

Committee Substitute for House Bill No. 327

An act relating to conflicts of interests in the representation of indigent defendants; amending s. 27.53, F.S.; requiring that the court review an alleged conflict of interest without disclosing confidential communications; providing for withdrawal of the public defender unless the court determines that the conflict is not prejudicial to the indigent defendant; requiring each circuit conflict committee to assess the circuit's conflict representation system; requiring that the committees report findings and recommendations to the Legislature; providing an effective date.

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

Section 1. Subsection (3) of section 27.53, Florida Statutes, is amended to read:

27.53 Appointment of assistants and other staff; method of payment.—

(3) If, at any time during the representation of two or more indigents, the public defender ~~determines~~ shall determine 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 conflict of interest, or that none can be counseled by the public defender or his or her staff because of conflict of interest, ~~it shall be the public defender's duty to~~ the public defender shall file a motion to withdraw and ~~move the court to appoint other counsel.~~ The court shall review and may inquire or conduct a hearing into the adequacy of the public defender's representations regarding a conflict of interest without requiring the disclosure of any confidential communications. The court shall permit withdrawal unless the court determines that the asserted conflict is not prejudicial to the indigent client. If the court grants the motion to withdraw, it may appoint one or more members of The Florida Bar, who are in no way affiliated with the public defender, in his or her capacity as such, or in his or her private practice, to represent those accused. However, the trial court shall appoint such other counsel upon its own motion when the facts developed upon the face of the record and files in the cause disclose such conflict. The court shall advise the appropriate public defender and clerk of court, in writing, when making such appointment and state the conflict prompting the appointment. The appointed attorney shall be compensated as provided in s. 925.036.

Section 2. Each circuit conflict committee established under section 925.037, Florida Statutes, shall assess the circuit's conflict representation system and determine whether another conflict representation system would be more cost effective, offer greater administrative control, and provide representation of a higher quality in cases involving a conflict of interest. In making this determination, the committee shall consider other conflict representation systems, including the attorney-management program established in the Eighth Judicial Circuit. The committee shall also determine how to improve the reliability of the information and cost data that is

reported for conflict cases within the circuit. Each committee shall report its findings and recommendations to the Legislature by February 1, 2000.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor June 8, 1999.

Filed in Office Secretary of State June 8, 1999.