

## CHAPTER 2010-162

### Council Substitute for House Bill No. 5401

An act relating to the state judicial system; amending s. 25.241, F.S.; requiring that \$50 from the Supreme Court filing fee be deposited into the State Courts Revenue Trust Fund to fund court operations; amending s. 25.383, F.S.; conforming provisions to the renaming of the Operating Trust Fund in the state courts system; amending s. 25.3844, F.S.; renaming the Operating Trust Fund in the state courts system as the Administrative Trust Fund; amending s. 25.386, F.S.; conforming provisions to the renaming of the Operating Trust Fund in the state courts system; amending s. 27.40, F.S.; requiring private court-appointed counsel compensated by the state to maintain records and documents in a prescribed manner; providing for waiver of the right to seek fees in excess of prescribed limits if the attorney refuses to allow the Justice Administrative Commission to review the documentation; providing that the commission's finding of a valid waiver of fees may be overcome by competent and substantial evidence; amending s. 27.425, F.S.; eliminating a requirement for the chief judge of the judicial circuit to recommend and submit compensation rates for state-funded due process service providers; requiring the Justice Administrative Commission to approve forms and procedures governing billings for the provision of due process services; amending s. 27.511, F.S.; providing for the appointment of criminal conflict and civil regional counsel in certain proceedings under the Florida Rules of Criminal Procedure and in certain adoption proceedings; providing for private court-appointed counsel, rather than criminal conflict and civil regional counsel, to have primary responsibility for representing minors in proceedings under the Parental Notice of Abortion Act; amending s. 27.52, F.S.; requiring the clerk of the court to review certain property records in evaluating an application from a criminal defendant for a determination of indigency; providing that the Justice Administrative Commission has standing in a motion seeking to have a person declared indigent for purposes of state payment of due process costs; providing a presumption that a person is not indigent for costs if the person's attorney's fees are being paid from private funds at a specified level; providing that the presumption may be overcome through clear and convincing evidence; providing requirements and rates for reimbursement of due process costs; providing that a person who receives state-funded due process services after being deemed indigent for costs is liable for repayment to the state; requiring the person to submit an accounting to the court of state-paid costs; providing for the court to issue an order determining the amount of the costs; providing for creation and enforcement of a repayment lien; amending s. 27.5304, F.S.; providing for a reduction in the amount paid for an attorney's fees, costs, and related expenses as increased penalties for submitting a bill to the state after prescribed periods; providing a definition; creating s. 27.5305, F.S.; prescribing conditions and requirements related to payment by the state of legal fees and the costs of due

process services in certain criminal and civil cases; prescribing conditions and requirements governing electronic funds transfer, transcripts, court reporters and investigators, expert witnesses and mitigation specialists, and discovery; amending s. 28.241, F.S.; providing that the section does not require assessment of a filing fee if the assessment is otherwise prohibited by law; amending s. 28.245, F.S.; decreasing the period allowed clerks of the court for transmission of deposits electronically to the Department of Revenue; amending s. 28.246, F.S.; requiring the clerk to give a copy of an application for appointment of court-appointed counsel to a private attorney or collection agent employed by the clerk to collect moneys from the person; amending s. 28.36, F.S.; revising the core services for the budget requests for the clerks of the court; revising the procedures for the Florida Clerks of Court Operations Corporation to release appropriations each quarter; providing a procedure for the corporation to follow if the projected expenditures will exceed the amount appropriated by law; repealing s. 29.0095, F.S., relating to a requirement for chief judges, state attorneys, and public defenders to submit budget expenditure reports; amending s. 29.0195, F.S.; conforming provisions to the renaming of the Operating Trust Fund in the state courts system; amending s. 34.041, F.S.; specifying that the prescribed filing fee for an action involving claims of not more than \$1,000 filed along with an action for replevin is the total filing fee; amending s. 35.22, F.S.; requiring that \$50 from the district court of appeals filing fee be deposited into the State Courts Revenue Trust Fund; amending s. 39.0134, F.S.; providing that certain parents in proceedings related to children are liable for fees and costs after receiving legal representation or due process services funded by the state; authorizing the court to make payment of attorney's fees and costs part of a case plan in dependency proceedings; authorizing and providing for enforcement of a lien upon court-ordered payment of fees and costs; providing for deposit of fees and costs into the Indigent Civil Defense Trust Fund; amending s. 39.821, F.S.; requiring certain background screenings for persons certified as a guardian ad litem; amending s. 57.082, F.S.; prescribing circumstances for payment of an application fee when a person seeks to be determined indigent and eligible for appointment of counsel in proceedings relating to children; providing for the court to order payment of the fee and the clerk of the court to pursue collection of the fee; amending s. 68.085, F.S.; providing that Medicaid fraud recoveries by the Attorney General are to be deposited into the Operating Trust Fund rather than in the Legal Affairs Revolving Trust Fund; amending s. 119.0714, F.S.; delaying from January 1, 2011, to January 1, 2012, the obligation of a clerk of court to redact certain confidential information from court files; amending s. 318.18, F.S.; providing that a county may elect among various surcharges on traffic offenses; limiting counties to only one surcharge at a time; amending s. 320.061, F.S.; creating a noncriminal infraction for altering or obscuring a license plate or mobile home sticker; deleting the second-degree misdemeanor penalty imposed for the offense; amending s. 320.131, F.S.; creating a noncriminal traffic infraction for the unlawful use of a temporary tag; deleting the second-degree misdemeanor penalty imposed for the offense; amending s. 322.03, F.S.; creating a noncriminal

traffic infraction for a commercial motor vehicle driver who fails to surrender driver's licenses from other jurisdictions before issuance of a license by the Department of Highway Safety and Motor Vehicles; extending the period allowed for operating a motor vehicle after expiration of a driver's license; amending s. 322.16, F.S.; creating a noncriminal traffic infraction for persons who fail to abide by driver's license restrictions other than restrictions recommended by a court or by corrections officials; deleting the second-degree misdemeanor penalty recommended for offenses other than violation of restrictions recommended by a court or by corrections officials; amending s. 775.083, F.S.; redirecting revenues from certain criminal fines from the State Courts Revenue Trust Fund into the General Revenue Fund; amending s. 832.08, F.S.; providing for deposit of bad check diversion program fees into the State Attorneys Revenue Trust Fund; amending s. 938.06, F.S.; requiring the assessment of a court cost after conviction of a criminal offense; defining the term "convicted" for purposes of the assessed cost; amending s. 938.27, F.S.; providing for deposit of certain court costs after criminal convictions into the State Attorneys Revenue Trust Fund rather than the state attorney's grants and donations trust fund; amending s. 938.29, F.S.; specifying that a lien for the cost of court-appointed counsel against a parent for services provided to a child does not expire upon the emancipation of the child or upon the child reaching the age of majority; amending s. 939.08, F.S.; authorizing a designee of the trial court administrator to review, approve, and certify certain bills related to costs, fees, or expenses of the state courts system; amending s. 939.185, F.S.; authorizing the chief judge of the circuit to determine innovations eligible for funding from a county-assessed court cost; amending s. 943.03, F.S.; requiring the Department of Law Enforcement to modify the statewide uniform statute table in its criminal history system; providing an implementation deadline; amending s. 943.053, F.S.; providing for a discounted fee for criminal history record checks for the guardian ad litem program; transferring certain funds from the state court's Operating Trust Fund to the State Courts Revenue Trust Fund and the Administrative Trust Fund within the state courts system; transferring certain unexpended balances in the state attorney's grants and donations trust fund to the State Attorneys Revenue Trust Fund; making a specific appropriation; providing for a transfer of funds to pay the general revenue service charge; providing effective dates.

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

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

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

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

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

Section 2. Section 25.383, Florida Statutes, is amended to read:

25.383 Standards for court reporters; procedures; rules of professional conduct, discipline, and training.—The Supreme Court shall establish minimum standards and procedures for qualifications, certification, discipline, and training for court reporters. The Supreme Court shall determine the amount of fees to charge applicants for certification and renewal of certification. Fees shall be set in an amount necessary to recover the full cost of administering the certification process. All proceeds from fees collected pursuant to this section shall be deposited into the Administrative Operating Trust Fund within the state courts. The Supreme Court may appoint or employ such personnel as are necessary to assist the court in exercising its powers and performing its duties under this section.

Section 3. Section 25.3844, Florida Statutes, is amended to read:

25.3844 Administrative Operating Trust Fund.—

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

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

Section 4. Section 25.386, Florida Statutes, is amended to read:

25.386 Foreign language court interpreters.—The Supreme Court shall establish minimum standards and procedures for qualifications, certification, professional conduct, discipline, and training of foreign language court interpreters who are appointed by a court of competent jurisdiction. The Supreme Court shall set fees to be charged to applicants for certification and renewal of certification as a foreign language court interpreter. The revenues generated from such fees shall be used to offset the costs of administration of the certification program and shall be deposited into the Administrative Operating Trust Fund within the state courts system. The Supreme Court may appoint or employ such personnel as are necessary to assist the court in administering this section.

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

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

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

(b)1. The attorney shall maintain appropriate documentation, including contemporaneous and detailed hourly accounting of time spent representing the client. If the attorney fails to maintain such contemporaneous and detailed hourly records, the attorney waives the right to seek compensation in excess of the flat fee established in s. 27.5304 and the General Appropriations Act. These records and documents are subject to review by the Justice Administrative Commission, subject to the attorney-client privilege and work-product privilege. The attorney shall maintain the records and documents in a manner that enables the attorney to redact any information subject to a privilege in order to facilitate the commission's review of the records and documents and not to impede such review. The attorney may redact information from the records and documents only to the extent necessary to comply with the privilege.

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

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

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

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

(1) The maximum chief judge of each circuit shall recommend compensation rates for state-funded due process service providers in cases in which the court has appointed private counsel or declared a person indigent for costs shall be specified annually in the General Appropriations Act. For purposes of this section, due process compensation rates do not include attorney's fees for legal representation of the client.

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

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

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

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

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

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

(5) ~~Effective October 1, 2007,~~ When the Office of the Public Defender, at any time during the representation of two or more defendants, determines that the interests of those accused are so adverse or hostile that they cannot all be counseled by the public defender or his or her staff without a conflict of interest, or that none can be counseled by the public defender or his or her staff because of a conflict of interest, and the court grants the public defender's motion to withdraw, the office of criminal conflict and civil regional counsel shall be appointed and shall provide legal services, without additional compensation, to any person determined to be indigent under s. 27.52, who is:

- (a) Under arrest for, or charged with, a felony;
- (b) Under arrest for, or charged with:
  1. A misdemeanor authorized for prosecution by the state attorney;
  2. A violation of chapter 316 punishable by imprisonment;
  3. Criminal contempt; or
  4. A violation of a special law or county or municipal ordinance ancillary to a state charge or, if not ancillary to a state charge, only if the office of criminal conflict and civil regional counsel contracts with the county or municipality to provide representation pursuant to ss. 27.54 and 125.69.

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

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

(d) Sought by petition filed in such court to be involuntarily placed as a mentally ill person under part I of chapter 394, involuntarily committed as a sexually violent predator under part V of chapter 394, or involuntarily admitted to residential services as a person with developmental disabilities under chapter 393;

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

(f) Is appealing a matter in a case arising under paragraphs (a)-(d); or

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

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

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

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 \$50 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 \$50 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.a. 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. Notwithstanding the information that the applicant provides, the clerk shall conduct a review of the property records for the county in which the applicant resides and the motor vehicle title records of the state to identify any property interests of the applicant under this subparagraph. The clerk shall evaluate and consider the results of the review in making a determination under this subsection. The clerk shall maintain the results of the review in a file with the application and provide the file to the court if the applicant seeks review under subsection (4) of the clerk's determination of indigent status.

(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 the office of criminal conflict and civil regional 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, the office of criminal conflict and civil regional counsel, 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, the office of criminal conflict and civil regional counsel, 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 or, 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 file a written motion with the court and 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) The person shall arrange for service of a copy of the motion and attachments on the Justice Administrative Commission. The commission has standing to appear before the court to contest any motion to declare a person indigent for costs and may participate in a hearing on the motion by use of telephonic or other communication equipment.

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

(d)(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. There is a presumption that the applicant is not indigent for costs if the amount of attorney's fees exceeds \$5,000 for a noncapital case or \$25,000 for a capital case in which the state is seeking the death penalty. To overcome this presumption, the applicant has the burden to show through clear and convincing evidence that the fees are reasonable based on the nature and complexity of the case. In determining the reasonableness of the fees, the court shall consider the amount that a private court-appointed attorney paid by the state would receive for providing representation for that type of case.

(e)(e) 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.

(f)(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. Private 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. Private counsel representing a person declared indigent for costs may not receive state funds, either directly or on behalf of due process providers, unless the attorney has executed the contract required under this paragraph.

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

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

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

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

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

3. If the attorney or the pro se defendant fails to provide a complete accounting of costs expended by the state and consequently costs are omitted

from the lien, the attorney or pro se defendant may not receive reimbursement or any other form of direct or indirect payment for those costs if the state has not paid the costs. The attorney or pro se defendant shall repay the state for those costs if the state has already paid the costs. The clerk of the court may establish a payment plan under s. 28.246 and may charge the attorney or pro se defendant a one-time administrative processing charge under s. 28.24(26)(c).

(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, the office of criminal conflict and civil regional counsel, 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, office of criminal conflict and civil regional counsel, 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, office of criminal conflict and civil regional counsel, 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 9. Subsection (4) of section 27.5304, Florida Statutes, is amended to read:

27.5304 Private court-appointed counsel; compensation.—

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

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

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

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

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

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

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

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

27.5305 Attorney or provider compensation; conditions; requirements. This section applies to the payment by the state through the Justice Administrative Commission of legal fees and due process costs in an eligible criminal or civil matter when a person receives the services of a private court-appointed attorney or is declared indigent for costs.

(1) ELECTRONIC FUNDS TRANSFER.—

(a) A person requesting compensation from the state through the Justice Administrative Commission for the provision of criminal or civil legal representation or other due process services must, as a condition for compensation, participate in a direct-deposit program under which the person authorizes the transfer of funds electronically to an account in the person's name at a federally chartered or state-chartered financial institution.

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

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

(2) TRANSCRIPTS.—

(a) The state may pay for the cost of preparing a transcript of a deposition only if the private court-appointed attorney secures an order from the court finding that preparation of the transcript is necessary, in which case the state may pay for one original and one copy only.

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

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

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

(b) Private investigation services.

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

(5) RIGHT TO DISCOVERY.—The Justice Administrative Commission has a right to engage in discovery in accordance with the Florida Rules of

Civil Procedure on a motion to the court seeking payment of attorney's fees, costs, or other expenses. This right includes a reasonable opportunity to obtain discovery before a hearing on the motion.

Section 11. Subsection (7) is added to section 28.241, Florida Statutes, to read:

28.241 Filing fees for trial and appellate proceedings.—

(7) Nothing in this section authorizes the assessment of a filing fee if the assessment is otherwise prohibited by law.

Section 12. 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 10th 20th day of the month immediately after 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 13. Subsection (6) of section 28.246, Florida Statutes, is amended to read:

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

(6) A clerk of court shall pursue the collection of any fees, service charges, fines, court costs, and liens for the payment of attorney's fees and costs pursuant to s. 938.29 which remain unpaid after 90 days by referring the account to a private attorney who is a member in good standing of The Florida Bar or collection agent who is registered and in good standing pursuant to chapter 559. In pursuing the collection of such unpaid financial obligations through a private attorney or collection agent, the clerk of the court must have attempted to collect the unpaid amount through a collection court, collections docket, or other collections process, if any, established by the court, find this to be cost-effective and follow any applicable procurement practices. The collection fee, including any reasonable attorney's fee, paid to any attorney or collection agent retained by the clerk may be added to the balance owed in an amount not to exceed 40 percent of the amount owed at the time the account is referred to the attorney or agent for collection. The clerk shall give the private attorney or collection agent the application for the appointment of court-appointed counsel regardless of whether the court file is otherwise confidential from disclosure.



Section 14. Subsections (3) and (10) of section 28.36, Florida Statutes, are amended to read:

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

(3) Each clerk shall include in his or her budget request the number of personnel and the proposed budget for each of the following core services:

- (a) Circuit criminal Case processing.
- (b) County criminal Financial processing.
- (c) Juvenile delinquency Jury management.
- (d) Criminal traffic Information and reporting.
- (e) Circuit civil.
- (f) County civil.
- (g) Civil traffic.
- (h) Probate.
- (i) Family.
- (j) Juvenile dependency.

Central administrative costs shall be allocated among the core-services categories.

(10)(a) Beginning in the 2010-2011 fiscal year, the corporation shall release appropriations to each clerk quarterly. If funds in the Clerks of Court Trust Fund are insufficient to provide a release in a quarter in a single release, the corporation may release partial amounts for that quarter so long as the total of those partial amounts does not exceed that quarter's release. If funds in the Clerks of Court Trust Fund are insufficient for the first quarter release, the corporation may make a request to the Governor for a trust fund loan pursuant to chapter 215. The amount of the first three releases shall be based on one quarter of the estimated budget for each clerk as identified in the General Appropriations Act.

(b) The corporation shall estimate the fourth quarter's number of units to be performed by each clerk. The amount of the fourth-quarter release shall be based on the approved unit cost times the estimated number of units of the fourth quarter with the following adjustment: the fourth-quarter release shall be adjusted based on the first three quarter's actual number of service units provided as reported to the corporation by each clerk. If the clerk has performed fewer service units in the first three quarters of the year compared to three quarters of the estimated number of service units in the General

Appropriations Act, the corporation shall decrease the fourth-quarter release. The amount of the decrease shall equal the amount of the difference between estimated number of service units for the first three quarters and the actual number of service units provided in the first three quarters times the approved unit cost.

(c) No adjustment for the fourth-quarter release shall be made if the clerk has performed more units than the estimate for the first three quarters.

(d) If the clerk performs fewer units in the fourth quarter than estimated by the corporation, the corporation shall decrease the first-quarter release for the clerk in the next fiscal year by the amount of the difference between the estimated number of service units for the fourth quarter and the actual number of service units performed in that quarter times the approved unit cost.

(e) The total of all releases to the clerks of court may not exceed the amount appropriated in the General Appropriations Act. If, during the year, the corporation determines that the projected releases of appropriations for service units will exceed the estimate used in the General Appropriations Act and result in statewide expenditures greater than the amount appropriated by law, the corporation shall reduce all service unit costs of all clerks by the amount necessary to ensure that service units are funded within the total amount appropriated to the clerks of court. If such action is necessary, the corporation shall notify the Legislative Budget Commission. If the Legislative Budget Commission objects to the adjustments, the Legislative Budget Commission shall adjust all service unit costs by the amount necessary to ensure that projected units of service are funded within the total amount appropriated to the clerks of court at its next scheduled meeting. For the 2009-2010 fiscal year, the corporation shall release appropriations in an amount equal to one twelfth of each clerk's approved budget each month. The statewide total appropriation for the 2009-2010 fiscal year shall be set in the General Appropriations Act. The corporation shall determine the amount of each clerk of court budget, but the statewide total of such amounts may not exceed the amount listed in the General Appropriations Act. Beginning in the 2010-2011 fiscal year, the corporation shall release appropriations to each clerk quarterly. The amount of the release shall be based on the prior quarter's performance of service units identified in the four core services and the established unit costs for each clerk.

Section 15. Section 29.0095, Florida Statutes, is repealed.

Section 16. Section 29.0195, Florida Statutes, is amended to read:

29.0195 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 ~~Administrative Operating~~ Trust Fund within the state ~~courts 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.

Section 17. Paragraph (a) of subsection (1) of section 34.041, Florida Statutes, is amended to read:

34.041 Filing fees.—

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

- 1. For all claims less than \$100.....\$50.
- 2. For all claims of \$100 or more but not more than \$500.....\$75.
- 3. For all claims of more than \$500 but not more than \$2,500.....\$170.
- 4. For all claims of more than \$2,500..... \$295.
- 5. In addition, for all proceedings of garnishment, attachment, replevin, and distress..... \$85.
- 6. Notwithstanding subparagraphs 3. and 5., for all claims of not more than \$1,000 filed simultaneously with an action for replevin of property that is the subject of the claim.....\$125.
- 7. For removal of tenant action..... \$180.

The filing fee in subparagraph 6. is the total fee due under this paragraph for that type of filing, and no other filing fee under this paragraph may be assessed against such a filing.

Section 18. Subsection (6) of section 35.22, Florida Statutes, is amended to read:

35.22 Clerk of district court; appointment; compensation; assistants; filing fees; teleconferencing.—

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

Section 19. Section 39.0134, Florida Statutes, is amended to read:

## 39.0134 Appointed counsel; compensation.—

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

(2)(a) A parent whose child is dependent, regardless of whether adjudication was withheld, or whose parental rights are terminated and who has received the assistance of the office of criminal conflict and civil regional counsel, or any other court-appointed attorney, or who has received due process services after being found indigent for costs, shall be liable for payment of the assessed application fee under s. 57.082, together with reasonable attorney's fees and costs as determined by the court.

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

(c) The clerk of the court shall transfer monthly all attorney's fees and costs collected under this subsection to the Department of Revenue for deposit into the Indigent Civil Defense Trust Fund, to be used as appropriated by the Legislature and consistent with s. 27.511.

Section 20. 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 history records checks through local law enforcement agencies, and statewide criminal history 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 information 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 an arrest awaiting final disposition for, been convicted of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under the provisions listed in s. 435.04. All applicants certified on or after July 1, 2010, must undergo a level 2 background screening pursuant to chapter 435 before being certified 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 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 21. Subsections (1) and (5) of section 57.082, Florida Statutes, are amended to read:

57.082 Determination of civil indigent status.—

(1) APPLICATION TO THE CLERK.—A person seeking appointment of an attorney in a civil case eligible for court-appointed counsel, or seeking relief from payment of filing fees and prepayment of 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.

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

(5) APPOINTMENT OF COUNSEL.—In appointing counsel after a determination that a person is indigent under this section, the court shall first appoint the office of criminal conflict and civil regional counsel, as provided in s. 27.511, unless specific provision is made in law for the appointment of the public defender in the particular civil proceeding. The court shall also order the person to pay the application fee under subsection (1), or enroll in a payment plan if he or she is unable to pay the fee, if the fee remains unpaid or if the person has not enrolled in a payment plan at the time the court appoints counsel. However, a person who is found to be indigent may not be refused counsel.

Section 22. Subsection (4) of section 68.085, Florida Statutes, is amended to read:

68.085 Awards to plaintiffs bringing action.—

(4) Following any distributions under subsection (1), subsection (2), or subsection (3), the agency injured by the submission of a false or fraudulent claim shall be awarded an amount not to exceed its compensatory damages. If the action was based on a claim of funds from the state Medicaid program, 10 percent of any remaining proceeds shall be deposited into the Operating Legal Affairs Revolving Trust Fund to fund rewards for persons who report and provide information relating to Medicaid fraud pursuant to s. 409.9203. Any remaining proceeds, including civil penalties awarded under s. 68.082, shall be deposited in the General Revenue Fund.

Section 23. Subsection (2) of section 119.0714, Florida Statutes, is amended to read:

119.0714 Court files; court records; official records.—

(2) COURT RECORDS.—

(a) Until January 1, 2012 ~~2011~~, if a social security number or a bank account, debit, charge, or credit card number is 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.

(b) A request for redaction must be 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 court. The clerk of the court does not have a duty to inquire beyond the written request to verify the identity of a person requesting redaction.

(c) 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.

(d) The clerk of the court has no liability for the inadvertent release of social security numbers, or bank account, debit, charge, or credit card numbers, unknown to the clerk of the court in court records filed on or before January 1, 2012 ~~2011~~.

(e)1. On January 1, 2012 ~~2011~~, and thereafter, the clerk of the court must keep social security numbers confidential and exempt as provided for in s. 119.071(5)(a), and bank account, debit, charge, and credit card numbers exempt as provided for in s. 119.071(5)(b), without any person having to request redaction.

2. Section 119.071(5)(a)7. and 8. does not apply to the clerks of the court with respect to court records.

Section 24. Paragraph (b) of subsection (13) of section 318.18, Florida Statutes, is amended to read:

318.18 Amount of penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14 or a criminal offense listed in s. 318.17 are as follows:

(13)

(b) A county may not impose a surcharge ~~the surcharges authorized under subparagraph subparagraphs (a)1., subparagraph(a)2., or and subparagraph(a)3., but may not impose more than one surcharge under this subsection concurrently. A county may elect to impose a different authorized surcharge but may not impose more than one surcharge at a time.~~ 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, the Speaker of the House of Representatives, and the board of county commissioners.

Section 25. Effective October 1, 2010, section 320.061, Florida Statutes, is amended to read:

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

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

320.131 Temporary tags.—

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



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

Section 27. Effective October 1, 2010, subsections (1) and (5) of section 322.03, Florida Statutes, are amended to read:

322.03 Drivers must be licensed; penalties.—

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

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

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

(c) Part-time residents of this state issued a license that is valid within this state only under paragraph (b) as that paragraph existed before November 1, 2009, may continue to hold such license until the next issuance of a Florida driver’s license or identification card. Licenses that are identified as “Valid in Florida Only” may not be issued or renewed effective November 1, 2009. This paragraph expires June 30, 2017.

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

Section 28. Effective October 1, 2010, subsections (5) and (6) of section 322.16, Florida Statutes, are amended to read:

322.16 License restrictions.—

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

(6) Any person who operates a motor vehicle in violation of the restrictions imposed under paragraph (1)(a), paragraph (1)(b), in subsection (2), or subsection (3) will be charged with a moving violation and fined in accordance with chapter 318.

Section 29. Subsection (1) of section 775.083, Florida Statutes, is amended to read:

775.083 Fines.—

(1) A person who has been convicted of an offense other than a capital felony may be sentenced to pay a fine in addition to any punishment described in s. 775.082; when specifically authorized by statute, he or she may be sentenced to pay a fine in lieu of any punishment described in s. 775.082. A person who has been convicted of a noncriminal violation may be sentenced to pay a fine. Fines for designated crimes and for noncriminal violations shall not exceed:

- (a) \$15,000, when the conviction is of a life felony.
- (b) \$10,000, when the conviction is of a felony of the first or second degree.
- (c) \$5,000, when the conviction is of a felony of the third degree.
- (d) \$1,000, when the conviction is of a misdemeanor of the first degree.
- (e) \$500, when the conviction is of a misdemeanor of the second degree or a noncriminal violation.
- (f) Any higher amount equal to double the pecuniary gain derived from the offense by the offender or double the pecuniary loss suffered by the victim.
- (g) Any higher amount specifically authorized by statute.

Fines imposed in this subsection shall be deposited by the clerk of the court in the fine and forfeiture fund established pursuant to s. 142.01, except that the clerk shall remit fines imposed when adjudication is withheld to the Department of Revenue for deposit shall be deposited in the General Revenue Fund State Courts Revenue Trust Fund, and such fines imposed when adjudication is withheld are not revenue for purposes of s. 28.36 and may not be used in establishing the budget of the clerk of the court under that section or s. 28.35. If a defendant is unable to pay a fine, the court may defer payment of the fine to a date certain. As used in this subsection, the term “convicted” or “conviction” means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

Section 30. Subsection (5) of section 832.08, Florida Statutes, is amended to read:

832.08 State attorney bad check diversion program; fees for collections.

(5) To fund the diversion program, the state attorney may collect a fee on each check that is collected through the state attorney's office, whether it is collected through prosecution or through the diversion program. Funds collected under this subsection shall be deposited in the State Attorneys Revenue Trust Fund. However, the state attorney may not collect such a fee on any check collected through a diversion program which was in existence in another office prior to October 1, 1986. A fee may be collected by an office operating such a preexisting diversion program for the purpose of funding such program. The amount of the fee for each check shall not exceed:

- (a) Twenty-five dollars, if the face value does not exceed \$50.
- (b) Thirty dollars, if the face value is more than \$50 but does not exceed \$300.
- (c) Forty dollars, if the face value is more than \$300.

Section 31. Section 938.06, Florida Statutes, is amended to read:

938.06 ~~Additional~~ Cost for crime stoppers programs.—

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

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

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

Section 32. Subsection (8) of section 938.27, Florida Statutes, is amended to read:

938.27 Judgment for costs on conviction.—

(8) Costs for the state attorney shall be set in all cases at no less than \$50 per case when a misdemeanor or criminal traffic offense is charged and no less than \$100 per case when a felony offense is charged, including a proceeding in which the underlying offense is a violation of probation or community control. The court may set a higher amount upon a showing of sufficient proof of higher costs incurred. Costs recovered on behalf of the state attorney under this section shall be deposited into the State Attorneys Revenue ~~attorney's grants and donations~~ Trust Fund to be used during the

fiscal year in which the funds are collected, or in any subsequent fiscal year, for actual expenses incurred in investigating and prosecuting criminal cases, which may include the salaries of permanent employees, or for any other purpose authorized by the Legislature.

Section 33. 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 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. The lien against a parent shall remain in force notwithstanding the child becoming emancipated or the child reaching the age of majority.

Section 34. Section 939.08, Florida Statutes, is amended to read:

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

Section 35. Paragraph (a) of subsection (1) of section 939.185, Florida Statutes, is amended to read:

939.185 Assessment of additional court costs and surcharges.—

(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, or adjudicated delinquent for, any felony, misdemeanor, delinquent act, 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, as determined by the chief judge of the circuit, 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 36. Subsection (15) is added to section 943.03, Florida Statutes, to read:

943.03 Department of Law Enforcement.—

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

(a) Define the minimum business requirements necessary for successful implementation.

(b) Consider the charging and booking requirements of sheriffs’ offices and police departments and the business requirements of state attorneys, public defenders, criminal conflict and civil regional counsel, clerks of court, judges, and state law enforcement agencies.

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

The required system modifications and adopted rules shall be implemented by December 31, 2012.

Section 37. Paragraph (b) of subsection (3) of section 943.053, Florida Statutes, is amended to read:

943.053 Dissemination of criminal justice information; fees.—

(3)

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

Section 38. The amount of unexpended balances in the state court's Operating Trust Fund attributable to collections made pursuant to ss. 25.241 and 35.22, Florida Statutes, before amendment by this act shall be transferred to the State Courts Revenue Trust Fund, FLAIR number 22-2-057. All other unexpended funds in the Operating Trust Fund are transferred to the Administrative Trust Fund within the state courts system.

Section 39. The amount of unexpended balances in the state attorney's grants and donations trust fund attributable to collections made pursuant to ss. 832.08 and 938.27, Florida Statutes, before amendment by this act shall be transferred to the State Attorneys Revenue Trust Fund, FLAIR number 21-2-058.

Section 40. The sum of \$3,600,000 of nonrecurring funds from the Clerks of Court Trust Fund is appropriated to the Florida Clerks of Court Operations Corporation to be distributed to the clerks of court where the state court system has distributed the increased resources provided in the 2010-2011 General Appropriations Act for workload associated with foreclosure and economic recovery. The corporation shall submit a budget amendment pursuant to chapter 216, Florida Statutes, to distribute the funding among the clerks of court.

Section 41. The sum of \$18,600,000 from the State Courts Revenue Trust Fund is transferred to the Clerks of the Court Trust Fund in the Justice Administrative Commission for the purpose of paying the general revenue service charge for the state fiscal year 2009-2010. This section shall take effect upon this act becoming a law.

Section 42. Except as otherwise expressly provided in this act, and except for this section which shall take effect upon this act becoming a law, this act shall take effect July 1, 2010.

Approved by the Governor May 28, 2010.

Filed in Office Secretary of State May 28, 2010.