

House Bill No. 1935

An act relating to the state judicial system; amending s. 27.40, F.S., relating to circuit registries for court-appointed counsel; requiring that a list of attorneys compiled by the Eleventh Judicial Circuit provide certain information on assigned attorneys; requiring that an attorney enter into a contract to be included on the registry; revising requirements for private court-appointed counsel; specifying certain information to be contained in a report by the Eleventh Judicial Circuit; requiring the Justice Administrative Commission to approve uniform procedures and forms for use in billing for attorney's fees, costs, and related expenses; requiring that a withdrawal order be filed with the commission; revising fee payment provisions; providing that withdrawal from a case creates a rebuttable presumption of nonentitlement to the entire flat fee; amending s. 27.42, F.S.; requiring the circuit Article V indigent services committee to establish the compensation rates for court-appointed counsel or in cases of indigency; requiring each committee to establish a schedule of allowances for due-process expenses; authorizing alternate models for providing criminal and civil due-process representation; requiring the Justice Administrative Commission to track and issue a report containing certain information on court-appointed counsel in the Eleventh Judicial Circuit; amending s. 27.52, F.S., relating to the determination of indigent status; providing for application to the clerk of court for such a determination and appointment of a public defender; providing application requirements; requiring an application fee; providing for transfer and deposit of such fees into the Indigent Criminal Defense Trust Fund to be used for certain purposes; authorizing clerks of courts to retain a portion of the fees for certain purposes; prescribing duties of the clerk of court and the public defender relating to an application; prescribing application requirements and review criteria; providing for determinations by a clerk on the basis of an applicant's indigency; providing criteria; providing for appointment of counsel on an interim basis; providing for review by the court of a clerk's determination; providing criteria; authorizing the court to determine a person indigent for costs and eligible for payment of due-process expenses; providing criteria and requirements for such determination; requiring certain parents or legal guardians to furnish legal services and costs to certain persons relating to delinquency proceedings or criminal prosecutions; providing for imposition of a lien for certain liabilities and lien enforcement; providing for a reevaluation of indigent status and referral to the state attorney upon evidence of financial discrepancies or fraud; providing for recovery and disposition of certain amounts recovered; providing criminal penalties for the provision of false information; amending s. 27.5304, F.S.; requiring certain private court-appointed counsel to enter into a uniform contract with Justice Administrative Commission and use the commission's uniform procedures and form for certain billing purposes; authorizing the Justice Administrative Commission to pay attorney's fees without court approval under

certain conditions; requiring the attorney to provide the commission with advance notice of a court hearing on payment of fees and costs; authorizing the commission to participate in such hearings using certain equipment; entitling private court-appointed counsel to compensation upon final disposition; providing exceptions; specifying intervals other than final disposition of a case at which private court-appointed counsel may request payment; clarifying a prohibition against allowing an attorney who is not on the registry to appear; restricting the reimbursement allowed for the preparation of invoices; requiring the Justice Administrative Commission to develop a schedule to provide partial payment for attorney fees under certain circumstances; amending s. 27.54, F.S.; requiring a county or municipality to pay certain costs for due-process services in local ordinance violation cases; prescribing assessment of fees to recover such costs; providing for determination and collection of such fees; amending s. 28.24, F.S.; requiring the clerk of the court to charge for certain recording services and performing certain duties; requiring the clerk of the court to provide without charge copies to court-appointed counsel paid by the state; requiring clerks of the court to participate in the Comprehensive Case Information System by a certain date; providing an exception to the designation of the clerk of court as custodian of official records; amending s. 28.2402, F.S.; prohibiting a county or municipality from being required to pay more than one filing fee for a single filing containing multiple allegations; prohibiting a filing fee for initiating certain enforcement proceedings; excluding certain counties having a consolidated government from the term “municipality”; amending s. 28.245, F.S.; requiring the clerks of the court to remit collections to the Department of Revenue within a specified period; amending s. 28.246, F.S.; conforming a reference to the Florida Clerks of Court Operations Corporation; revising provisions authorizing an individual to enter into a payment plan for the payment of fees, costs, or fines; requiring the clerk to enter into a payment plan with certain persons; providing payment plan criteria; providing for the court to review the payment plan; amending s. 28.345, F.S.; exempting certain court staff and court-appointed counsel from the payment of fees and charges assessed by the clerk of the circuit court; amending s. 28.36, F.S.; revising the date for the county clerk to submit a proposed budget; conforming a reference to the Florida Clerks of Court Operations Corporation; conforming a cross reference; conforming a reference to the Chief Financial Officer; providing conditions and requirements by which the Legislative Budget Commission may approve adjustments to the clerk’s maximum annual budget for court-related duties; amending s. 28.37, F.S.; expanding the types of excess funds that clerks of the court must remit to the Department of Revenue over the amount needed to meet approved budgets; creating s. 28.44, F.S.; providing a method by which the clerk of court may discontinue or substantially modify court-related functions; providing a definition; amending s. 29.004, F.S.; providing for state appropriations to be used for expert witnesses who are appointed by the court rather than requested by any party; amending s. 29.005, F.S.; deleting

certain appointed mental health professionals from elements of state attorneys' offices provided from state revenues; amending s. 29.007, F.S.; providing for state funds to be used in providing mental health professionals in certain civil cases; clarifying the use of state funds at the trial or appellate level to pay certain costs on behalf of a litigant who is indigent; amending s. 29.008, F.S.; requiring that the county where the appellate district is located fund the appellate division of the public defender's office; expanding the definition of the term "facility" to include items necessary for court-reporting services; narrowing a limitation on the application of certain requirements to specified facilities; including hearing rooms within those facilities funded by the county as a court-related function; including audio equipment within county-funded communications services; creating s. 29.0081, F.S.; authorizing counties and judicial circuits to agree to the funding of personnel positions for the circuit; providing requirements for such agreements; providing for the effect and limitation of such agreements; amending s. 29.015, F.S.; requiring the Justice Administrative Commission to adjust certain allocations of funds among circuits under certain circumstances; requiring notice of such adjustment; requiring the commission to request a budget amendment under certain circumstances to address budget deficits relating to due-process services; amending s. 29.018, F.S.; eliminating the authority for court-appointed counsel to contract to share in court and due-process services; providing that the Justice Administrative Commission may contract for such cost-sharing on behalf of court-appointed counsel; creating s. 29.0185, F.S.; prohibiting the provision of due process services with state revenues to individuals under certain circumstances; amending s. 34.045, F.S.; proscribing a county or municipality from being required to pay more than one filing fee for a single filing containing multiple allegations; prohibiting assessment of a filing fee for initiating certain enforcement proceedings in county court; expanding conditions under which the county or municipality is the prevailing party; requiring an assessment of a filing fee; amending s. 34.191, F.S.; excluding certain counties having a consolidated government from the term municipality; amending s. 39.0132, F.S.; authorizing the Justice Administrative Commission to inspect certain court dockets; authorizing the commission to petition the court for certain additional documentation; amending s. 39.821, F.S.; requiring the Guardian Ad Litem Program rather than the chief judge to request the federal criminal records check for purposes of certifying guardians ad litem; amending s. 39.822, F.S.; directing agencies, persons, and other organizations to provide a guardian ad litem access to certain records related to the best interests of a child; providing a definition; amending s. 40.29, F.S.; revising procedures for the payments made by the state to the clerk of the court for the costs of witnesses; creating s. 40.355, F.S.; requiring the clerk of the court to report on, and refund to the state attorneys and public defenders, certain moneys collected for payment of jurors and due-process costs; amending s. 43.16, F.S.; removing the Judicial Qualifications Commission from the duties of the Justice Administrative Commission and adding the Guardian ad Litem Program; providing that the

Justice Administrative Commission is not subject to the Administrative Procedure Act; amending s. 43.26, F.S.; providing responsibilities of the chief judge of each circuit; amending s. 44.102, F.S.; revising conditions under which nonvolunteer court mediators may be compensated by the county or parties; amending s. 44.103, F.S.; limiting the amount of per diem expenses an arbitrator may charge; amending s. 44.108, F.S.; clarifying the fees charged for scheduled mediation services provided by a circuit court's mediation program; requiring the clerk of the court to report to the chief judge the amount of such fees collected; amending s. 57.081, F.S.; providing a cross-reference to conform; creating s. 57.082, F.S., relating to the determination of civil indigent status; providing for application to the clerk of court for such a determination and appointment of a private attorney in certain civil cases; providing application requirements; prescribing duties of the clerk of court relating to an application; prescribing application requirements and review criteria; providing for determinations by a clerk of the basis of an applicant's indigency; providing criteria; providing for appointment of counsel on an interim basis; providing for review by the court of a clerk's determination; providing criteria; authorizing a court to determine a person indigent and eligible for appointed counsel; providing criteria and requirements for such determination; requiring persons determined to be indigent for civil proceedings to be enrolled in a payment plan and charged an administrative processing charge; providing plan criteria; providing for a reevaluation of indigent status and referral to the state attorney upon evidence of financial discrepancies or fraud; providing for recovery and disposition of certain amounts recovered; providing criminal penalties for the provision of false information; amending s. 92.142, F.S.; deleting a provision that provides for payment of per diem and travel expenses for a witness in a criminal case at the discretion of the court; amending s. 92.231, F.S.; removing a reference to the Article V Indigent Services Advisory Board; amending s. 110.205, F.S.; specifying that members, officers, and employees of the Justice Administrative Commission and certain related organizations are exempt positions under career service provisions; amending s. 116.01, F.S.; providing procedures for the clerk of the court to remit funds to the Department of Revenue; amending s. 116.21, F.S.; authorizing sheriffs and clerks of the courts to pay certain deposited or collected funds into a specific fine and forfeiture fund; requiring the clerk to pay for the cost of publication of the list of unclaimed court-related funds; requiring unclaimed funds to be deposited into the fine and forfeiture fund; amending s. 119.07, F.S.; extending the time period during which certain social security numbers and other data included in court or official county records may be available for public inspection unless redaction is requested; extending the deadline by which court clerks and county recorders must keep such data confidential; amending s. 142.01, F.S.; clarifying those moneys to be included within the fine and forfeiture fund of the clerk of the circuit court; amending s. 213.13, F.S.; requiring that the court-related collections remitted by the clerk to the state be transmitted electronically

within a specified period; amending s. 218.245, F.S.; revising the requirements for revenue sharing with respect to certain local governments; amending s. 219.07, F.S.; revising disbursement requirements for the clerk as part of his or her court-related functions; amending s. 219.075, F.S.; exempting funds collected by the clerk from the requirements for the investment of surplus funds of a county; amending s. 318.121, F.S.; specifying that certain surcharges may not be added to civil traffic penalties; amending s. 318.18, F.S.; authorizing a portion of certain surcharge revenues to be used for local law libraries; requiring the clerk of the court to quarterly report the amount of certain surcharges collected to the chief judge, the Governor, and the Legislature; authorizing certain local governments to impose by ordinance a surcharge on any infraction or violation in addition to certain noncriminal traffic infractions and certain criminal violations; providing for transfer of revenues from such surcharge for certain purposes; prohibiting a court from waiving the surcharge; providing for repeal; amending s. 318.21, F.S.; providing for the disposition of traffic-infraction penalties for violations occurring in unincorporated areas of certain counties having a consolidated government or unincorporated areas of certain municipalities having a consolidated government; amending s. 318.31, F.S.; deleting provisions concerning the appointment of a civil traffic infraction hearing officer; amending s. 328.32, F.S.; providing additional limitation on a hearing officer's authority; amending s. 318.325, F.S.; deleting provisions specifying the funding of such hearing officer; amending s. 322.29, F.S.; increasing the fees charged for reinstating a driver's license; amending s. 372.72, F.S.; requiring that the proceeds from unclaimed bonds be deposited into the clerk's fine and forfeiture fund; amending s. 903.26, F.S.; revising the procedure for determining the amount of the costs incurred in returning a defendant to the county of jurisdiction; amending s. 903.28, F.S.; revising certain notice requirements following the surrender or apprehension of a defendant for purposes of remission of a forfeiture; authorizing clerks of circuit courts to enter into contracts or interagency agreements to represent the clerk in certain actions; providing that the clerk is the real party in interest for all appeals arising from such an action; creating s. 903.286, F.S.; authorizing the clerk to withhold sufficient funds to pay any unpaid court fees, court costs, and criminal penalties under certain circumstances; authorizing the clerk to obtain payment from the defendant or enroll the defendant in a payment plan under certain circumstances; amending s. 916.115, F.S.; revising requirements for the payment of experts; specifying which fees are to be paid by the state, the office of the public defender, the office of the state attorney, or the Justice Administrative Commission; amending s. 916.12, F.S.; revising the procedures under which the court may take action following a finding that the defendant is incompetent to proceed; requiring evaluation of a defendant; providing criteria; authorizing a court to commit a defendant or take other action under certain circumstances; amending s. 916.301, F.S.; requiring the court to pay for certain expert witnesses appointed by the court; amending s.

938.29, F.S.; providing for a judgment lien for the payment of certain attorney's fees to be filed without cost; amending s. 939.06, F.S.; clarifying that an acquitted defendant is not liable for certain costs or fees; providing a procedure for such a defendant to request a refund from the Justice Administrative Commission of costs or fees paid; amending s. 939.185, F.S.; authorizing certain local governments to impose by ordinance in addition to certain court costs and other costs, fines, and penalties imposed by law a surcharge to be imposed by court on persons pleading guilty or nolo contendere to certain criminal offenses; providing for transfer of revenues from such surcharge for certain purposes; providing for repeal; amending s. 985.05, F.S.; authorizing the Justice Administrative Commission to have access to certain court records; authorizing circuit courts to share certain juvenile delinquency restitution orders; amending s. 985.201, F.S.; revising the manner in which a court may retain jurisdiction over a child and the child's parent when the court has ordered restitution for certain delinquent acts; requiring the party calling a witness in traffic court to bear the costs; requiring the office of the state attorney to pay such costs if the witness is required to testify on behalf of the prosecution; authorizing the trial court administrator to recover expenditures for state-funded services if those services were furnished to a user possessing the ability to pay; providing for deposit of such funds; authorizing the trial court administrator to recover certain costs under certain circumstances; requiring the chief judge to determine the rate, which may not exceed the cost of the service and recovery; providing legislative intent for revisions to ss. 28.2402, 34.191, and 318.21, F.S.; revising the maximum annual budget amount for the Clerk of the Circuit Court, Miami-Dade County; repealing s. 29.014, F.S., relating to the Article V Indigent Service Advisory Board; repealing s. 318.37, F.S., relating to funding for a Civil Traffic Infraction Hearing Officer Program; amending s. 938.19, F.S.; authorizing a board of county commissioners to adopt an ordinance that incorporates the provisions of the act; providing funding for a teen court through the assessment of an additional court cost against each person who pleads guilty or nolo contendere to, or is convicted of, a violation of a criminal law, an ordinance, or a traffic offense in the county; providing exceptions; providing for administration by the clerk of the circuit court; authorizing the clerk of the circuit court to retain a specified percentage of the assessments collected; requiring the teen court to account for all funds received; requiring an annual report to the board of county commissioners by a specified date; authorizing specified organizations to administer a teen court program; prohibiting teen courts in counties adopting an ordinance from receiving court costs under s. 939.185, F.S.; amending s. 939.185, F.S.; providing an exception for teen court funding; providing appropriations; providing effective dates.

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

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

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

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

(3) In utilizing a registry:

(a) Each circuit Article V indigent services committee shall compile and maintain a list of attorneys in private practice, by county and by category of cases. From October 1, 2005, through September 30, 2007, the list of attorneys compiled by the Eleventh Judicial Circuit shall provide the race, gender, and national origin of assigned attorneys. To be included on a registry, attorneys shall certify that they meet any minimum requirements established in general law for court appointment, are available to represent indigent defendants in cases requiring court appointment of private counsel, and are willing to abide by the terms of the contract for services. To be included on a registry, an attorney also must enter into a contract for services with the Justice Administrative Commission. Failure to comply with the terms of the contract for services may result in termination of the contract and removal from the registry. Each attorney on the registry shall be responsible for notifying the circuit Article V indigent services committee and the Justice Administrative Commission of any change in his or her status. Failure to comply with this requirement shall be cause for termination of the contract for services and removal from the registry until the requirement is fulfilled.

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

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

(d) Quarterly, ~~beginning no later than October 1, 2004,~~ each circuit Article V indigent services committee shall provide a current copy of each registry to the Chief Justice of the Supreme Court, the chief judge, the state attorney and public defender in each judicial circuit, and the clerk of court in each county, the Justice Administrative Commission, and the Indigent Services Advisory Board with a current copy of each registry. From October 1, 2005, through September 30, 2007, the report submitted by the Eleventh Judicial Circuit shall include the race, gender, and national origin of all attorneys listed in and appointed under the registry.

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

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

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

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

27.42 Circuit Article V indigent services committees; composition; staff; responsibilities; funding.—

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

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

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

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

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

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

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

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

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

(d) Each circuit Article V indigent services committee shall establish a schedule of standard allowances for due-process expenses for cases in which the court has declared a person indigent for costs, within the amount of appropriated funds allocated by the Justice Administrative Commission to the circuit for this purpose.

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

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

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

(b) Funds for criminal conflict attorney's fees and expenses shall be appropriated by the Legislature in a separate appropriations category within the Justice Administrative Commission. These funds shall be allocated to each circuit as prescribed in the General Appropriations Act.

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

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

The Justice Administrative Commission shall separately track expenditures on private court-appointed counsel for the following categories of cases: criminal conflict, civil conflict, dependency and termination of parental rights, and guardianship. From October 1, 2005, through September 30, 2007, the Justice Administrative Commission shall also track and issue a report on the race, gender, and national origin of private court-appointed counsel for the Eleventh Judicial Circuit.

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

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

27.52 Determination of indigent status.—

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

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

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

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

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

4. All liabilities and debts.

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

The application must include a signature by the applicant which attests to the truthfulness of the information provided. The application form developed by the corporation must include notice that the applicant may seek

court review of a clerk's determination that the applicant is not indigent, as provided in this section.

(b) An applicant shall pay a \$40 application fee to the clerk for each application for court-appointed counsel filed. The applicant shall pay the fee within 7 days after submitting the application. If the applicant does not pay the fee prior to the disposition of the case, the clerk shall notify the court, and the court shall:

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

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

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

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

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

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

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

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

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

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

1. The applicant is not indigent.
2. The applicant is indigent.

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

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

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

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

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

(4) REVIEW OF CLERK'S DETERMINATION.—

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

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

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

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

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

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

1. The applicant is not indigent.

2. The applicant is indigent.

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

(a) The person must submit to the court:

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

2. In the case of a person represented by counsel, an affidavit attesting to the estimated amount of attorney's fees and the source of payment for these fees.

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

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

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

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

4. Whether the applicant is proceeding pro se.

5. When the applicant retained private counsel.

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

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

1. The applicant is not indigent for costs.

2. The applicant is indigent for costs.

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

(6) DUTIES OF PARENT OR LEGAL GUARDIAN.—A nonindigent parent or legal guardian of an applicant who is a minor or an adult tax-dependent person shall furnish the minor or adult tax-dependent person with the necessary legal services and costs incident to a delinquency proceeding or, upon transfer of such person for criminal prosecution as an adult pursuant to chapter 985, a criminal prosecution in which the person has a right to legal counsel under the Constitution of the United States or the Constitution of the State of Florida. The failure of a parent or legal guardian to furnish legal services and costs under this section does not bar the appointment of legal counsel pursuant to this section, s. 27.40, or s. 27.5303. When the public defender, a private court-appointed conflict counsel, or a private attorney is appointed to represent a minor or an adult tax-dependent person in any proceeding in circuit court or in a criminal proceeding in any other court, the parents or the legal guardian shall be liable for payment of the fees, charges, and costs of the representation even if the person is a minor being tried as an adult. Liability for the fees, charges, and costs of the representation shall be imposed in the form of a lien against the property of the nonindigent parents or legal guardian of the minor or adult tax-dependent person. The lien is enforceable as provided in s. 27.561 or s. 938.29.

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

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

(b) If the court has reason to believe that any applicant, through fraud or misrepresentation, was improperly determined to be indigent or indigent for costs, the matter shall be referred to the state attorney. Twenty-five percent of any amount recovered by the state attorney as reasonable value of the services rendered, including fees, charges, and costs paid by the state

on the person's behalf, shall be remitted to the Department of Revenue for deposit into the Grants and Donations Trust Fund within the Justice Administrative Commission. Seventy-five percent of any amount recovered shall be remitted to the Department of Revenue for deposit into the General Revenue Fund.

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

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

27.5304 Private court-appointed counsel; compensation.—

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

(2) The Justice Administrative Commission shall review an intended billing by private court-appointed counsel for attorney's fees based on a flat fee per case for completeness and compliance with contractual, statutory, and circuit Article V indigent services committee requirements. The commission may approve the intended bill for a flat fee per case for payment without approval by the court if the intended billing is correct. For all other intended billings, prior to filing a motion for an order approving payment of attorney's fees, costs, or related expenses, the private court-appointed counsel shall deliver a copy of the intended billing, together with supporting affidavits and all other necessary documentation, to the Justice Administrative Commission. The Justice Administrative Commission shall review the billings, affidavit, and documentation for completeness and compliance with contractual and statutory requirements. If the Justice Administrative Commission objects to any portion of the proposed billing, the objection and reasons therefor shall be communicated to the private court-appointed counsel. The private court-appointed counsel may thereafter file his or her motion for order approving payment of attorney's fees, costs, or related expenses together with supporting affidavits and all other necessary documentation. The motion must specify whether the Justice Administrative Commission objects to any portion of the billing or the sufficiency of documentation and shall attach the Justice Administrative Commission's letter stating

its objection. The attorney shall have the burden to prove the entitlement to attorney's fees, costs, or related expenses, if so, the reasons therefor. A copy of the motion and attachments shall be served on the Justice Administrative Commission at least 5 business days prior to the date of a hearing. The Justice Administrative Commission shall have standing to appear before the court to contest any motion for order approving payment of attorney's fees, costs, or related expenses and may participate in a hearing on the motion by use of telephonic or other communication equipment unless ordered otherwise. The Justice Administrative Commission may contract with other public or private entities or individuals to appear before the court for the purpose of contesting any motion for order approving payment of attorney's fees, costs, or related expenses. The fact that the Justice Administrative Commission has not objected to any portion of the billing or to the sufficiency of the documentation is not binding on the court. The court retains primary authority and responsibility for determining the reasonableness of all billings for attorney's fees, costs, and related expenses, subject to statutory limitations. Private court-appointed counsel is entitled to compensation upon final disposition of a case, except as provided in subsections (7), (8), and (10). Before final disposition of a case, a private court-appointed counsel may file a motion for fees, costs, and related expenses for services completed up to the date of the motion in any case or matter in which legal services have been provided by the attorney for more than 1 year. The amount approved by the court may not exceed 80 percent of the fees earned, or costs and related expenses incurred, to date, or an amount proportionate to the maximum fees permitted under this section based on legal services provided to date, whichever is less. The court may grant the motion if counsel shows that failure to grant the motion would work a particular hardship upon counsel.

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

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

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

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

(c) Following a judicial review hearing.

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

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

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

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

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

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

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

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

(2) A county or municipality may contract with, or appropriate or contribute funds to, the operation of the offices of the various public defenders as provided in this subsection. A public defender defending violations of special laws or county or municipal ordinances punishable by incarceration and not ancillary to a state charge shall contract with counties and municipalities to recover the full cost of services rendered on an hourly basis or reimburse the state for the full cost of assigning one or more full-time equivalent attorney positions to work on behalf of the county or municipality. Notwithstanding any other provision of law, in the case of a county with a population of less than 75,000, the public defender shall contract for full reimbursement, or for reimbursement as the parties otherwise agree. In local ordinance violation cases, the county or municipality shall pay for due-process services that are approved by the court, including deposition costs, deposition transcript costs, investigative costs, witness fees, expert witness costs, and interpreter costs. The person charged with the violation shall be assessed a fee for the services of a public defender and other costs and fees paid by the county or municipality, which assessed fee may be reduced to a lien, in all instances in which the person enters a plea of guilty or no contest or is found to be in violation or guilty of any count or lesser included offense of the charge or companion case charges, regardless of adjudication. The court shall determine the amount of the obligation. The county or municipality may recover assessed fees through collections court or as otherwise permitted by law and any fees recovered pursuant to this section shall be forwarded to the applicable county or municipality as reimbursement.

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

(b) A contract for assigning one or more full-time equivalent attorney positions to perform work on behalf of the county or municipality shall assign one or more full-time equivalent positions based on estimates by the public defender of the number of hours required to handle the projected workload. The full cost of each full-time equivalent attorney position on an annual basis shall be \$50, or the amount specified in the General Appropriations Act, multiplied by the legislative budget request standard for available work hours for one full-time equivalent attorney position, or, in the absence of that standard, 1,854 hours. The contract may provide for funding full-time equivalent positions in one-quarter increments.

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

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

28.24 Service charges by clerk of the circuit court.—The clerk of the circuit court ~~shall~~ may charge for services rendered by the clerk’s office in recording documents and instruments and in performing the duties enumerated in amounts not to exceed those specified in this section. Notwithstanding any other provision of this section, the clerk of the circuit court shall provide without charge to the state attorney, public defender, ~~and guardian ad litem, public guardian, attorney ad litem, and court-appointed counsel paid by the state,~~ and to the authorized staff acting on behalf of each, access to and a copy of any public record, if the requesting party is entitled by law to view the exempt or confidential record, as maintained by and in the custody of the clerk of the circuit court as provided in general law and the Florida Rules of Judicial Administration. The clerk of the circuit court may provide the requested public record in an electronic format in lieu of a paper format when capable of being accessed by the requesting entity.

Charges

- (1) For examining, comparing, correcting, verifying, and certifying transcripts of record in appellate proceedings, prepared by attorney for appellant or someone else other than clerk per page 4.50
- (2) For preparing, numbering, and indexing an original record of appellate proceedings, per instrument 3.00
- (3) For certifying copies of any instrument in the public records 1.50
- (4) For verifying any instrument presented for certification prepared by someone other than clerk, per page 3.00
- (5)(a) For making copies by photographic process of any instrument in the public records consisting of pages of not more than 14 inches by 8½ inches, per page 1.00
- (b) For making copies by photographic process of any instrument in the public records of more than 14 inches by 8½ inches, per page 5.00

- (6) For making microfilm copies of any public records:
 - (a) 16 mm 100' microfilm roll 37.50
 - (b) 35 mm 100' microfilm roll 52.50
 - (c) Microfiche, per fiche 3.00
- (7) For copying any instrument in the public records by other than photographic process, per page 6.00
- (8) For writing any paper other than herein specifically mentioned, same as for copying, including signing and sealing 6.00
- (9) For indexing each entry not recorded 1.00
- (10) For receiving money into the registry of court:
 - (a)1. First \$500, percent 3
 - 2. Each subsequent \$100, percent 1.5
 - (b) Eminent domain actions, per deposit \$150.00
- (11) For examining, certifying, and recording plats and for recording condominium exhibits larger than 14 inches by 8½ inches:
 - (a) First page 30.00
 - (b) Each additional page 15.00
- (12) For recording, indexing, and filing any instrument not more than 14 inches by 8½ inches, including required notice to property appraiser where applicable:
 - (a) First page or fraction thereof 5.00
 - (b) Each additional page or fraction thereof 4.00
 - (c) For indexing instruments recorded in the official records which contain more than four names, per additional name 1.00
 - (d) An additional service charge shall be paid to the clerk of the circuit court to be deposited in the Public Records Modernization Trust Fund for each instrument listed in s. 28.222, except judgments received from the courts and notices of lis pendens, recorded in the official records:
 - 1. First page 1.00
 - 2. Each additional page 0.50

Said fund shall be held in trust by the clerk and used exclusively for equipment and maintenance of equipment, personnel training, and technical assistance in modernizing the public records system of the office. In a county where the duty of maintaining official records exists in an office other than

the office of the clerk of the circuit court, the clerk of the circuit court is entitled to 25 percent of the moneys deposited into the trust fund for equipment, maintenance of equipment, training, and technical assistance in modernizing the system for storing records in the office of the clerk of the circuit court. The fund may not be used for the payment of travel expenses, membership dues, bank charges, staff-recruitment costs, salaries or benefits of employees, construction costs, general operating expenses, or other costs not directly related to obtaining and maintaining equipment for public records systems or for the purchase of furniture or office supplies and equipment not related to the storage of records. On or before December 1, 1995, and on or before December 1 of each year immediately preceding each year during which the trust fund is scheduled for legislative review under s. 19(f)(2), Art. III of the State Constitution, each clerk of the circuit court shall file a report on the Public Records Modernization Trust Fund with the President of the Senate and the Speaker of the House of Representatives. The report must itemize each expenditure made from the trust fund since the last report was filed; each obligation payable from the trust fund on that date; and the percentage of funds expended for each of the following: equipment, maintenance of equipment, personnel training, and technical assistance. The report must indicate the nature of the system each clerk uses to store, maintain, and retrieve public records and the degree to which the system has been upgraded since the creation of the trust fund.

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

1. If the counties maintain legal responsibility for the costs of the court-related technology needs as defined in s. 29.008(1)(f)2. and (h), 10 cents shall be distributed to the Florida Association of Court Clerks and Comptroller, Inc., for the cost of development, implementation, operation, and maintenance of the clerks' Comprehensive Case Information System, in which system all clerks shall participate on or before January 1, 2006; \$1.90 shall be retained by the clerk to be deposited in the Public Records Modernization Trust Fund and used exclusively for funding court-related technology needs of the clerk as defined in s. 29.008(1)(f)2. and (h); and \$2 shall be distributed to the board of county commissioners to be used exclusively to fund court-related technology, and court technology needs as defined in s. 29.008(1)(f)2. and (h) for the state trial courts, state attorney, and public defender in that county. If the counties maintain legal responsibility for the costs of the court-related technology needs as defined in s. 29.008(1)(f)2. and (h), notwithstanding any other provision of law, the county is not required to provide additional funding beyond that provided herein for the court-related technology needs of the clerk as defined in s. 29.008(1)(f)2. and (h). All court records and official records are the property of the State of Florida, including any records generated as part of the Comprehensive Case Information System funded pursuant to this paragraph and the clerk of court is designated as the custodian of such records, except in a county where the duty of maintaining official records exists in a county office other than the clerk of court or comptroller, such county office is designated the custodian of all official records, and the clerk of court is designated the custodian of all court

records. The clerk of court or any entity acting on behalf of the clerk of court, including an association, shall not charge a fee to any agency as defined in s. 119.011, the Legislature, or the State Court System for copies of records generated by the Comprehensive Case Information System or held by the clerk of court or any entity acting on behalf of the clerk of court, including an association.

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

- (13) Oath, administering, attesting, and sealing, not otherwise provided for herein 3.00
- (14) For validating certificates, any authorized bonds, each 3.00
- (15) For preparing affidavit of domicile 5.00
- (16) For exemplified certificates, including signing and sealing . . 6.00
- (17) For authenticated certificates, including signing and seal-
ing 6.00
- (18)(a) For issuing and filing a subpoena for a witness, not otherwise
provided for herein (includes writing, preparing, signing, and seal-
ing) 6.00
- (b) For signing and sealing only 1.50
- (19) For approving bond 7.50
- (20) For searching of records, for each year's search 1.50
- (21) For processing an application for a tax deed sale (includes applica-
tion, sale, issuance, and preparation of tax deed, and disbursement of pro-
ceeds of sale), other than excess proceeds 60.00
- (22) For disbursement of excess proceeds of tax deed sale, first \$100 or
fraction thereof 10.00
- (23) Upon receipt of an application for a marriage license, for preparing
and administering of oath; issuing, sealing, and recording of the marriage
license; and providing a certified copy 30.00
- (24) For solemnizing matrimony 30.00
- (25) For sealing any court file or expungement of any record . . 37.50
- (26)(a) For receiving and disbursing all restitution payments, per pay-
ment 3.00
- (b) For receiving and disbursing all partial payments, other than restitu-
tion payments, for which an administrative processing service charge is not
imposed pursuant to s. 28.246, per month 5.00

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

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

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

Section 7. Effective upon this act becoming a law, paragraph (a) of subsection (1) and subsection (2) of section 28.2402, Florida Statutes, are amended to read:

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

(1)(a) In lieu of payment of a filing fee under s. 28.241, a filing fee of \$10 shall be paid by a county or municipality when filing a county or municipal ordinance violation or violation of a special law in circuit court. This fee shall be paid to the clerk of the court for performing court-related functions. A county or municipality is not required to pay more than one filing fee for a single filing against a single defendant that contains multiple alleged violations. A filing fee, other than that imposed under this section, may not be assessed for initiating an enforcement proceeding in circuit court for a violation of a county or municipal code or ordinance or a violation of a special law. The filing fee shall not apply to instances in which a county or municipality has contracted with the state, or has been delegated by the state, responsibility for enforcing state operations, policies, or requirements under s. 125.69, s. 166.0415, or chapter 162.

(2) To offset costs incurred by the clerks of the court in performing court-related functions associated with the processing of violations of special laws and municipal ordinances, 10 percent of the total amount of fines paid to each municipality for special law or ordinance violations filed in circuit court shall be retained by the clerk of the court for deposit into the clerk’s fine and forfeiture fund established pursuant to s. 142.01, except for fines a portion of which the clerk of the court retains pursuant to any other provision of state law. A municipality does not include the unincorporated areas, if any, of a government created pursuant to s. 6(e), Art. VIII of the State Constitution.

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

28.245 Transmittal of funds to Department of Revenue; uniform remittance form required.—Notwithstanding any other provision of law, all moneys collected by the clerks of the court as part of the clerk’s court-related functions for subsequent distribution to any state entity must be transmitted electronically, by the 20th day of the month immediately following the month in which the moneys are collected, to the Department of Revenue for appropriate distribution. A uniform remittance form provided by the Department of Revenue detailing the specific amounts due each fund must accompany such submittal. All moneys collected by the clerks of court for

remittance to any entity must be distributed pursuant to the law in effect at the time of collection.

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

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

(1) Beginning July 1, 2003, the clerk of the circuit court shall report the following information to the Legislature and the Florida Clerks Clerk of Court Operations Corporation ~~Conference~~ on a form developed by the Department of Financial Services:

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

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

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

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

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

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

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

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

Section 11. Paragraph (a) of subsection (3) and paragraph (b) of subsection (4) of section 28.36, Florida Statutes, are amended, subsection (6) is renumbered as subsection (7), and a new subsection (6) is added to said section, to read:

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

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

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

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

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

(6) The Legislative Budget Commission may approve increases to the maximum annual budgets approved for individual clerks of the court pursuant to s. 28.36 for court related duties, if either of the following conditions exist:

(a) The additional funding is necessary to pay the cost of performing new or additional functions required by changes in law or court rule. Before the Legislative Budget Commission may approve an increase in the maximum annual budget of any clerk under this paragraph, the Clerk of the Court Operations Corporation must provide the Legislative Budget Commission with a statement of the impact of the proposed budget changes on state revenues, and evidence that the respective clerk of the court is meeting or exceeding the established performance standards for measures on the fiscal management, operational efficiency, and effective collection of fines, fees, service charges, and court costs.

(b) The additional funding is necessary to pay the cost of supporting increases in the number of judges or magistrates authorized by the Legislature. Before the Legislative Budget Commission may approve an increase in the maximum annual budget of any clerk under this paragraph, the Clerk of the Court Operations Corporation must provide the Legislative Budget Commission with a statement of the impact of the proposed budget changes on state revenues; evidence that the respective clerk of the court is meeting or exceeding the established performance standards for measures on the fiscal management, operational efficiency, and effective collection of fines, fees, service charges, and court costs; and a proposed staffing model, including the cost and number of staff necessary to support each new judge or magistrate.

The total amount of increases approved by the Legislative Budget Commission for each county fiscal year shall not exceed an amount equal to 2 percent of the maximum annual budgets approved pursuant to s. 28.36 for all clerks, in the aggregate, for that same county fiscal year.

~~(7)~~⁽⁶⁾ The corporation may submit proposed legislation to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than November 1 in any year for approval of clerk budget request amounts exceeding the restrictions in this section for the following October 1. If proposed legislation is recommended, the corporation shall also submit supporting justification with sufficient detail to identify the specific proposed expenditures that would cause the limitations to be exceeded for each affected clerk and the estimated fiscal impact on state revenues.

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

28.37 Fines, fees, service charges, and costs remitted to the state.—

(4) Beginning January 1, 2005, for the period July 1, 2004, through September 30, 2004, and each January 1 thereafter for the preceding county fiscal year of October 1 through September 30, the clerk of the court must remit to the Department of Revenue for deposit in the General Revenue

Fund the cumulative excess of all fees, service charges, court costs, and fines retained by the clerks of the court, plus any funds received by the clerks of the court from the Department of Revenue Clerk of the Court Trust Fund under s. 28.36(4)(a), over the amount needed to meet the approved budget amounts established under s. 28.36.

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

28.44 Clerk discontinuance of court-related functions.—

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

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

(b) The clerk of court has given written notice of the intention to substantially modify or discontinue a function performed in support of the trial court at least one year before the effective date of the discontinuance or substantial modification of the function.

(2) “Substantial modification” of a function performed in support of the trial court means a modification which has the effect of reducing the level of services provided to the trial court.

Section 14. Subsection (6) of section 29.004, Florida Statutes, 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:

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

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

29.005 State attorneys’ offices and prosecution expenses.—For purposes of implementing s. 14, Art. V of the State Constitution, the elements of the state attorneys’ offices to be provided from state revenues appropriated by general law are as follows:

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

~~(4)(5)~~ Reasonable transportation services in the performance of constitutional and statutory responsibilities. Motor vehicles owned by the counties

and provided exclusively to state attorneys as of July 1, 2003, and any additional vehicles owned by the counties and provided exclusively to state attorneys during fiscal year 2003-2004 shall be transferred by title to the state effective July 1, 2004.

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

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

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

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

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

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

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

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

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

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

(6) Reasonable pretrial consultation fees and costs.

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

Subsections (3), (4), (5), (6), and (7) apply when court-appointed counsel is appointed; when the court determines that the litigant is indigent for costs; or when the litigant is acting pro se and the court determines that the litigant is indigent for costs at the trial or appellate level. This section

applies in any situation in which the court appoints counsel to protect a litigant's due-process rights. The Justice Administrative Commission shall approve uniform contract forms for use in processing payments for due process services under this section. In each case in which a private attorney represents a person determined by the court to be indigent for costs, the attorney shall execute the commission's contract for private attorneys representing persons determined to be indigent for costs.

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

29.008 County funding of court-related functions.—

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

(a) "Facility" means reasonable and necessary buildings and office space and appurtenant equipment and furnishings, structures, real estate, easements, and related interests in real estate, including, but not limited to, those for the purpose of housing legal materials for use by the general public and personnel, equipment, or functions of the circuit or county courts, public defenders' offices, state attorneys' offices, and court-related functions of the office of the clerks of the circuit and county courts and all storage. The term "facility" includes all wiring necessary for court-reporting services. The term also includes access to parking for such facilities in connection with such court-related functions that may be available free or from a private provider or a local government for a fee. The office space provided by a county may not be less than the standards for space allotment adopted by the Department of Management Services, except this requirement applies only to facilities that are leased, or on which construction commences, after June 30, 2003. County funding must include physical modifications and improvements to all facilities as are required for compliance with the Americans with Disabilities Act. Upon mutual agreement of a county and the affected entity in this paragraph, the office space provided by the county may vary from the standards for space allotment adopted by the Department of Management Services. ~~This section applies only to facilities that are leased, or on which construction commences, after June 30, 2003.~~

1. As of July 1, 2005, equipment and furnishings shall be limited to that appropriate and customary for courtrooms, hearing rooms, jury facilities, and other public areas in courthouses and any other facility occupied by the courts, state attorneys, and public defenders. Court-reporting equipment in these areas or facilities is not a responsibility of the county.

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

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

(c) “Maintenance” includes, but is not limited to, all reasonable and necessary costs of custodial and groundskeeping services and renovation and reconstruction as needed to accommodate functions for the circuit and county courts, the public defenders’ offices, and state attorneys’ offices and for performing the court-related functions of the offices of the clerks of the circuit and county court and for maintaining the facilities in a condition appropriate and safe for the use intended.

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

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

(f) “Communications services” are defined as any reasonable and necessary transmission, emission, and reception of signs, signals, writings, images, and sounds of intelligence of any nature by wire, radio, optical, audio equipment, or other electromagnetic systems and includes all facilities and equipment owned, leased, or used by judges, clerks, public defenders, state attorneys, and all staff of the state courts system, state attorneys’ offices, public defenders’ offices, and clerks of the circuit and county courts performing court-related functions. Such system or services shall include, but not be limited to:

1. Telephone system infrastructure, including computer lines, telephone switching equipment, and maintenance, and facsimile equipment, wireless

communications, cellular telephones, pagers, and video teleconferencing equipment and line charges. Each county shall continue to provide access to a local carrier for local and long distance service and shall pay toll charges for local and long distance service.

2. All computer networks, systems and equipment, including computer hardware and software, modems, printers, wiring, network connections, maintenance, support staff or services including any county-funded support staff located in the offices of the circuit court, county courts, state attorneys, and public defenders, training, supplies, and line charges necessary for an integrated computer system to support the operations and management of the state courts system, the offices of the public defenders, the offices of the state attorneys, and the offices of the clerks of the circuit and county courts and the capability to connect those entities and reporting data to the state as required for the transmission of revenue, performance accountability, case management, data collection, budgeting, and auditing purposes. The integrated computer system shall be operational by July 1, 2006, and, at a minimum, permit the exchange of financial, performance accountability, case management, case disposition, and other data across multiple state and county information systems involving multiple users at both the state level and within each judicial circuit and be able to electronically exchange judicial case background data, sentencing scoresheets, and video evidence information stored in integrated case management systems over secure networks. Once the integrated system becomes operational, counties may reject requests to purchase communication services included in this subparagraph not in compliance with standards, protocols, or processes adopted by the board established pursuant to s. 29.0086.

3. Courier messenger and subpoena services.

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

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

(h) "Existing multiagency criminal justice information systems" includes, but is not limited to, those components of the multiagency criminal justice information system as defined in s. 943.045, supporting the offices

of the circuit or county courts, the public defenders' offices, the state attorneys' offices, or those portions of the offices of the clerks of the circuit and county courts performing court-related functions that are used to carry out the court-related activities of those entities. This includes upgrades and maintenance of the current equipment, maintenance and upgrades of supporting technology infrastructure and associated staff, and services and expenses to assure continued information sharing and reporting of information to the state. The counties shall also provide additional information technology services, hardware, and software as needed for new judges and staff of the state courts system, state attorneys' offices, public defenders' offices, and the offices of the clerks of the circuit and county courts performing court-related functions.

Section 18. Section 29.0081, Florida Statutes, is created to read:

29.0081 County funding of additional court personnel.—

(1) A county and the chief judge of a judicial circuit that includes that county may enter into an agreement under which the county funds personnel positions to assist in the operation of the circuit.

(2) The agreement shall, at a minimum, provide that:

(a) Funding for the positions is provided on at least a court fiscal-year basis.

(b) The personnel whose employment is funded under the agreement are employees of the judicial circuit and are hired, supervised, managed, and fired by personnel of the judicial circuit.

(c) The positions terminate upon the expiration of, or substantial breach of, the agreement or upon the expiration of county funding for the positions.

(3) Positions funded under this section shall be full-time equivalent positions of the judicial circuit but shall not count against any formula or similar process used by the Office of the State Courts Administrator to determine personnel needs or levels of a judicial circuit.

(4) Nothing in this section obligates the state to fund any personnel positions.

Section 19. Subsection (2) of section 29.015, Florida Statutes, is amended to read:

29.015 Contingency fund; limitation of authority to transfer funds in contracted due process services appropriation categories.—

(2) In the event that a state attorney or public defender incurs a deficit in a contracted due process services appropriation category, the following steps shall be taken in order:

(a) The state attorney or public defender shall first attempt to identify surplus funds from other appropriation categories within his or her office

and submit a budget amendment pursuant to chapter 216 to transfer funds from within the office.

(b) In the event that the state attorney or public defender is unable to identify surplus funds from within his or her office, he or she shall certify this to the Justice Administrative Commission along with a complete explanation of the circumstances which led to the deficit and steps the office has taken to reduce or alleviate the deficit. The Justice Administrative Commission shall inquire as to whether any other office has surplus funds in its contracted due process services appropriation categories which can be transferred to the office that is experiencing the deficit. If other offices indicate that surplus funds are available within the same appropriation category, the Justice Administrative Commission shall transfer the amount needed to fund the deficit and notify the Governor and the chair and vice chair of the Legislative Budget Commission 14 days prior to a transfer pursuant to the notice, review, and objection provisions of s. 216.177. If funds appropriated for this purpose are available in a different budget entity, the Justice Administrative Commission shall request a budget amendment pursuant to chapter 216 ~~request a budget amendment to transfer funds from the office or offices to alleviate the deficit upon agreement of the contributing office or offices.~~

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

Section 20. Section 29.018, Florida Statutes, is amended to read:

29.018 ~~Cost sharing of due-process services due-process costs; legislative intent.—It is the intent of the Legislature to provide state-funded due-process due-process services to the state courts system, state attorneys, public defenders, and court-appointed counsel in the most cost-effective and efficient manner. The state courts system, state attorneys, public defenders, and the Justice Administrative Commission on behalf of court-appointed counsel may enter into contractual agreements to share, on a pro rata basis, the costs associated with court reporting services, court interpreter and translation services, court experts, and all other due-process due-process services funded by the state pursuant to this chapter. These costs shall be budgeted within the funds appropriated to each of the affected users of services.~~

Section 21. Section 29.0185, Florida Statutes, is created to read:

29.0185 Provision of state-funded due-process services to individuals.—Due-process services may not be provided with state revenues to an individual unless the individual on whose behalf the due-process services are being provided is eligible for court-appointed counsel under s. 27.40, based upon

a determination of indigency under s. 27.52, regardless of whether such counsel is appointed or the individual on whose behalf the due process services are being provided is eligible for court-appointed counsel under s. 27.40 and has been determined indigent for costs pursuant to s. 27.52.

Section 22. Subsection (1) of section 34.045, Florida Statutes, is amended to read:

34.045 Cost recovery; use of the county court for ordinance or special law violations.—

(1)(a) In lieu of payment of a filing fee under s. 34.041, a filing fee of \$10 shall be paid by a county or municipality when filing a violation of a county or municipal ordinance or a violation of a special law in county court. This fee shall be paid to the clerk of the court for performing court-related functions. A county or municipality is not required to pay more than one filing fee for a single filing against a single defendant that contains multiple alleged violations. A filing fee, other than that imposed under this section, may not be assessed for initiating an enforcement proceeding in county court for a violation of a county or municipal code or ordinance or a violation of a special law. The filing fee shall not apply to instances in which a county or municipality has contracted with the state, or has been delegated by the state, responsibility for enforcing state operations, policies, or requirements under s. 125.69, s. 166.0415, or chapter 162.

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

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

Section 23. Effective upon this act becoming a law, section 34.191, Florida Statutes, is amended to read:

34.191 Fines and forfeitures; dispositions.—

(1) All fines and forfeitures arising from offenses tried in the county court shall be collected and accounted for by the clerk of the court and, other than the charge provided in s. 318.1215, disbursed in accordance with ss. 28.2402, 34.045, 142.01, and ~~142.03~~ 142.13 and subject to the provisions of s. 28.246(5) and (6). Notwithstanding the provisions of this section, all fines and forfeitures arising from operation of the provisions of s. 318.1215 shall be disbursed in accordance with that section.

(2) All fines and forfeitures received from violations of municipal ordinances committed within a municipality within the territorial jurisdiction

of the county court, other than the charge provided in s. 318.1215, shall be paid monthly to the municipality except as provided in s. 28.2402(2), s. 34.045(2), s. 318.21, or s. 943.25. A municipality does not include the unincorporated areas, if any, of a government created pursuant to s. 6(e), Art. VIII of the State Constitution.

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

Section 24. Subsection (3) of section 39.0132, Florida Statutes, is amended to read:

39.0132 Oaths, records, and confidential information.—

(3) The clerk shall keep all court records required by this chapter separate from other records of the circuit court. All court records required by this chapter shall not be open to inspection by the public. All records shall be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that, subject to the provisions of s. 63.162, a child and the parents of the child and their attorneys, guardian ad litem, law enforcement agencies, and the department and its designees shall always have the right to inspect and copy any official record pertaining to the child. The Justice Administrative Commission may inspect court dockets required by this chapter as necessary to audit compensation of court-appointed attorneys. If the docket is insufficient for purposes of the audit, the commission may petition the court for additional documentation as necessary and appropriate. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, under whatever conditions upon their use and disposition the court may deem proper, and may punish by contempt proceedings any violation of those conditions.

Section 25. Subsection (1) of section 39.821, Florida Statutes, is amended to read:

39.821 Qualifications of guardians ad litem.—

(1) Because of the special trust or responsibility placed in a guardian ad litem, the Guardian Ad Litem Program may use any private funds collected by the program, or any state funds so designated, to conduct a security background investigation before certifying a volunteer to serve. A security background investigation must include, but need not be limited to, employment history checks, checks of references, local criminal records checks through local law enforcement agencies, and statewide criminal records checks through the Department of Law Enforcement. Upon request, an employer shall furnish a copy of the personnel record for the employee or former employee who is the subject of a security background investigation conducted under this section. The information contained in the personnel record may include, but need not be limited to, disciplinary matters and the reason why the employee was terminated from employment. An employer who releases a personnel record for purposes of a security background investigation is presumed to have acted in good faith and is not liable for informa-

tion contained in the record without a showing that the employer maliciously falsified the record. A security background investigation conducted under this section must ensure that a person is not certified as a guardian ad litem if the person has been convicted of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under the provisions of the Florida Statutes specified in s. 435.04(2) or under any similar law in another jurisdiction. Before certifying an applicant to serve as a guardian ad litem, the Guardian Ad Litem Program ~~chief judge of the circuit court~~ may request a federal criminal records check of the applicant through the Federal Bureau of Investigation. In analyzing and evaluating the information obtained in the security background investigation, the program must give particular emphasis to past activities involving children, including, but not limited to, child-related criminal offenses or child abuse. The program has the sole discretion in determining whether to certify a person based on his or her security background investigation. The information collected pursuant to the security background investigation is confidential and exempt from s. 119.07(1).

Section 26. Section 39.822, Florida Statutes, is amended to read:

39.822 Appointment of guardian ad litem for abused, abandoned, or neglected child.—

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

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

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

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

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

For the purposes of this subsection, the term “records related to the best interests of the child” includes, but is not limited to, medical, mental health, substance abuse, child care, education, law enforcement, court, social services, and financial records.

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

Section 27. Subsection (1) of section 40.29, Florida Statutes, is amended to read:

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

(1)(a) Each clerk of the circuit court, on behalf of the courts, the state attorney, ~~court-appointed counsel~~, and the public defender, shall forward to the Justice Administrative Commission, by county, a quarterly estimate of funds necessary to pay for ordinary witnesses, including, but not limited to, witnesses in civil traffic cases and witnesses of the state attorney, public defender, court-appointed counsel, and persons determined to be indigent for costs except expert witnesses paid pursuant to a contract or other professional services agreement, pursuant to ss. 29.005 and 29.006. Each quarter of the state fiscal year, the commission, based upon the estimates, shall advance funds to each clerk to pay for these ordinary witnesses from state funds specifically appropriated for the payment of ordinary witnesses.

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

Section 28. Section 40.355, Florida Statutes, is created to read:

40.355 Accounting and payment to public defenders and state attorneys.—The clerk of the court shall, within 2 weeks after the last day of the state’s quarterly fiscal period, render to the state attorney and the public defender in each circuit a full statement of accounts for moneys received and disbursed under this chapter.

Section 29. Subsections (5) and (6) of section 43.16, Florida Statutes, are amended, and subsection (7) is added to said section, to read:

43.16 Justice Administrative Commission; membership, powers and duties.—

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

(a) The maintenance of a central state office for administrative services and assistance when possible to and on behalf of the state attorneys and public defenders of Florida, the office of capital collateral representative of

Florida, and the Guardian Ad Litem Program Judicial Qualifications Commission.

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

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

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

Section 30. Subsection (6) is added to section 43.26, Florida Statutes, to read:

43.26 Chief judge of circuit; selection; powers.—

(6) The chief judge of each circuit is charged by s. 2(d), Art. V of the Florida Constitution and this section with the authority to promote the prompt and efficient administration of justice in the courts over which he or she is chief judge. The clerks of court provide court-related functions which are essential to the orderly operation of the judicial branch. The chief judge of each circuit, after consultation with the clerk of court, shall determine the priority of services provided by the clerk of court to the trial court. The clerk of court shall manage the performance of such services in a method or manner that is consistent with statute, rule, or administrative order.

Section 31. Paragraph (b) of subsection (4) of section 44.102, Florida Statutes, is amended to read:

44.102 Court-ordered mediation.—

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

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

Section 32. Subsection (3) of section 44.103, Florida Statutes, is amended to read:

44.103 Court-ordered, nonbinding arbitration.—

(3) Arbitrators shall be selected and compensated in accordance with rules adopted by the Supreme Court. Arbitrators shall be compensated by the parties, or, upon a finding by the court that a party is indigent, an arbitrator may be partially or fully compensated from state funds according to the party's present ability to pay. At no time may an arbitrator charge more than \$1,500 per diem, unless the parties agree otherwise. Prior to approving the use of state funds to reimburse an arbitrator, the court must ensure that the party reimburses the portion of the total cost that the party is immediately able to pay and that the party has agreed to a payment plan established by the clerk of the court that will fully reimburse the state for the balance of all state costs for both the arbitrator and any costs of administering the payment plan and any collection efforts that may be necessary in the future. Whenever possible, qualified individuals who have volunteered their time to serve as arbitrators shall be appointed. If an arbitration program is funded pursuant to s. 44.108, volunteer arbitrators shall be entitled to be reimbursed pursuant to s. 112.061 for all actual expenses necessitated by service as an arbitrator.

Section 33. Section 44.108, Florida Statutes, is amended to read:

44.108 Funding of mediation and arbitration.—

(1) Mediation and arbitration should be accessible to all parties regardless of financial status. A filing fee of \$1 is levied on all proceedings in the circuit or county courts to fund mediation and arbitration services which are the responsibility of the Supreme Court pursuant to the provisions of s. 44.106. The clerk of the court shall forward the moneys collected to the Department of Revenue for deposit in the state courts' Mediation and Arbitration Trust Fund.

(2) When court-ordered mediation services are provided by a circuit court's mediation program, the following fees, unless otherwise established in the General Appropriations Act, shall be collected by the clerk of court:

(a) Eighty dollars per person per scheduled session in family mediation when the parties' combined income is greater than \$50,000, but less than \$100,000 per year;

(b) Forty dollars per person per scheduled session in family mediation when the parties' combined income is less than \$50,000; or

(c) Forty dollars per person per scheduled session in county court cases.

No mediation fees shall be assessed under this subsection in residential eviction cases, against a party found to be indigent, or for any small claims action. Fees collected by the clerk of court pursuant to this section shall be remitted to the Department of Revenue for deposit into the state courts' Mediation and Arbitration Trust Fund to fund court-ordered mediation. The

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

Section 34. Subsection (1) of section 57.081, Florida Statutes, is amended to read:

57.081 Costs; right to proceed where prepayment of costs waived.—

(1) Any indigent person, except a prisoner as defined in s. 57.085, who is a party or intervenor in any judicial or administrative agency proceeding or who initiates such proceeding shall receive the services of the courts, sheriffs, and clerks, with respect to such proceedings, despite his or her present inability to pay for these services. Such services are limited to filing fees; service of process; certified copies of orders or final judgments; a single photocopy of any court pleading, record, or instrument filed with the clerk; examining fees; mediation services and fees; private court-appointed counsel fees; subpoena fees and services; service charges for collecting and disbursing funds; and any other cost or service arising out of pending litigation. In any appeal from an administrative agency decision, for which the clerk is responsible for preparing the transcript, the clerk shall record the cost of preparing the transcripts and the cost for copies of any exhibits in the record. Prepayment of costs to any court, clerk, or sheriff is not required in any action if the party has obtained in each proceeding a certification of indigence in accordance with s. 27.52 or s. 57.082.

Section 35. Section 57.082, Florida Statutes, is created to read:

57.082 Determination of civil indigent status.—

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

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

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

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

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

4. All liabilities and debts.

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

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

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

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

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

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

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

1. The applicant is not indigent.
2. The applicant is indigent.

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

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

(e) The applicant may seek review of the clerk's determination that the applicant is not indigent in the court having jurisdiction over the matter by

filing a petition to review the clerk's determination of nonindigent status for which a filing fee may not be charged. If the applicant seeks review of the clerk's determination of indigent status, the court shall make a final determination as provided in subsection (4).

(3) APPOINTMENT OF COUNSEL ON AN INTERIM BASIS.—If the clerk of the court has not made a determination of indigent status at the time a person requests appointment of a private attorney in a civil case eligible for court-appointed counsel, the court shall make a preliminary determination of indigent status, pending further review by the clerk, and may, by court order, appoint private counsel on an interim basis.

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

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

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

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

3. When the applicant retained private counsel.

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

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

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

1. The applicant is not indigent.

2. The applicant is indigent.

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

(6) FINANCIAL DISCREPANCIES; FRAUD; FALSE INFORMATION.—

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

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

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

Section 36. 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 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 37. Effective July 1, 2006, subsections (2) and (3) of section 92.231, Florida Statutes, are amended to read:

92.231 Expert witnesses; fee.—

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

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

Section 38. Paragraph (y) is added to subsection (2) of section 110.205, Florida Statutes, to read:

110.205 Career service; exemptions.—

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

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

Section 39. Subsection (1) of section 116.01, Florida Statutes, is amended to read:

116.01 Payment of public funds into treasury.—

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

Section 40. Subsections (1) and (4) of section 116.21, Florida Statutes, are amended to read:

116.21 Unclaimed moneys; limitation.—

(1) The sheriffs and clerks of the courts of the various counties of the state are authorized at their discretion on or before September 25 of each and every year hereafter to pay into the fine and forfeiture fund of their respective counties, or the fine and forfeiture fund created under s. 142.01, any or all unclaimed moneys deposited or collected by them in their official capacity, which unclaimed moneys came into their hands prior to January 1 of the preceding year and for which moneys claim has not been made. Any unclaimed moneys collected or deposited by the clerk of the circuit court in the course of the clerk's court related activities may be processed under this chapter; however, the clerk must pay for the cost of publication of the list of unclaimed court-related funds. Any unclaimed court-related funds collected or deposited by the clerk which remain unclaimed must be deposited into the fine and forfeiture fund established under s. 142.01.

(4) Except for the cost of publishing the notice for the clerk's unclaimed court-related moneys, the cost of publishing the notices as required by subsection (2) shall be paid by the county commissioners, and the sheriff or the clerk shall receive as compensation the regular fee allowed by statute for the collection of fines, fees, and costs adjudged to the state upon the amounts remitted to the fine and forfeiture fund. Upon such payment to the fine and forfeiture fund, the sheriff or clerk shall be released and discharged from any and all further responsibility or liability in connection therewith.

Section 41. Paragraph (gg) of subsection (6) of section 119.07, Florida Statutes, is amended to read:

119.07 Inspection and copying of records; photographing public records; fees; exemptions.—

(6)

(gg)1. Until January 1, ~~2007~~ 2006, if a social security number, made confidential and exempt pursuant to s. 119.0721, created pursuant to s. 1, ch. 2002-256, passed during the 2002 regular legislative session, or a complete bank account, debit, charge, or credit card number made exempt pursuant to paragraph (dd), created pursuant to s. 1, ch. 2002-257, passed during the 2002 regular legislative session, is or has been included in a court file, such number may be included as part of the court record available for public inspection and copying unless redaction is requested by the holder of such number, or by the holder's attorney or legal guardian, in a signed, legibly written request specifying the case name, case number, document heading, and page number. The request must be delivered by mail, facsimile, electronic transmission, or in person to the clerk of the circuit court. The clerk of the circuit court does not have a duty to inquire beyond the written request to verify the identity of a person requesting redaction. A fee may not be charged for the redaction of a social security number or a bank account, debit, charge, or credit card number pursuant to such request.

2. Any person who prepares or files a document to be recorded in the official records by the county recorder as provided in chapter 28 may not include a person's social security number or complete bank account, debit, charge, or credit card number in that document unless otherwise expressly required by law. Until January 1, ~~2007~~ 2006, if a social security number or a complete bank account, debit, charge or credit card number is or has been included in a document presented to the county recorder for recording in the official records of the county, such number may be made available as part of the official record available for public inspection and copying. Any person, or his or her attorney or legal guardian, may request that a county recorder remove from an image or copy of an official record placed on a county recorder's publicly available Internet website, or a publicly available Internet website used by a county recorder to display public records outside the office or otherwise made electronically available outside the county recorder's office to the general public, his or her social security number or complete account, debit, charge, or credit card number contained in that official record. Such request must be legibly written, signed by the requester, and delivered by mail, facsimile, electronic transmission, or in person to the

county recorder. The request must specify the identification page number of the document that contains the number to be redacted. The county recorder does not have a duty to inquire beyond the written request to verify the identity of a person requesting redaction. A fee may not be charged for redacting such numbers.

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

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

Section 42. Subsection (4) of section 142.01, Florida Statutes, is amended to read:

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

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

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

Section 43. Subsection (5) is added to section 213.13, Florida Statutes, to read:

213.13 Electronic remittance and distribution of funds collected by clerks of the court.—

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

Section 44. Effective July 1, 2006, subsection (3) of section 218.245, Florida Statutes, is amended to read:

218.245 Revenue sharing; apportionment.—

(3) Revenues attributed to the increase in distribution to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 212.20(6)(d)6. from 1.0715 percent to 1.3409 percent provided in chapter 2003-402, Laws of

Florida, shall be distributed to each eligible municipality and any unit of local government which is consolidated as provided by s. 9, Art. VIII of the State Constitution of 1885, as preserved by s. 6(e), Art. VIII, 1968 revised constitution, as follows: each eligible local government's allocation shall be based on the amount it received from the half-cent sales tax under s. 218.61 in the prior state fiscal year divided by the total receipts under s. 218.61 in the prior state fiscal year for all eligible local governments; provided, however, for the purpose of calculating this distribution, the amount received from the half-cent sales tax under s. 218.61 in the prior state fiscal year by a unit of local government which is consolidated as provided by s. 9, Art. VIII of the State Constitution of 1885, as amended, and as preserved by s. 6(e), Art. VIII, of the Constitution as revised in 1968, shall be reduced by 50 percent for such local government and for the total receipts. For eligible municipalities that began participating in the allocation of half-cent sales tax under s. 218.61 in the previous state fiscal year, their annual receipts shall be calculated by dividing their actual receipts by the number of months they participated, and the result multiplied by 12.

Section 45. Section 219.07, Florida Statutes, is amended to read:

219.07 Disbursements.—Each officer shall, not later than 7 working days from the close of the week in which the officer received the funds, distribute the money which is required to be paid to other officers, agencies, funds, or persons entitled to receive the same; provided, that distributions or partial distributions may be made more frequently; and provided further, that money required by law or court order, or by the purpose for which it was collected, to be held and disbursed for a particular purpose in a manner different from that set out herein shall be held and disbursed accordingly. Further, money collected by the county officer on behalf of the state, except for money collected by the clerk of the court as part of court-related functions, shall be deposited directly to the account of the State Treasury not later than 7 working days from the close of the week in which the officer received the funds. The clerk of the court, when collecting money as part of the clerk's court-related functions, must remit that money as required under s. 28.245.

Section 46. Subsection (1) of section 219.075, Florida Statutes, is amended to read:

219.075 Investment of surplus funds by county officers.—

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

(b) These investments shall be planned so as not to slow the normal distribution of the subject funds. The investment earnings shall be reasonably apportioned and allocated and shall be credited to the account of, and

paid to, the office or distributee, together with the principal on which such earnings accrued.

(c) This section does not apply to the clerk of the circuit court with respect to money collected as part of the clerk's court-related functions. The clerk, however, shall remit this money as provided under s. 28.245.

Section 47. Section 318.121, Florida Statutes, is amended to read:

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

Section 48. Subsection (13) of section 318.18, Florida Statutes, is amended, and subsection (14) is added to said section, to read:

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

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

(a) May impose by ordinance a surcharge of up to \$15 for any infraction or violation to fund state court facilities. The court shall not waive this surcharge. Up to 25 percent of the revenue from such surcharge may be used to support local law libraries provided that the county or unit of local government provides a level of service equal to that provided prior to July 1, 2004, which shall include the continuation of library facilities located in or near the county courthouse or annexes.

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

A county may not impose both of the surcharges authorized under paragraphs (a) and (b) concurrently. The clerk of court shall report, no later than

30 days after the end of the quarter, the amount of funds collected under this subsection during each quarter of the fiscal year. The clerk shall submit the report, in a format developed by the Office of State Courts Administrator, to the chief judge of the circuit, the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(14) In addition to any penalties imposed for noncriminal traffic infractions under chapter 318 or imposed for criminal violations listed in s. 318.17, any unit of local government that is consolidated as provided by s. 9, Art. VIII of the State Constitution of 1885, as preserved by s. 6(e), Art. VIII of the State Constitution of 1968, and that is granted the authority in the State Constitution to exercise all the powers of a municipal corporation, and any unit of local government operating under a home rule charter adopted pursuant to ss. 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, that is granted the authority in the State Constitution to exercise all the powers conferred now or hereafter by general law upon municipalities, may impose by ordinance a surcharge of up to \$15 for any infraction or violation. Revenue from the surcharge shall be transferred to such unit of local government for the purpose of replacing fine revenue deposited into the clerk's fine and forfeiture fund under s. 142.01. The court may not waive this surcharge. Proceeds from the imposition of the surcharge authorized in this subsection shall not be used for the purpose of securing payment of the principal and interest on bonds. This subsection, and any surcharge imposed pursuant to this subsection, shall stand repealed September 30, 2007.

Section 49. Effective upon this act becoming a law, paragraph (g) of subsection (2) of section 318.21, Florida Statutes, is amended to read:

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

(2) Of the remainder:

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

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

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

Section 50. Section 318.31, Florida Statutes, is amended to read:

318.31 Objectives.—The Supreme Court is hereby requested to adopt rules and procedures for the establishment and operation of Civil Traffic

~~Infraction Hearing Officer Programs under ss. 318.30-318.38. However, the appointment of a hearing officer shall be at the option of the county electing to establish such a program, upon recommendation by the county court judge or judges, as the case may be, and the Chief Judge of the Circuit and approval by the Chief Justice of the Supreme Court.~~

Section 51. Subsection (1) of section 318.32, Florida Statutes, is amended to read:

318.32 Jurisdiction; limitations.—

(1) Hearing officers shall be empowered to accept pleas from and decide the guilt or innocence of any person, adult or juvenile, charged with any civil traffic infraction and shall be empowered to adjudicate or withhold adjudication of guilt in the same manner as a county court judge under the statutes, rules, and procedures presently existing or as subsequently amended, except that hearing officers shall not:

(a) Have the power to hold a defendant in contempt of court, but shall be permitted to file a motion for order of contempt with the appropriate state trial court judge;

(b) Hear a case involving a crash resulting in injury or death; ~~or~~

(c) Hear a criminal traffic offense case or a case involving a civil traffic infraction issued in conjunction with a criminal traffic offense; or

(d) Have the power to suspend a defendant's drivers license pursuant to s. 316.655(2).

Section 52. Section 318.325, Florida Statutes, is amended to read:

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

Section 53. Subsection (2) of section 322.29, Florida Statutes, is amended to read:

322.29 Surrender and return of license.—

(2) The provisions of subsection (1) to the contrary notwithstanding, no examination is required for the return of a license suspended under s. 318.15 or s. 322.245 unless an examination is otherwise required by this chapter. Every person applying for the return of a license suspended under s. 318.15 or s. 322.245 shall present to the department certification from the court

that he or she has complied with all obligations and penalties imposed on him or her pursuant to s. 318.15 or, in the case of a suspension pursuant to s. 322.245, that he or she has complied with all directives of the court and the requirements of s. 322.245 and shall pay to the department a nonrefundable service fee of ~~\$47.50~~ \$35, of which ~~\$37.50~~ \$25 shall be deposited into the General Revenue Fund and \$10 shall be deposited into the Highway Safety Operating Trust Fund. If reinstated by the clerk of the court or tax collector, ~~\$37.50~~ \$25 shall be retained and \$10 shall be remitted to the Department of Revenue for deposit into the Highway Safety Operating Trust Fund. However, the service fee is not required if the person is required to pay a \$35 fee or \$60 fee under the provisions of s. 322.21.

Section 54. Subsection (1) of section 372.72, Florida Statutes, is amended to read:

372.72 Disposition of fines, penalties, and forfeitures.—

(1) All moneys collected from fines, penalties, proceeds from unclaimed bonds, or forfeitures of bail of persons convicted under this chapter shall be deposited in the fine and forfeiture fund established pursuant to s. 142.01 where such convictions are had, except for the disposition of moneys as provided in subsection (2).

Section 55. Subsection (8) of section 903.26, Florida Statutes, is amended to read:

903.26 Forfeiture of the bond; when and how directed; discharge; how and when made; effect of payment.—

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

Section 56. Section 903.28, Florida Statutes, is amended to read:

903.28 Remission of forfeiture; conditions.—

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

(2) If the defendant surrenders or is apprehended within 90 days after forfeiture, the court, on motion at a hearing upon notice having been given to the clerk of the circuit court county attorney and the state attorney as required in subsection (8), shall direct remission of up to, but not more than, 100 percent of a forfeiture if the surety apprehended and surrendered the defendant or if the apprehension or surrender of the defendant was substantially procured or caused by the surety, or the surety has substantially

attempted to procure or cause the apprehension or surrender of the defendant, and the delay has not thwarted the proper prosecution of the defendant. In addition, remission shall be granted when the surety did not substantially participate or attempt to participate in the apprehension or surrender of the defendant when the costs of returning the defendant to the jurisdiction of the court have been deducted from the remission and when the delay has not thwarted the proper prosecution of the defendant.

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

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

(5) If the defendant surrenders or is apprehended within 1 year after forfeiture, the court, on motion at a hearing upon notice having been given to the clerk of the circuit court ~~county attorney~~ and the state attorney as required in subsection (8), shall direct remission of up to, but not more than, 85 percent of a forfeiture if the surety apprehended and surrendered the defendant or if the apprehension or surrender of the defendant was substantially procured or caused by the surety, or the surety has substantially attempted to procure or cause the apprehension or surrender of the defendant, and the delay has not thwarted the proper prosecution of the defendant. In addition, remission shall be granted when the surety did not substantially participate or attempt to participate in the apprehension or surrender of the defendant when the costs of returning the defendant to the jurisdiction of the court have been deducted from the remission and when the delay has not thwarted the proper prosecution of the defendant.

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

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

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

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

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

Section 57. Section 903.286, Florida Statutes, is created to read:

903.286 Return of cash bond; requirement to withhold unpaid fines, fees, and court costs.—Notwithstanding the provisions of s. 903.31(2), the clerk of the court shall withhold from the return of a cash bond posted on behalf of a criminal defendant by a person other than a bail bond agent licensed pursuant to chapter 648 sufficient funds to pay any unpaid court fees, court costs, and criminal penalties. In the event that sufficient funds are not available to pay all unpaid court fees, court costs, and criminal penalties, the clerk of the court shall immediately obtain payment from the defendant or enroll the defendant in a payment plan pursuant to s. 28.246.

Section 58. Section 916.115, Florida Statutes, is amended to read:

916.115 Appointment of experts.—

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

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

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

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

(a)1. The court shall pay for any expert that it appoints by court order, upon motion of counsel for the defendant or the state or upon its own motion. If the defense or the state retains an expert and waives the confidentiality of the expert's report, the court may pay for no more than two additional experts appointed by court order. If an expert appointed by the court upon motion of counsel for the defendant specifically to evaluate the competence of the defendant to proceed also addresses in his or her evaluation issues related to sanity as an affirmative defense, the court shall pay only for that portion of the experts' fees relating to the evaluation on competency to proceed and the balance of the fees shall be chargeable to the defense.

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

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

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

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

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

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

(d) In order for an expert ~~the experts~~ to be paid for the services rendered, the expert's report ~~reports~~ and testimony must explicitly address each of the factors and follow the procedures set out in this chapter and in the Florida Rules of Criminal Procedure.

Section 59. Subsections (2), (3), and (4) of section 916.12, Florida Statutes, are amended to read:

916.12 Mental competence to proceed.—

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

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

- (a) Appreciate the charges or allegations against the defendant;
- (b) Appreciate the range and nature of possible penalties, if applicable, that may be imposed in the proceedings against the defendant;
- (c) Understand the adversarial nature of the legal process;
- (d) Disclose to counsel facts pertinent to the proceedings at issue;
- (e) Manifest appropriate courtroom behavior; and
- (f) Testify relevantly;

and include in his or her ~~their~~ report any other factor deemed relevant by the expert ~~experts~~.

(4) If an expert finds ~~the experts should find~~ that the defendant is incompetent to proceed, the expert ~~experts~~ shall report on any recommended treatment for the defendant to attain competence to proceed. In considering the issues relating to treatment, the examining expert ~~experts~~ shall specifically report on:

(a) The mental illness causing the incompetence;

(b) The treatment or treatments appropriate for the mental illness of the defendant and an explanation of each of the possible treatment alternatives in order of choices;

(c) The availability of acceptable treatment and, if treatment is available in the community, the expert shall so state in the report; and

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

Section 60. Subsection (7) of section 916.301, Florida Statutes, is amended to read:

916.301 Appointment of experts.—

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

Section 61. Paragraph (b) of subsection (2) of section 938.29, Florida Statutes, is amended to read:

938.29 Legal assistance; lien for payment of attorney's fees or costs.—

(2)

(b) A judgment showing the name and residence of the defendant-recipient or parent shall be recorded in the public record, without cost, by filed for record in the office of the clerk of the circuit court in the county where the defendant-recipient or parent resides and in each county in which such defendant-recipient or parent then owns or later acquires any property. Such judgments shall be enforced on behalf of the state by the clerk of the circuit court of the county in which assistance was rendered.

Section 62. Section 939.06, Florida Statutes, is amended to read:

939.06 Acquitted defendant not liable for costs.—

(1) ~~A~~ ~~No~~ defendant in a criminal prosecution who is acquitted or discharged ~~is not shall be~~ liable for any costs or fees of the court or any ministerial office, or for any charge of subsistence while detained in custody. If the defendant ~~has shall have~~ paid any taxable costs, or fees required under s. 27.52(1)(b), in the case, the clerk or judge shall give him or her a certificate

of the payment of such costs, with the items thereof, which, when audited and approved according to law, shall be refunded to the defendant.

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

Section 63. Paragraph (b) of subsection (1) of section 939.185, Florida Statutes, is redesignated as paragraph (c), and a new paragraph (b) is added to said subsection, to read:

939.185 Assessment of additional court costs and surcharges.—

(1)

(b) In addition to the court costs imposed under paragraph (a) and any other cost, fine, or penalty imposed by law, any unit of local government which is consolidated as provided by s. 9, Art. VIII of the State Constitution of 1885, as preserved by s. 6(e), Art. VIII of the State Constitution of 1968, and which is granted the authority in the State Constitution to exercise all the powers of a municipal corporation, and any unit of local government operating under a home rule charter adopted pursuant to ss. 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, which is granted the authority in the State Constitution to exercise all the powers conferred now or hereafter by general law upon municipalities, may impose by ordinance a surcharge in the amount of \$85 to be imposed by the court when a person pleads guilty or nolo contendere to, or is found guilty of, any felony, misdemeanor, or criminal traffic offense under the laws of this state. Revenue from the surcharge shall be transferred to such unit of local government for the purpose of replacing fine revenue deposited into the clerk's fine and forfeiture fund under s. 142.01. Proceeds from the imposition of the surcharge authorized in this paragraph shall not be used for the purpose of securing payment of the principal and interest on bonds. This paragraph, and any surcharge imposed pursuant to this paragraph, shall stand repealed on September 30, 2007.

~~(c)~~(b) The disbursement of costs collected under this section shall be subordinate in priority order of disbursement to all other state-imposed costs authorized in this chapter, restitution or other compensation to victims, and child support payments.

Section 64. Subsection (2) of section 985.05, Florida Statutes, is amended, and subsection (5) is added to said section, to read:

985.05 Court records.—

(2) The clerk shall keep all official records required by this section separate from other records of the circuit court, except those records pertaining to motor vehicle violations, which shall be forwarded to the Department of Highway Safety and Motor Vehicles. Except as provided in ss. 943.053 and 985.04(4), official records required by this part are not open to inspection by

the public, but may be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that a child and the parents, guardians, or legal custodians of the child and their attorneys, law enforcement agencies, the Department of Juvenile Justice and its designees, the Parole Commission, and the Department of Corrections, and the Justice Administrative Commission shall always have the right to inspect and copy any official record pertaining to the child. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect, and make abstracts from, official records under whatever conditions upon the use and disposition of such records the court may deem proper and may punish by contempt proceedings any violation of those conditions.

(5) This part does not prohibit a circuit court from providing a restitution order containing the information prescribed in s. 985.201(4)(c) to a collection court or a private collection agency for the sole purpose of collecting unpaid restitution ordered in a case in which the circuit court has retained jurisdiction over the child and the child's parent or legal guardian. The collection court or private collection agency shall maintain the confidential status of the information to the extent such confidentiality is provided by law.

Section 65. Paragraph (c) of subsection (4) of section 985.201, Florida Statutes, is amended to read:

985.201 Jurisdiction.—

(4)

(c) The court may retain jurisdiction over a child and the child's parent or legal guardian whom the court has ordered to pay restitution until the restitution order is satisfied or until the court orders otherwise. To retain jurisdiction, the court shall enter a restitution order, which is separate from any disposition or order of commitment, on or prior to the date that If the court retains such jurisdiction after the date upon which the court's jurisdiction would cease under this section, it shall do so solely for the purpose of enforcing the restitution order. The contents of the restitution order shall be limited to the child's name and address, the name and address of the parent or legal guardian, the name and address of the payee, the case number, the date and amount of restitution ordered, any amount of restitution paid, the amount of restitution due and owing, and a notation that costs, interest, penalties, and attorney's fees may also be due and owing. The terms of the restitution order are subject to the provisions of s. 775.089(5).

Section 66. Compensation to traffic court witnesses.—Any party who secures the attendance of a witness in traffic court shall bear all costs of calling the witness, including witness fees. If the witness is required to testify on behalf of the prosecution, the office of the state attorney of the respective judicial circuit shall pay the fees and costs of calling the witness.

Section 67. Recovery of expenditures for state-funded services.—The trial court administrator of each circuit shall recover expenditures for state-funded services when those services have been furnished to a user of the state court system who possesses the present ability to pay. The rate of

compensation for such services shall be the actual cost of the services, including the cost of recovery. The trial court administrator shall deposit moneys recovered under this section in the Grants and Donations Trust Fund within the state court system. The trial court administrator shall recover the costs of court-reporter services and transcription; court-interpreter services, including translation; and any other service for which state funds were used to provide a product or service within the circuit. This section does not authorize cost recovery from entities described in ss. 29.005, 29.006, and 29.007, Florida Statutes.

Section 68. It is the intent of the Legislature that the amendments made by this act to ss. 28.2402(2), 34.191, and 318.21, Florida Statutes, are remedial. It is the further intent of the Legislature that fines and forfeitures or civil penalties arising from offenses or violations committed or occurring within an unincorporated area of a government created pursuant to Section 6(e), Article VIII of the State Constitution be paid or deposited for fiscal year 2004-2005 as provided in ss. 28.2402, 34.191, and 318.21, Florida Statutes, as those sections are amended by this act. This section shall take effect upon becoming a law.

Section 69. (1)(a) The Legislature finds that the use of estimates of prior-year expenditures to establish maximum annual budgets for the county fiscal year 2004-2005 resulted in maximum annual budgets for some clerks of court which were less than the amounts would have been if actual prior-year expenditures had been used.

(b) The Legislature further finds that the clerks of court perform duties critical to the operations of the judicial branch and that future maximum annual budgets for the clerks of court are based in part on their prior-year budgets.

(c) The Legislature further finds that the difference between establishing the maximum annual budget using estimated prior-year expenditures and using actual prior-year expenditures was significant for the Clerk of the Circuit Court, Miami-Dade County.

(2) Therefore, the maximum annual budget for the Clerk of the Circuit Court, Miami-Dade County, is increased by \$3,817,115 for the county fiscal year 2004-2005.

Section 70. (1) Effective July 1, 2006, section 29.014, Florida Statutes, is repealed.

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

Section 71. Section 938.19, Florida Statutes, is amended to read:

938.19 Teen courts.—

(1) Notwithstanding s. 318.121, in each county in which a teen court has been created, the board of county commissioners may adopt a mandatory court cost to be assessed in specific cases by incorporating by reference the provisions of this section in a county ordinance. Assessments collected by the

clerk of the circuit court under this section shall be deposited into an account specifically for the operation and administration of the teen court.

(2) A sum of up to \$3 shall be assessed as a court cost in the circuit and county court in the county against each person who pleads guilty or nolo contendere to, or is convicted of, regardless of adjudication, a violation of a criminal law or a municipal or county ordinance, or who pays a fine or civil penalty for any violation of chapter 316. Any person whose adjudication is withheld under s. 318.14(9) or s. 318.14(10) shall also be assessed the cost.

(3) The assessment for court costs shall be assessed in addition to any fine or civil penalty or other court cost and may not be deducted from the proceeds of that portion of any fine or civil penalty that is received by a municipality in the county or by the county in accordance with ss. 316.660 and 318.21. The assessment shall be specifically added to any civil penalty paid for a violation of chapter 316, regardless of whether the penalty is paid by mail, paid in person without request for a hearing, or paid after hearing and determination by the court. However, the assessment may not be made against a person for a violation of any state law or municipal or county ordinance relating to the parking of vehicles, with the exception of a violation of the handicapped parking laws.

(4)(a) The clerk of the circuit court shall collect the assessments for court costs established in this section and shall remit the assessments to the teen court monthly.

(b) The clerk of the circuit court shall withhold 5 percent of the assessments collected, which shall be retained as fee income of the office of the clerk of the circuit court.

(5) A teen court must account for all funds received under this section in a written report to the board of county commissioners. The report must be given to the commissioners by August 1 of each year or by a date required by the commissioners.

(6) A teen court may be administered by a nonprofit organization, a law enforcement agency, the court administrator, the clerk of the court, or another similar agency authorized by the board of county commissioners.

(7) A teen court administered in a county that adopts an ordinance to assess court costs under this section may not receive court costs collected under s. 939.185(1)(a)4. Counties are hereby authorized to fund teen courts.

Section 72. Paragraph (a) of subsection (1) of section 939.185, Florida Statutes, is amended to read:

939.185 Assessment of additional court costs.—

(1)(a) The board of county commissioners may adopt by ordinance an additional court cost, not to exceed \$65, to be imposed by the court when a person pleads guilty or nolo contendere to, or is found guilty of, any felony, misdemeanor, or criminal traffic offense under the laws of this state. Such additional assessment shall be accounted for separately by the county in

which the offense occurred and be used only in the county imposing this cost, to be allocated as follows:

1. Twenty-five percent of the amount collected shall be allocated to fund innovations to supplement state funding for the elements of the state courts system identified in s. 29.004 and county funding for local requirements under s. 29.008(2)(a)2.
2. Twenty-five percent of the amount collected shall be allocated to assist counties in providing legal aid programs required under s. 29.008(3)(a).
3. Twenty-five percent of the amount collected shall be allocated to fund personnel and legal materials for the public as part of a law library.
4. Twenty-five percent of the amount collected shall be used as determined by the board of county commissioners to support teen court programs, except as provided in s. 938.19(7), juvenile assessment centers, and other juvenile alternative programs.

Each county receiving funds under this section shall report the amount of funds collected pursuant to this section and an itemized list of expenditures for all authorized programs and activities. The report shall be submitted in a format developed by the Supreme Court to the Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives on a quarterly basis beginning with the quarter ending September 30, 2004. Quarterly reports shall be submitted no later than 30 days after the end of the quarter. Any unspent funds at the close of the county fiscal year allocated under subparagraphs 2., 3., and 4., shall be transferred for use pursuant to subparagraph 1.

Section 73. The sum of \$1.5 million in recurring funds is appropriated from the General Revenue Fund to the Justice Administrative Commission for public defender due process services for the 2005-2006 fiscal year.

Section 74. The sum of \$800,000 in recurring funds is appropriated from the General Revenue Fund to the Justice Administrative Commission for state attorney due process services for the 2005-2006 fiscal year.

Section 75. The sum of \$182,885 in recurring funds is appropriated from the General Revenue Fund to the State Attorney for the Eleventh Judicial Circuit to be used for state attorney operations for the 2005-2006 fiscal year.

Section 76. Except as otherwise provided herein, this act shall take effect July 1, 2005.

Approved by the Governor June 14, 2005.

Filed in Office Secretary of State June 14, 2005.