

CHAPTER 2012-123

Senate Bill No. 1960

An act relating to the state judicial system; amending s. 27.40, F.S.; authorizing the chief judge of the circuit to limit the number of attorneys on the circuit registry list; providing criteria in order to qualify for inclusion on a registry; authorizing the chief judge to establish a limited registry that includes only those attorneys willing to waive compensation in excess of a flat fee; requiring the court to appoint attorneys from the flat-fee limited registry unless there are no attorneys available to accept the appointment on the limited registry; amending s. 27.511, F.S.; revising the procedures by which a regional conflict counsel is appointed by the Governor; providing that, if a regional counsel is unable to complete a full term in office, the Governor may immediately appoint an interim regional counsel to serve as regional counsel for that district until a new regional counsel is appointed; requiring the Florida Supreme Court Judicial Nominating Commission to provide the Governor with a list of nominees for appointment within 6 months after the date of a vacancy; amending s. 27.52, F.S.; authorizing the clerk to conduct a review of the county's property records to confirm that an applicant seeking appointment of a public defender is indigent; amending s. 27.5304, F.S.; revising procedures for court-appointed counsel who apply for compensation for casework when the attorney fees exceed the limits of compensation prescribed by law; providing procedures to be applied in criminal cases if the court orders payment in excess of the flat fee established by law; providing procedures for payment of fees when payments due exceed the available funding designated by the court; amending s. 39.8296, F.S.; authorizing court-appointed volunteers to transport children who are abused, abandoned, or neglected; prohibiting a guardian ad litem program or the court from requiring that volunteers transport children; creating s. 39.8297, F.S.; authorizing a county and the Statewide Guardian Ad Litem Office to enter into an agreement whereby the county provides funding to the office in order to employ additional guardian ad litem personnel to serve in the county; requiring an agreement between the county and the Statewide Guardian Ad Litem Office; specifying the duties and responsibilities of the county and the participating guardian ad litem office; requiring the statewide office to indemnify the county from liability resulting from the acts or omissions of the guardian ad litem office; prohibiting the Statewide Guardian Ad Litem Office from using county-paid positions in a formula to measure the county's need for additional guardian ad litem personnel; providing that an agreement between the county and the office does not obligate the state to provide additional funds to the county; amending s. 318.18, F.S.; requiring the clerk of court and the Florida Clerks of Court Operations Corporation to submit reports on local traffic assessments in an electronic format; providing an effective date.

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

Section 1. Subsections (3) and (4) of section 27.40, Florida Statutes, are amended to read:

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

(3) In utilizing a registry:

(a) The chief judge of the circuit shall compile a list of attorneys in private practice, by county and by category of cases, and provide the list to the clerk of court in each county. ~~The chief judge of the circuit may restrict the number of attorneys on the general registry list. 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:

1. That they meet any minimum requirements established by the chief judge and by established in general law for court appointment;;

2. That they are available to represent indigent defendants in cases requiring court appointment of private counsel; ~~and~~

3. That they are willing to abide by the terms of the contract for services; and

4. Whether they are willing to accept as full payment the flat fees prescribed in s. 27.5304, notwithstanding the provisions of s. 27.5304(12), except for cases brought under the Racketeer Influenced and Corrupt Organizations Act and capital cases as defined in s. 27.5304(5)(a)4.

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 clerk of the court 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. In addition to general registries, the chief judge may establish limited registries that include only those attorneys willing to waive compensation in excess of the flat fee prescribed in s. 27.5304, notwithstanding the provisions of s. 27.5304(12).

(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. If a chief judge establishes a limited registry of attorneys willing to waive compensation in excess of the flat fee, the court shall appoint attorneys from that limited registry unless there are no attorneys available to accept the appointment on the limited registry. The clerk of court shall maintain the registry and provide to the court the name of the attorney for appointment.

An attorney not appointed in the order in which his or her name appears on the list shall remain next in order.

(c) If the number of attorneys on the registry in a county or circuit for a particular category of cases is inadequate, the chief judge of the particular circuit shall provide to the clerk of court the names of at least three private attorneys who have relevant experience. The clerk of court shall send an application to each of these attorneys to register for appointment.

(d) Quarterly, each chief judge shall provide a current copy of each registry to the Chief Justice of the Supreme Court, the state attorney and public defender in each judicial circuit, the office of criminal conflict and civil regional counsel, the clerk of court in each county, and the Justice Administrative Commission. ~~From October 1, 2005, through September 30, 2007, Circuits utilizing a limited registry list as allowed by paragraph (a) 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 limited registry.~~

(4) To be eligible for court appointment, an attorney must be a member in good standing of The Florida Bar in addition to any other qualifications specified by general law and any requirements set by the chief judge of the circuit.

Section 2. Subsection (3) of section 27.511, Florida Statutes, is amended to read:

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

(3)(a) Each regional counsel must be, and must have been for the preceding 5 years, a member in good standing of The Florida Bar ~~or a similar organization in another state.~~ Each regional counsel shall be appointed by the Governor and is subject to confirmation by the Senate. The Supreme Court Judicial Nominating Commission, in addition to the current regional counsel, shall recommend to the Governor not fewer than two or more than five additional ~~three~~ qualified candidates for appointment to each of the five regional counsel positions. The Governor shall appoint the regional counsel for the five regions from among the recommendations, or, if it is in the best interest of the fair administration of justice, the Governor may reject the nominations and request that the Supreme Court Judicial Nominating Commission submit three new nominees. The regional counsel shall be appointed to a term of 4 years, the first term beginning on October 1, 2015 ~~July 1, 2007.~~ Vacancies shall be filled in the same manner provided in paragraph (b) as appointments.

(b) If for any reason a regional counsel is unable to complete a full term in office, the Governor may immediately appoint an interim regional counsel who meets the qualifications to be a regional counsel to serve as regional counsel for that district until a new regional counsel is appointed in the

manner provided in paragraph (a). The Florida Supreme Court Judicial Nominating Commission shall provide the Governor with a list of nominees for appointment within 6 months after the date of the vacancy. A temporary vacancy in office does not affect the validity of any matters or activities of the office of regional counsel.

Section 3. Paragraph (a) of subsection (2) of section 27.52, Florida Statutes, is amended to read:

27.52 Determination of indigent status.—

(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).

1.2.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.

2.b. Notwithstanding the information that the applicant provides, the clerk may 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 paragraph subparagraph. The clerk may shall evaluate and consider the results of the review in making a determination under this subsection. If the review is conducted, 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.

Section 4. Section 27.5304, Florida Statutes, is amended to read:

27.5304 Private court-appointed counsel; compensation; notice.—

(1) Private court-appointed counsel shall be compensated by the Justice Administrative Commission as provided in this section and the General Appropriations Act. The flat fees prescribed in this section are limitations on compensation. The specific flat fee amounts for compensation shall be established annually in the General Appropriations Act. 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.

(2) The Justice Administrative Commission shall review an intended billing by private court-appointed counsel for attorney attorney's fees based on a flat fee per case for completeness and compliance with contractual and statutory 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. An intended billing that seeks compensation for any amount exceeding the flat fee established for a particular type of representation, as prescribed in the General Appropriations Act, shall comply with subsections (11) and (12).

(3) The court retains primary authority and responsibility for determining the reasonableness of all billings for attorney 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.

(4)(a) The attorney shall submit a bill for attorney 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 percent of the allowable attorney 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 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 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.

(5) The compensation for representation in a criminal proceeding shall not exceed the following:

(a)1. For misdemeanors and juveniles represented at the trial level: \$1,000.

2. For noncapital, nonlife felonies represented at the trial level: \$2,500.

3. For life felonies represented at the trial level: \$3,000.

4. For capital cases represented at the trial level: \$15,000. For purposes of this subparagraph, a “capital case” is any offense for which the potential sentence is death and the state has not waived seeking the death penalty.

5. For representation on appeal: \$2,000.

(b) If a death sentence is imposed and affirmed on appeal to the Supreme Court, the appointed attorney shall be allowed compensation, not to exceed \$1,000, for attorney ~~attorney's~~ fees and costs incurred in representing the defendant as to an application for executive clemency, with compensation to be paid out of general revenue from funds budgeted to the Department of Corrections.

(6) For compensation for representation pursuant to a court appointment in a proceeding under chapter 39:

(a) At the trial level, compensation for representation for dependency proceedings shall not exceed \$1,000 for the first year following the date of appointment and shall not exceed \$200 each year thereafter. Compensation shall be paid based upon representation of a parent irrespective of the number of case numbers that may be assigned or the number of children involved, including any children born during the pendency of the proceeding. Any appeal, except for an appeal from an adjudication of dependency, shall be completed by the trial attorney and is considered compensated by the flat fee for dependency proceedings.

1. Counsel may bill the flat fee not exceeding \$1,000 following disposition or upon dismissal of the petition.

2. Counsel may bill the annual flat fee not exceeding \$200 following the first judicial review in the second year following the date of appointment and each year thereafter as long as the case remains under protective supervision.

3. If the court grants a motion to reactivate protective supervision, the attorney shall receive the annual flat fee not exceeding \$200 following the first judicial review and up to an additional \$200 each year thereafter.

4. If, during the course of dependency proceedings, a proceeding to terminate parental rights is initiated, compensation shall be as set forth in paragraph (b). If counsel handling the dependency proceeding is not authorized to handle proceedings to terminate parental rights, the counsel must withdraw and new counsel must be appointed.

(b) At the trial level, compensation for representation in termination of parental rights proceedings shall not exceed \$1,000 for the first year following the date of appointment and shall not exceed \$200 each year thereafter. Compensation shall be paid based upon representation of a parent irrespective of the number of case numbers that may be assigned or the number of children involved, including any children born during the pendency of the proceeding. Any appeal, except for an appeal from an order granting or denying termination of parental rights, shall be completed by trial counsel and is considered compensated by the flat fee for termination of parental rights proceedings. If the individual has dependency proceedings ongoing as to other children, those proceedings are considered part of the termination of parental rights proceedings as long as that termination of parental rights proceeding is ongoing.

1. Counsel may bill the flat fee not exceeding \$1,000 30 days after rendition of the final order. Each request for payment submitted to the Justice Administrative Commission must include the trial counsel's certification that:

a. Counsel discussed grounds for appeal with the parent or that counsel attempted and was unable to contact the parent; and

b. No appeal will be filed or that a notice of appeal and a motion for appointment of appellate counsel, containing the signature of the parent, have been filed.

2. Counsel may bill the annual flat fee not exceeding \$200 following the first judicial review in the second year after the date of appointment and each year thereafter as long as the termination of parental rights proceedings are still ongoing.

(c) For appeals from an adjudication of dependency, compensation may not exceed \$1,000.

1. Counsel may bill a flat fee not exceeding \$750 upon filing the initial brief or the granting of a motion to withdraw.

2. If a brief is filed, counsel may bill an additional flat fee not exceeding \$250 upon rendition of the mandate.

(d) For an appeal from an adjudication of termination of parental rights, compensation may not exceed \$2,000.

1. Counsel may bill a flat fee not exceeding \$1,000 upon filing the initial brief or the granting of a motion to withdraw.

2. If a brief is filed, counsel may bill an additional flat fee not exceeding \$1,000 upon rendition of the mandate.

(7) Counsel entitled to receive compensation from the state for representation pursuant to court appointment in a proceeding under chapter 384,

chapter 390, chapter 392, chapter 393, chapter 394, chapter 397, chapter 415, chapter 743, chapter 744, or chapter 984 shall receive compensation not to exceed the limits prescribed in the General Appropriations Act.

(8) A private attorney appointed in lieu of the public defender or the criminal conflict and civil regional counsel 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 s. 27.40.

(9) 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.

(10) Private court-appointed counsel may not bill for preparation of invoices.

(11) It is the intent of the Legislature that the flat fees prescribed under this section and the General Appropriations Act comprise the full and complete compensation for private court-appointed counsel. It is further the intent of the Legislature that the fees in this section are prescribed for the purpose of providing counsel with notice of the limit on the amount of compensation for representation in particular proceedings.

(a) If court-appointed counsel moves to withdraw prior to the full performance of his or her duties through the completion of the case, the court shall presume that the attorney is not entitled to the payment of the full flat fee established under this section and the General Appropriations Act.

(b) If court-appointed counsel is allowed to withdraw from representation prior to the full performance of his or her duties through the completion of the case and the court appoints a subsequent attorney, the total compensation for the initial and any and all subsequent attorneys may not exceed the flat fee established under this section and the General Appropriations Act, except as provided in subsection (12).

This subsection constitutes notice to any subsequently appointed attorney that he or she will not be compensated the full flat fee.

(12) The Legislature recognizes that on rare occasions an attorney may receive a case that requires extraordinary and unusual effort.

(a) If counsel seeks compensation that exceeds the limits prescribed by law ~~under this section and the General Appropriations Act~~, he or she must

file a motion with the chief judge for an order approving payment of attorney attorney's fees in excess of these limits.

1. ~~Before~~ Prior to filing the motion, the counsel shall deliver a copy of the intended billing, together with supporting affidavits and all other necessary documentation, to the Justice Administrative Commission.

2. 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 supporting reasons must ~~therefor shall~~ be communicated in writing to the private court-appointed counsel. The counsel may thereafter file his or her motion, which must specify whether the commission objects to any portion of the billing or the sufficiency of documentation, and shall attach the commission's letter stating its objection.

(b) Following receipt of the motion to exceed the fee limits, the chief judge or a single designee shall hold an evidentiary hearing. The chief judge may select only one judge per circuit to hear and determine motions pursuant to this subsection, except multicounty circuits and the eleventh circuit may have up to two designees.

1. At the hearing, the attorney seeking compensation must prove by competent and substantial evidence that the case required extraordinary and unusual efforts. The chief judge or single designee shall consider criteria such as the number of witnesses, the complexity of the factual and legal issues, and the length of trial. The fact that a trial was conducted in a case does not, by itself, constitute competent substantial evidence of an extraordinary and unusual effort. In a criminal case, relief under this section may not be granted if the number of work hours does not exceed 75 or the number of the state's witnesses deposed does not exceed 20.

2. The chief judge or single designee shall enter a written order detailing his or her findings and identifying the extraordinary nature of the time and efforts of the attorney in the case which warrant exceeding the flat fee established by this section and the General Appropriations Act.

(c) A copy of the motion and attachments shall be served on the Justice Administrative Commission at least 5 business days ~~before~~ prior to the date of a hearing. The Justice Administrative Commission has ~~shall have~~ standing to appear before the court, including at the hearing under paragraph (b), to contest any motion for an order approving payment of attorney 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 an order approving payment of attorney 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.

(d) If the chief judge or a single designee finds that counsel has proved by competent and substantial evidence that the case required extraordinary and unusual efforts, the chief judge or single designee shall order the compensation to be paid to the attorney at a percentage above the flat fee rate, depending on the extent of the unusual and extraordinary effort required. The percentage must shall be only the rate necessary to ensure that the fees paid are not confiscatory under common law. The percentage may not exceed 200 percent of the established flat fee, absent a specific finding that 200 percent of the flat fee in the case would be confiscatory. If the chief judge or single designee determines that 200 percent of the flat fee would be confiscatory, he or she shall order the amount of compensation using an hourly rate not to exceed \$75 per hour for a noncapital case and \$100 per hour for a capital case. However, the compensation calculated by using the hourly rate shall be only that amount necessary to ensure that the total fees paid are not confiscatory.

(e) Any order granting relief under this subsection must be attached to the final request for a payment submitted to the Justice Administrative Commission.

(f) For criminal cases only, if the court orders payment in excess of the flat fee established by law, fees shall be paid as follows:

1. The flat fee shall be paid from funds appropriated to the Justice Administrative Commission in the General Appropriations Act.

2. The amount ordered by the court in excess of the flat fee shall be paid by the Justice Administrative Commission in a special category designated for that purpose in the General Appropriations Act.

3. If, during the fiscal year, all funds designated for payment of the amount ordered by the court in excess of the flat fee are spent, the amount of payments in excess of the flat fee shall be made from the due process funds, or other funds as necessary, appropriated to the state courts system in the General Appropriations Act. Funds from the state courts system must be used in a manner approved by the Chief Justice and administered by the Trial Court Budget Commission.

(g) The Justice Administrative Commission shall provide to the Office of the State Courts Administrator monthly data by statewide uniform case number, attorney, and defendant name concerning:

1. Private court-appointed cases opened;

2. Cases paid and the amount of payment, including any amount in excess of the flat fee; and

3. Cases for which compensation was waived.

(h)(f) The Justice Administrative Commission shall provide monthly to the Office of the State Courts Administrator data concerning the number of cases approved for compensation in excess of the ~~flat fee limitation~~ and the amount of these awards by circuit and by judge. The ~~Justice Administrative Commission Office of the State Courts Administrator~~ shall report the data quarterly in an electronic format to the ~~chairs of the legislative appropriations committees and the Office of the State Courts Administrator President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the chief judge of each circuit.~~

Section 5. Paragraph (b) of subsection (2) of section 39.8296, Florida Statutes, is amended to read:

39.8296 Statewide Guardian Ad Litem Office; legislative findings and intent; creation; appointment of executive director; duties of office.—

(2) STATEWIDE GUARDIAN AD LITEM OFFICE.—There is created a Statewide Guardian Ad Litem Office within the Justice Administrative Commission. The Justice Administrative Commission shall provide administrative support and service to the office to the extent requested by the executive director within the available resources of the commission. The Statewide Guardian Ad Litem Office shall not be subject to control, supervision, or direction by the Justice Administrative Commission in the performance of its duties, but the employees of the office shall be governed by the classification plan and salary and benefits plan approved by the Justice Administrative Commission.

(b) The Statewide Guardian Ad Litem Office shall, within available resources, have oversight responsibilities for and provide technical assistance to all guardian ad litem and attorney ad litem programs located within the judicial circuits.

1. The office shall identify the resources required to implement methods of collecting, reporting, and tracking reliable and consistent case data.

2. The office shall review the current guardian ad litem programs in Florida and other states.

3. The office, in consultation with local guardian ad litem offices, shall develop statewide performance measures and standards.

4. The office shall develop a guardian ad litem training program. The office shall establish a curriculum committee to develop the training program specified in this subparagraph. The curriculum committee shall include, but not be limited to, dependency judges, directors of circuit guardian ad litem programs, active certified guardians ad litem, a mental health professional who specializes in the treatment of children, a member of a child advocacy group, a representative of the Florida Coalition Against Domestic Violence, and a social worker experienced in working with victims and perpetrators of child abuse.

5. The office shall review the various methods of funding guardian ad litem programs, shall maximize the use of those funding sources to the extent possible, and shall review the kinds of services being provided by circuit guardian ad litem programs.

6. The office shall determine the feasibility or desirability of new concepts of organization, administration, financing, or service delivery designed to preserve the civil and constitutional rights and fulfill other needs of dependent children.

7. In an effort to promote normalcy and establish trust between a court-appointed volunteer guardian ad litem and a child alleged to be abused, abandoned, or neglected under this chapter, a guardian ad litem may transport a child. However, a guardian ad litem volunteer may not be required or directed by the program or a court to transport a child.

~~8.7. No later than October 1, 2004, The office shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court an interim report describing the progress of the office in meeting the goals as described in this section. No later than October 1, 2004, The office shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court a proposed plan including alternatives for meeting the state's guardian ad litem and attorney ad litem needs. This plan may include recommendations for less than the entire state, may include a phase-in system, and shall include estimates of the cost of each of the alternatives. Each year thereafter, the office shall provide a status report and provide further recommendations to address the need for guardian ad litem services and related issues.~~

Section 6. Section 39.8297, Florida Statutes, is created to read:

39.8297 County funding for guardian ad litem employees.—

(1) A county and the executive director of the Statewide Guardian Ad Litem Office may enter into an agreement by which the county agrees to provide funds to the local guardian ad litem office in order to employ persons who will assist in the operation of the guardian ad litem program in the county.

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

(a) Funding for the persons who are employed will be provided on at least a fiscal-year basis.

(b) The persons who are employed will be hired, supervised, managed, and terminated by the executive director of the Statewide Guardian Ad Litem Office. The statewide office is responsible for compliance with all requirements of federal and state employment laws, and shall fully indemnify the county from any liability under such laws, as authorized by

s. 768.28(19), to the extent such liability is the result of the acts or omissions of the Statewide Guardian Ad Litem Office or its agents or employees.

(c) The county is the employer for purposes of s. 440.10 and chapter 443.

(d) Employees funded by the county under this section and other county employees may be aggregated for purposes of a flexible benefits plan pursuant to s. 125 of the Internal Revenue Code of 1986.

(e) Persons employed under this section may be terminated after a substantial breach of the agreement or because funding to the program has expired.

(3) Persons employed under this section may not be counted in a formula or similar process used by the Statewide Guardian Ad Litem Office to measure personnel needs of a judicial circuit's guardian ad litem program.

(4) Agreements created pursuant to this section do not obligate the state to allocate funds to a county to employ persons in the guardian ad litem program.

Section 7. 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 impose a surcharge under subparagraph (a)1., subparagraph(a)2., or subparagraph(a)3., but may not impose more than one surcharge under this subsection. 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 an electronic a format developed by the Florida Clerks of Court Operations Corporation Office of State Courts Administrator, to the chief judge of the circuit and to, the Florida Clerks of Court Operations Corporation. The corporation shall submit the report in an electronic format to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the board of county commissioners.

Section 8. This act shall take effect July 1, 2012.

Approved by the Governor April 20, 2012.

Filed in Office Secretary of State April 20, 2012.