies.—The department may bring:

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

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

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

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

telephone seller. Any injunctive order, whether temporary or permanent, issued by the court shall be effective throughout the state unless otherwise provided in the order.

Section 91. Subsection (6) of section 559.936, Florida Statutes, is amended to read:

559.936 Civil penalties; remedies.—

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

Section 92. Subsection (1) of section 582.23, Florida Statutes, is amended to read:

582.23 Performance of work under the regulations by the supervisors.—

(1) The supervisors may go upon any lands within the district to determine whether land use regulations adopted are being observed. Where the supervisors of any district shall find that any of the provisions of land use regulations adopted are not being observed on particular lands, and that such nonobservance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, the supervisors may present to the circuit court for the county or counties within which the lands of the defendant may lie, a petition, duly verified, setting forth the adoption of the land use regulations, the failure of the defendant landowner or occupier to observe such regulations, and to perform particular work, operations, or avoidances as required thereby, and that such nonobservance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, and praying the court to require the defendant to perform the work, operations, or avoidances within a reasonable time and to order that if the defendant shall fail so to perform the supervisors may go on the land, perform the work or other operations or otherwise bring the condition of such lands into conformity with the requirements of such regulations, and recover the costs and expenses thereof, with interest, from the owner of such land. Upon the presentation of such petition the court shall cause process to be issued against the defendant, and shall hear the case. If it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a special magistrate ~~master~~ to take such evidence as it may direct and report the same to the court within her or his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made.

Section 93. Subsection (2) of section 631.182, Florida Statutes, is amended to read:

631.182 Receiver claims report and claimants objections procedure.—

(2) At the hearing, any interested person is entitled to appear. The hearing shall not be de novo but shall be limited to the record as described in s. 631.181(2). The court shall enter an order allowing, allowing in part, or disallowing the claim. Any such order is deemed to be an appealable order. In the interests of judicial economy, the court may appoint a special magistrate ~~master~~ to resolve objections or to perform any particular service required by the court. This subsection shall apply to receivership proceedings commencing prior to, or subsequent to, July 1, 1997.

Section 94. Subsections (3) and (4) of section 631.331, Florida Statutes, are amended to read:

631.331 Assessment prima facie correct; notice; payment; proceeding to collect.—

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

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

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

(b) Appears in the manner and form required by law in response to the order, the court shall hear and determine the matter and enter a judgment in accordance with its decision. In the interests of judicial economy, the court may appoint a special magistrate ~~master~~ to resolve objections or to perform any particular service required by the court. This paragraph shall apply to receivership proceedings commencing prior to, or subsequent to, July 1, 1997.

Section 95. Subsection (2) of section 633.052, Florida Statutes, is amended to read:

633.052 Ordinances relating to firesafety; definitions; penalties.—

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

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

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

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

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

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

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

Section 96. Subsection (2) of section 744.369, Florida Statutes, is amended to read:

744.369 Judicial review of guardianship reports.—

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

Section 97. Subsection (11) of section 760.11, Florida Statutes, is amended to read:

760.11 Administrative and civil remedies; construction.—

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

Section 98. Subsection (1) of section 837.011, Florida Statutes, is amended to read:

837.011 Definitions.—In this chapter, unless a different meaning plainly is required:

(1) “Official proceeding” means a proceeding heard, or which may be or is required to be heard, before any legislative, judicial, administrative, or other governmental agency or official authorized to take evidence under oath, including any referee, general or special magistrate master in chancery, administrative law judge, hearing officer, hearing examiner, commissioner, notary, or other person taking testimony or a deposition in connection with any such proceeding.

Section 99. Subsection (6) of section 838.014, Florida Statutes, is amended to read:

838.014 Definitions.—As used in this chapter, the term:

(6) “Public servant” means:

(a) Any officer or employee of a state, county, municipal, or special district agency or entity;

(b) Any legislative or judicial officer or employee;

(c) Any person, except a witness, who acts as a general or special magistrate ~~master~~, receiver, auditor, arbitrator, umpire, referee, consultant, or hearing officer while performing a governmental function; or

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

Section 100. Section 839.17, Florida Statutes, is amended to read:

839.17 Misappropriation of moneys by commissioners to make sales.— Any commissioner or general or special magistrate ~~master in chancery~~, having received the purchase money or the securities resulting from any of the sales authorized by law, who shall fail to deliver such moneys and securities, or either of them, to the executor or administrator, or the person entitled to receive the same, upon the order of the court, unless she or he is rendered unable to do so by some cause not attributable to her or his own default or neglect, shall be fined in a sum equal to the amount received from the purchaser, and commits ~~shall be guilty of~~ a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 101. Paragraph (a) of subsection (3) of section 916.107, Florida Statutes, is amended to read:

916.107 Rights of forensic clients.—

(3) RIGHT TO EXPRESS AND INFORMED CONSENT.—

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

1. In an emergency situation in which there is immediate danger to the safety of the client or others, such treatment may be provided upon the written order of a physician for a period not to exceed 48 hours, excluding weekends and legal holidays. If, after the 48-hour period, the client has not given express and informed consent to the treatment initially refused, the administrator or designee of the forensic facility shall, within 48 hours, excluding weekends and legal holidays, petition the committing court or the circuit court serving the county in which the facility is located, at the option of the facility administrator or designee, for an order authorizing the continued treatment of the client. In the interim, treatment may be continued

without the consent of the client upon the continued written order of a physician who has determined that the emergency situation continues to present a danger to the safety of the client or others.

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

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

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

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

Section 102. Subsection (11) of section 938.30, Florida Statutes, is amended to read:

938.30 Financial obligations in criminal cases; supplementary proceedings.—

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

Section 103. Subsection (3) of section 945.43, Florida Statutes, is amended to read:

945.43 Admission of inmate to mental health treatment facility.—

(3) PROCEDURE FOR HEARING ON TRANSFER OF AN INMATE FOR MENTAL HEALTH TREATMENT.—If the inmate does not waive a hearing or if the inmate or the inmate's representative files a petition for a hearing after having waived it, the court shall serve notice on the warden of the facility where the inmate is confined, the director, and the allegedly mentally ill inmate. The notice shall specify the date, time, and place of the hearing; the basis for the allegation of mental illness; and the names of the examining experts. The hearing shall be held within 5 days, and the court may appoint a general or special magistrate ~~master~~ to preside. The hearing may be as informal as is consistent with orderly procedure. One of the experts whose opinion supported the recommendation shall be present at the hearing for information purposes. If, at the hearing, the court finds that the inmate is mentally ill and in need of care and treatment, it shall order that he or she be transferred to a mental health treatment facility and provided appropriate treatment. The court shall provide a copy of its order authorizing transfer and all supporting documentation relating to the inmate's condition to the warden of the treatment facility. If the court finds that the inmate is not mentally ill, it shall dismiss the petition for transfer.

Section 104. This act shall take effect October 1, 2004.

Approved by the Governor April 6, 2004.

Filed in Office Secretary of State April 6, 2004.