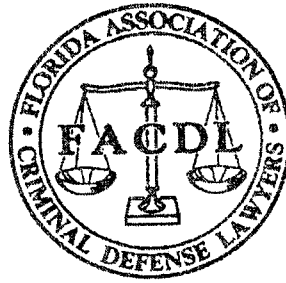


APPENDIX A

EXECUTIVE COMMITTEE

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September 11, 2007

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Bill McCollum, Attorney General
400 S Monroe St Ste PL-01
Tallahassee, Florida 32399-6536

Dear General McCollum:

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I am writing to request that you initiate a petition for writ quo warranto as an original proceeding in the Florida Supreme Court, requesting that the Court reverse Governor Crist's August 21, 2007 appointments of five Criminal Conflict and Civil Regional Counsel (hereinafter "Regional Counsel"), made pursuant to Ch. 2007-62, Laws of Florida, formerly CS/SB 1088 (hereinafter "The Act"). In addition, I request that you seek to have the Court enjoin the Secretary of State from submitting the certificates of appointment and biographical questionnaires of the five Regional Counsel to the Senate President and to enjoin the Senate from confirming these appointments at its next legislative session pursuant to Fla. Stat. § 114.05(b). Finally, the Court should enjoin the five appointed individuals—Jeffrey Lewis, Jackson Flyte, Joseph George, Jr., Philip Massa and Jeffrey Dean—from performing any official duties pursuant to The Act.

The basis for the petition is as follows. The Act requires that the Regional Counsel, who are charged with setting up and directing five Offices of Criminal Conflict and Civil Regional Counsel (hereinafter "OCCCRC") around the state, be appointed by the Governor and confirmed by the Senate. (Fla. Stat. 27.511(1), (3)) These offices are to be located "within the geographical boundaries of each of the five district courts of appeal." (Fla. Stat. 27.511(1)).

The legislature has characterized these offices as "public defender offices" by amending several provisions of the Florida Statutes. See, e.g., Fla. Stat. § 29.008(1) ("[T]he term 'public defender offices' includes the offices of criminal conflict and civil regional counsel."); Fla. Stat. § 29.001(1) ("The offices of public defenders and state attorneys are defined to include the enumerated elements of the 20 state attorneys' offices and the enumerated elements of the 20 public defenders' offices *and five offices of criminal conflict and civil regional counsel.*") (emphasis added).

The Regional Counsel and OCCCRCs are therefore, by statutory definition and legislative intent, a second set of independent public defenders created by gubernatorial appointment. Article V, Section 18 of the Florida Constitution, however, requires that Public Defenders be "*elected* for a term of four years" and that they

Attorney General McCollum

9/12/2007

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"shall reside in the territorial jurisdiction of the circuit." (Emphasis added.) Because The Act provides that the Regional Counsel be *appointed* by the Governor and confirmed by the Senate, as well as that they reside within the geographic boundaries of the DCAs rather than in each circuit, The Act is in violation of Section 18.

I respectfully request that you act upon this request and file the petition on an expedited basis. The Act is rapidly precipitating a crisis in the delivery of competent legal services to indigent Floridians who have been accused of crimes. It has become obvious to everyone within the criminal justice system that it simply will not work.

Because The Act requires that the OCCRCs be established as early as October 1, 2007, but not later than January 1, 2008, time is of the essence. To avoid the vast expenditure of limited state resources that would result if the offices were established and staff hired prior to this issue being resolved, I hope that you will provide me with a written answer pertaining to this issue quickly, so that our Association may take independent action if your office declines to pursue this important Constitutional issue. I will contact your Chief of Staff, Mr. Joe Jacquot on or before Wednesday, September 19, 2007, to work with your office to establish a reasonable expedited deadline for your decision.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Russell Smith". The signature is stylized with a large, sweeping initial "A" and a long, horizontal flourish extending to the right.

A. Russell Smith, President
Florida Association of Criminal Defense Lawyers



STATE OF FLORIDA

BILL MCCOLLUM
ATTORNEY GENERAL

September 17, 2007

A. Russell Smith, Esquire
President
Florida Association of Criminal Defense Lawyers
Post Office Box 1528
Tallahassee, FL 32302

Re: Request to Initiate Action in Quo Warranto

Dear Mr. Smith:

You have requested this office to commence an action in *quo warranto* on behalf of the Florida Association of Criminal Defense Lawyers. Your letter requested that I initiate a petition for writ *quo warranto* as an original proceeding in the Florida Supreme Court, and request that the Court reverse Governor Crist's appointment of five Criminal Conflict and Civil Regional Counsel (hereinafter "Regional Counsel"), made pursuant to Ch. 2007-62, Laws of Florida, formerly CS/SB 1088 (hereinafter "the Act"). You additionally requested that I seek to enjoin the Secretary of State from submitting the certificates of appointment and biographical questionnaires of the five Regional Counsel to the Senate President and to enjoin the Florida Senate from confirming those appointments at its next legislative session pursuant to § 114.05(b), Florida Statutes. Finally, you requested that I petition the Florida Supreme Court to enjoin the five appointed individuals --Jeffrey Lewis, Jackson Flyte, Joseph George, Jr., Philip Massa and Jeffrey Dean--from performing any official duties pursuant to the Act.

After reviewing your letter, I must decline to bring the requested action. This response should not be construed to constitute a legal opinion on the merits of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill McCollum".

Bill McCollum
Attorney General

APPENDIX B

CHAPTER 2007-62

Committee Substitute for Senate Bill No. 1088

An act relating to due process; amending s. 27.40, F.S.; providing for offices of criminal conflict and civil regional counsel to be appointed to represent persons in certain cases in which the public defender is unable to provide representation; providing for private counsel to be appointed only when the public defender and the regional counsel are unable to provide representation; providing for the clerk of court to maintain the registry of attorneys available for appointment; providing for compensation of appointed counsel who are not on the registry; requiring attorneys to maintain records in order to claim extraordinary compensation; requiring attorneys to provide information in a form prescribed by the Justice Administrative Commission; creating s. 27.405, F.S.; requiring the Justice Administrative Commission to track expenditures and performance measures of court-appointed counsel; requiring reports concerning expenditures, performance measures, and certain characteristics of court-appointed counsel; creating s. 27.425, F.S.; requiring the chief circuit judge to recommend compensation rates for providers of due process services; providing for rates to be prescribed in the General Appropriations Act; creating s. 27.511, F.S.; creating an office of criminal conflict and civil regional counsel within the boundaries of each of the five district courts of appeal; providing legislative intent; directing the Justice Administrative Commission to provide administrative support to the offices; prescribing qualifications for and providing for appointment of the regional counsel; providing prohibitions related to the practice of law; requiring that the criminal conflict and civil regional counsel be appointed when the public defender has a conflict of interest in specified cases; prohibiting appointment of the office in certain circumstances; providing for appellate representation; providing for the regional counsel to provide representation in certain civil proceedings; providing exceptions for certain guardianship cases; amending s. 27.512, F.S., relating to orders of no imprisonment; conforming provisions to the creation of the regional offices; amending s. 27.52, F.S., relating to the determination of indigent status; conforming provisions to the creation of the regional offices; amending s. 27.525, F.S.; revising the purposes of the Indigent Criminal Defense Trust Fund; amending s. 27.53, F.S.; authorizing the regional counsel to employ assistant regional counsel; authorizing certain investigators to carry concealed weapons and serve process under certain conditions; requiring the regional counsel to recommend modifications to classification and pay plans; providing for appropriations to be determined by a funding formula; amending s. 27.5301, F.S.; providing for salaries for the regional counsel and assistant counsel; amending s. 27.5303, F.S., relating to conflicts of interest in the representation of indigent defendants; conforming provisions to changes made by the act; eliminating the authority for the Justice Administrative Commission to contest motions to withdraw; requiring public defenders to submit orders granting motions to withdraw to the commission; requiring the commission to report

on such orders; providing for the regional counsel to file a motion to withdraw from a criminal or civil case due to a conflict of interest; providing procedures and criteria; amending s. 27.5304, F.S., relating to compensation of private court-appointed counsel, to conform; providing that compensation is based upon a flat fee prescribed in the General Appropriations Act; revising and eliminating certain procedures relating to billings; requiring bills to be submitted within a specified time; providing for penalties for bills submitted after a specified time; raising the maximum fee for representation in capital cases; providing a definition of the term "capital case"; prescribing fee limits for representation in certain dependency proceedings; providing that state compensation for court-appointed attorneys in specified civil cases may not exceed certain limits; prescribing conditions, procedures, and amounts for paying compensation to counsel in excess of established limits; requiring counsel to file a motion and submit documentation; providing for a hearing; requiring a written order and findings; requiring the Office of State Courts Administrator to report data on compensation exceeding prescribed limits; amending s. 27.54, F.S., relating to payments for public defenders; conforming provisions to the creation of the offices of criminal conflict and civil regional counsel; amending s. 27.59, F.S.; authorizing the regional counsel to have access to prisoners; amending s. 28.24, F.S.; requiring the clerk of court to provide certain services to the criminal conflict and civil regional counsel without charge; expanding the authorized use of certain service-charge revenues distributed to counties to include technology for the regional counsel; amending s. 28.345, F.S.; exempting the regional counsel from certain court-related fees and charges; amending s. 29.001, F.S.; providing for the public defenders' offices to include the criminal conflict and civil regional counsel for purposes of implementing provisions of the State Constitution; providing for state funding; amending ss. 29.006 and 29.007, F.S., relating to indigent defense costs and court-appointed counsel; conforming provisions to the creation of the regional counsel; amending s. 29.008, F.S.; requiring counties to provide certain funding related to the offices of the guardian ad litem and the criminal conflict and civil regional counsel; revising definitions related to county funding responsibilities; revising methods for determining certain local funding requirements, to conform; amending s. 29.015, F.S., relating to deficits in due-process funds; conforming provisions to the creation of the regional counsel; revising procedures for use of certain contingency funds; amending s. 29.018, F.S., relating to cost sharing of due-process services; conforming provisions to the creation of the regional counsel; amending s. 39.815, F.S.; conforming a cross-reference; amending s. 43.16, F.S.; authorizing the Justice Administrative Commission to provide administrative assistance to criminal conflict and civil regional counsel; revising the application of provisions to conform to changes made by the act; amending s. 57.082, F.S.; revising provisions governing the determination of civil indigent status in order to include the appointment of public attorneys in addition to private attorneys; requiring the court to appoint the office of criminal conflict and civil regional

counsel in certain civil cases; amending s. 110.205, F.S.; exempting officers and employees of the regional offices from the state career service system; amending s. 125.69, F.S.; authorizing counties to contract with the regional counsel to represent defendants charged with violations of ordinances; amending s. 216.011, F.S.; providing that the regional offices are state agencies for state budgeting purposes; amending s. 744.331, F.S.; providing for the appointment of the office of criminal conflict and civil regional counsel or a private attorney for alleged incapacitated persons; providing a temporary exception from certain education requirements for regional counsel; amending s. 938.29, F.S.; providing that certain defendants are liable for regional counsel fees and certain due-process costs; providing for disbursement of collected costs and fees; creating a lien against the property of persons who receive regional counsel representation and other due-process services; creating a lien against certain parents for fees and costs; providing for enforcement by the clerk and valuation of fees and costs by the court; repealing s. 27.42, F.S., relating to circuit Article V indigent services committees; providing legislative findings and intent regarding implementation of the act; requiring attorneys to report on active court-appointed cases; providing payment priority for attorneys complying with the reporting requirement; providing for severability; providing effective dates.

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

Section 1. Effective October 1, 2007, subsections (1), (2), (3), (7), and (9) of section 27.40, Florida Statutes, are amended to read:

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

(1) Counsel shall be appointed to represent any individual in a criminal or civil proceeding entitled to court-appointed counsel under the Federal or State Constitution or as authorized by general law. The court shall appoint a public defender to represent indigent persons as authorized in s. 27.51. The office of criminal conflict and civil regional counsel shall be appointed to represent persons in those cases in which provision is made for court-appointed counsel but the public defender is unable to provide representation due to a conflict of interest or is not authorized to provide representation.

(2)(a) Private counsel shall be appointed to represent ~~persons indigents~~ in those cases in which provision is made for court-appointed counsel but the office of criminal conflict and civil regional counsel ~~public defender~~ is unable to provide representation due to a conflict of interest ~~or is not authorized to provide representation.~~

~~(b)(2)~~ Private counsel appointed by the court to provide representation shall be selected from a registry of individual attorneys maintained under this section ~~established by the circuit Article V indigent services committee or procured through a competitive bidding process.~~

(3) In utilizing a registry:

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

(b) The court shall appoint attorneys in rotating order in the order in which names appear on the applicable registry, unless the court makes a finding of good cause on the record for appointing an attorney out of order. 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 it finds~~ the number of attorneys on the registry in a county or circuit for a particular category of cases is inadequate, ~~the circuit Article V indigent services committee shall notify the chief judge of the particular circuit in writing.~~ The chief judge shall provide to the clerk of court ~~submit~~ the names of at least three private attorneys who have ~~with~~ relevant experience. The clerk of court shall send an application to each of these attorneys to register for appointment.

(d) Quarterly, each ~~chief judge~~ circuit Article V indigent services committee shall provide a current copy of each registry to the Chief Justice of the Supreme Court, ~~the chief judge,~~ the state attorney and public defender in each judicial circuit, the office of criminal conflict and civil regional counsel, the clerk of court in each county, and the Justice Administrative Commission, ~~and the Indigent Services Advisory Board.~~ From October 1, 2005, through September 30, 2007, the report submitted by the Eleventh Judicial Circuit shall include the race, gender, and national origin of all attorneys listed in and appointed under the registry.

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

(b) The attorney shall maintain appropriate documentation, including contemporaneous ~~a current~~ and detailed hourly accounting of time spent representing the ~~defendant or other~~ 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.

(9) ~~A circuit Article V indigent services committee or~~ Any interested person may advise the court of any circumstance affecting the quality of representation, including, but not limited to, false or fraudulent billing, misconduct, failure to meet continuing legal education requirements, solicitation to receive compensation from the ~~defendant or other~~ client the attorney is appointed to represent, or failure to file appropriate motions in a timely manner.

(10) The attorney shall provide information in the form specified by the Justice Administrative Commission pursuant to s. 27.405, subject to the attorney-client privilege and work product privilege.

Section 2. Effective October 1, 2007, section 27.405, Florida Statutes, is created to read:

27.405 Court-appointed counsel; Justice Administrative Commission tracking and reporting.—

(1) The Justice Administrative Commission shall separately track expenditures and performance measures for private court-appointed counsel for the each of the categories of criminal or civil cases in which private counsel may be appointed.

(2) The commission shall prepare and issue on a quarterly basis a statewide report comparing actual year-to-date expenditures to budget amounts for each of the judicial circuits. The commission shall prepare and issue on an annual basis a statewide report comparing performance measures for each of the judicial circuits. The commission shall distribute copies of the quarterly and annual reports to the Governor, the Chief Justice of the

Supreme Court, the President of the Senate, and the Speaker of the House of Representatives.

(3) From October 1, 2005, through September 30, 2007, the commission shall also track and issue a report on the race, gender, and national origin of private court-appointed counsel for the Eleventh Judicial Circuit.

Section 3. Effective October 1, 2007, section 27.425, Florida Statutes, is created to read:

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

(1) The 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. 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.

(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.

Section 4. Section 27.511, Florida Statutes, is created to read:

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

(1) It is the intent of the Legislature to provide adequate representation to persons entitled to court-appointed counsel under the Federal or State Constitution or as authorized by general law. It is the further intent of the Legislature to provide adequate representation in a fiscally sound manner, while safeguarding constitutional principles. Therefore, an office of criminal conflict and civil regional counsel is created within the geographic boundaries of each of the five district courts of appeal. The regional counsel shall be appointed as set forth in subsection (3) for each of the five regional offices. The offices shall commence fulfilling their constitutional and statutory purpose and duties on October 1, 2007.

(2) Each office of criminal conflict and civil regional counsel shall be assigned to the Justice Administrative Commission for administrative purposes. The commission shall provide administrative support and service to the offices to the extent requested by each regional counsel within the available resources of the commission. The regional counsel and the offices are not subject to control, supervision, or direction by the commission in the performance of their duties, but the employees of the offices shall be gov-

erned by the classification plan and the salary and benefits plan for the commission.

(3) 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 shall recommend to the Governor 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 July 1, 2007. Vacancies shall be filled in the same manner as appointments.

(4) Each regional counsel shall serve on a full-time basis and may not engage in the private practice of law while holding office. Assistant regional counsel shall give priority and preference to their duties as assistant regional counsel and may not otherwise engage in the practice of criminal law or in civil proceedings for which the state compensates attorneys for representation.

(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).

(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.

(b) If constitutional principles or general law provide for court-appointed counsel in civil proceedings, the court shall first appoint the regional counsel unless general law specifically provides for appointment of the public defender, in which case the court shall appoint the regional counsel if the public defender has a conflict of interest.

(c) Notwithstanding paragraph (b) or any provision of chapter 744 to the contrary, when chapter 744 provides for appointment of counsel, the court, in consultation with the clerk of court and prior to appointing counsel, shall determine, if possible, whether the person entitled to representation is indigent, using the best available evidence.

1. If the person is indigent, the court shall appoint the regional counsel. If at any time after appointment the regional counsel determines that the person is not indigent and that there are sufficient assets available for the payment of legal representation under s. 744.108, the regional counsel shall move the court to reassign the case to a private attorney.

2. If the person is not indigent or if the court and the clerk are not able to determine whether the person is indigent at the time of appointment, the court shall appoint a private attorney. If at any time after appointment the private attorney determines that the person is indigent and that there are not sufficient assets available for the payment of legal representation under s. 744.108, the private attorney shall move the court to reassign the case to the regional counsel. When a case is reassigned, the private attorney may seek compensation from the Justice Administrative Commission for representation not recoverable from any assets of the person in an amount approved by the court as a pro rata portion of the compensation limits prescribed in the General Appropriations Act.

(d) The regional counsel may not represent any plaintiff in a civil action brought under the Florida Rules of Civil Procedure, the Federal Rules of

Civil Procedure, or federal statutes, and may not represent a petitioner in a rule challenge under chapter 120, unless specifically authorized by law.

(7) The court may not appoint the office of criminal conflict and civil regional counsel to represent, even on a temporary basis, any person who is not indigent, except to the extent that appointment of counsel is specifically provided for in chapters 390, 394, 415, 743, and 744 without regard to the indigent status of the person entitled to representation.

(8) The office of criminal conflict and civil regional counsel shall handle all circuit court appeals within the state courts system and any authorized appeals to the federal courts which are required in cases in which the office of criminal conflict and civil regional counsel is appointed under this section.

(9) When direct appellate proceedings prosecuted by the office of criminal conflict and civil regional counsel on behalf of an accused and challenging a judgment of conviction and sentence of death terminate in an affirmance of such conviction and sentence, whether by the Supreme Court or by the United States Supreme Court or by expiration of any deadline for filing such appeal in a state or federal court, the office of criminal conflict and civil regional counsel shall notify the accused of his or her rights pursuant to Rule 3.850, Florida Rules of Criminal Procedure, including any time limits pertinent thereto, and shall advise such person that representation in any collateral proceedings is the responsibility of the capital collateral regional counsel. The office of criminal conflict and civil regional counsel shall forward all original files on the matter to the capital collateral regional counsel, retaining such copies for his or her files as may be desired or required by law. However, the trial court shall retain the power to appoint the office of criminal conflict and civil regional counsel or other attorney not employed by the capital collateral regional counsel to represent such person in proceedings for relief by executive clemency pursuant to ss. 27.40 and 27.5303.

Section 5. Effective July 1, 2007, subsection (1) of section 27.512, Florida Statutes, is amended to read:

27.512 Order of no imprisonment.—

(1) In each case in which the court determines that it will not sentence the defendant to imprisonment if convicted, the court shall issue an order of no imprisonment and the court may not appoint the public defender or other counsel to represent the defendant. If the court issues an order of no imprisonment following the appointment of the public defender or other counsel, the court shall immediately terminate the appointed counsel's public defender's services. However, if at any time the court withdraws the order of no imprisonment with respect to an indigent defendant, the court shall appoint the public defender to represent the defendant.

Section 6. Effective October 1, 2007, subsections (2), (3), (4), (5), (6), and (7) of section 27.52, Florida Statutes, are 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).

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

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

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

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

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

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

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

(3) APPOINTMENT OF COUNSEL ON INTERIM BASIS.—If the clerk of the court has not made a determination of indigent status at the time a person requests appointment of a public defender, the court shall make a preliminary determination of indigent status, pending further review by the clerk, and may, by court order, appoint a public defender, 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, on a pro bono basis, or who is proceeding pro se, may move the court for a determination that he or she is indigent for costs and eligible for the provision of due process services, as prescribed by ss. 29.006 and 29.007, funded by the state.

(a) The person must submit to the court:

1. The completed application prescribed in subsection (1).
2. In the case of a person represented by counsel, an affidavit attesting to the estimated amount of attorney's fees and the source of payment for these fees.

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

1. Whether the applicant applied for a determination of indigent status under subsection (1) and the outcome of such application.
2. The extent to which the person's income equals or exceeds the income criteria prescribed in subsection (2).

3. The additional factors prescribed in subsection (4).
4. Whether the applicant is proceeding pro se.
5. When the applicant retained private counsel.
6. The amount of any attorney's fees and who is paying the fees.

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

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

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

(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 7. Effective July 1, 2007, section 27.525, Florida Statutes, is amended to read:

27.525 Indigent Criminal Defense Trust Fund.—The Indigent Criminal Defense Trust Fund is ~~hereby~~ created, to be administered by the Justice Administrative Commission. Funds shall be credited to the trust fund as provided in s. 27.52, to be used for the purposes of indigent criminal defense as appropriated by the Legislature to the public defender or the office of criminal conflict and civil regional counsel set forth therein. The Justice Administrative Commission shall account for these funds on a circuit basis, and appropriations from the fund shall be proportional to each circuit's collections.

Section 8. Effective July 1, 2007, subsections (4) and (5) are added to section 27.53, Florida Statutes, to read:

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

(4) The five criminal conflict and civil regional counsel may employ and establish, in the numbers authorized by the General Appropriations Act, assistant regional counsel and other staff and personnel in each judicial district pursuant to s. 29.006, who shall be paid from funds appropriated for that purpose. Notwithstanding s. 790.01, s. 790.02, or s. 790.25(2)(a), an investigator employed by an office of criminal conflict and civil regional counsel, while actually carrying out official duties, is authorized to carry concealed weapons if the investigator complies with s. 790.25(3)(o). However, such investigators are not eligible for membership in the Special Risk Class of the Florida Retirement System. The five regional counsel shall jointly develop recommended modifications to the classification plan and the salary and benefits plan for the Justice Administrative Commission. The

recommendations shall be submitted to the commission, the office of the President of the Senate, and the office of the Speaker of the House of Representatives by September 15, 2007, for the regional offices' initial establishment and before January 1 of each year thereafter. Such recommendations shall be developed in accordance with policies and procedures of the Executive Office of the Governor established in s. 216.181. Each assistant regional counsel appointed by the regional counsel under this section shall serve at the pleasure of the regional counsel. Each investigator employed by the regional counsel shall have full authority to serve any witness subpoena or court order issued by any court or judge in a criminal case in which the regional counsel has been appointed to represent the accused.

(5) The appropriations for the offices of criminal conflict and civil regional counsel shall be determined by a funding formula and other factors that are considered appropriate in a manner to be determined by this section and the General Appropriations Act.

Section 9. Effective July 1, 2007, section 27.5301, Florida Statutes, is amended to read:

27.5301 Salaries of public defenders, and assistant public defenders, criminal conflict and civil regional counsel, and assistant regional counsel.—

(1) The salaries of public defenders shall be as provided in the General Appropriations Act and shall be paid in equal monthly installments.

(2) The salary for each assistant public defender shall be set by the public defender of the same judicial circuit in an amount not to exceed 100 percent of that public defender's salary and shall be paid from funds appropriated for that purpose. Assistant public defenders who serve in less than a full-time capacity shall be compensated for services performed in an amount to be in proportion to the salary allowed for full-time services.

(3) The salary of the criminal conflict and civil regional counsel shall be as provided in the General Appropriations Act and shall be paid in equal monthly installments.

(4) The salary for each assistant regional counsel shall be set by the regional counsel in an amount not to exceed 100 percent of the regional counsel's salary and shall be paid from funds appropriated for that purpose. Assistant regional counsel who serve in less than a full-time capacity shall be compensated for services performed in an amount that is in proportion to the salary allowed for full-time services.

Section 10. Effective October 1, 2007, section 27.5303, Florida Statutes, is amended to read:

27.5303 Public defenders; criminal conflict and civil regional counsel; conflict of interest.—

(1)(a) If, at any time during the representation of two or more defendants, a public defender 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 conflict of interest, or that none can be counseled by the public defender or his or her staff because of a conflict of interest, then the public defender shall file a motion to withdraw and move the court to appoint other counsel. ~~If requested by the Justice Administrative Commission, the public defender shall submit a copy of the motion to the Justice Administrative Commission at the time it is filed with the court. The Justice Administrative Commission shall have standing to appear before the court to contest any motion to withdraw due to a conflict of interest. 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 to withdraw due to a conflict of interest.~~ 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 deny the motion to withdraw if the court finds the grounds for withdrawal are insufficient or the asserted conflict is not prejudicial to the indigent client. If the court grants the motion to withdraw, the court shall appoint one or more attorneys to represent the accused, as provided in s. 27.40. The public defender shall submit to the Justice Administrative Commission a copy of the order granting the motion to withdraw within 30 days after the motion is granted. The commission shall report quarterly to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the number of orders granting motions to withdraw for each circuit.

(b) If, at any time during the representation of two or more persons in a criminal or civil proceeding, a criminal conflict and civil regional counsel determines that the interests of those clients are so adverse or hostile that they cannot all be counseled by the regional counsel or his or her staff without conflict of interest, or that none can be counseled by the regional counsel or his or her staff because of a conflict of interest, the regional counsel shall file a motion to withdraw and move the court to appoint other counsel. If requested by the Justice Administrative Commission, the regional counsel shall submit a copy of the motion to the Justice Administrative Commission at the time it is filed with the court. The court shall review and may inquire or conduct a hearing into the adequacy of the regional counsel's representations regarding a conflict of interest without requiring the disclosure of any confidential communications. The court shall deny the motion to withdraw if the court finds the grounds for withdrawal are insufficient or the asserted conflict is not prejudicial to the client. If the court grants the motion to withdraw, the court shall appoint one or more private attorneys to represent the person as provided in s. 27.40. The clerk of court shall inform the regional office and the commission when the court appoints private counsel.

(c)(b) Upon its own motion, the court shall appoint such other counsel when the facts developed upon the face of the record and court files in the case disclose a conflict of interest. The clerk court shall advise the appropriate public defender or criminal conflict and civil regional counsel and clerk of court, in writing, with an electronic a copy to the Justice Administrative Commission, if so requested by the Justice Administrative Commission, when the court makes making the motion and appoints appointing one or

more attorneys ~~to represent the accused~~. The court shall specify the basis for the conflict.

~~(d)(e)~~ In no case shall the court approve a withdrawal by the public defender or criminal conflict and civil regional counsel based solely upon inadequacy of funding or excess workload of the public defender or regional counsel.

~~(e)(d)~~ In determining whether or not there is a conflict of interest, the public defender or regional counsel shall apply the standards contained in the Uniform Standards for Use in Conflict of Interest Cases found in appendix C to the Final Report of the Article V Indigent Services Advisory Board dated January 6, 2004. Before a motion to withdraw is filed under this section, the public defender or regional counsel serving the circuit, or his or her designee, must:

1. Determine if there is a viable alternative to withdrawal from representation which would remedy the conflict of interest and, if its exists, implement that alternative; and

2. Approve in writing the filing of the motion to withdraw.

(2) The court shall appoint conflict counsel pursuant to s. 27.40, first appointing the office of criminal conflict and civil regional counsel and, if the office is found to have a conflict, appointing private counsel. The appointed private attorney may not be affiliated with the public defender, ~~or~~ any assistant public defender, the regional counsel, or any assistant regional counsel in his or her official capacity or any other private attorney appointed to represent a codefendant. The public defender or regional counsel may not participate in case-related decisions, performance evaluations, or expense determinations in conflict cases.

(3) Private court-appointed counsel shall be compensated as provided in s. 27.5304.

(4)(a) If a defendant is convicted and the death sentence is imposed, the appointed attorney shall continue representation through appeal to the Supreme Court. The attorney shall be compensated as provided in s. 27.5304. If the attorney first appointed is unable to handle the appeal, the court shall appoint another attorney and that attorney shall be compensated as provided in s. 27.5304.

(b) The public defender or an attorney appointed pursuant to this section may be appointed by the court rendering the judgment imposing the death penalty to represent an indigent defendant who has applied for executive clemency as relief from the execution of the judgment imposing the death penalty.

(c) When the appointed attorney in a capital case has completed the duties imposed by this section, the attorney shall file a written report in the trial court stating the duties performed by the attorney and apply for discharge.

Section 11. Section 27.5304, Florida Statutes, is amended to read:

27.5304 Private court-appointed counsel; compensation.—

(1) Private court-appointed counsel shall be compensated by the Justice Administrative Commission as ~~provided in an amount not to exceed the fee limits established 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. ~~Private court-appointed counsel providing representation under an alternative model shall enter into a uniform contract with the Justice Administrative Commission and shall use the Justice Administrative Commission's uniform procedures and forms in support of billing for attorney's fees, costs, and related expenses. Failure to comply with the terms of the contract for services may result in termination of the contract.~~

(2) The Justice Administrative Commission shall review an intended billing by private court-appointed counsel for attorney's fees based on a flat fee per case for completeness and compliance with contractual ~~and~~, statutory, ~~and circuit Article V indigent services committee~~ requirements. The commission may approve the intended bill for a flat fee per case for payment without approval by the court if the intended billing is correct. 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). ~~For all other intended billings, prior to filing a motion for an order approving payment of attorney's fees, costs, or related expenses, the private court-appointed counsel shall deliver a copy of the intended billing, together with supporting affidavits and all other necessary documentation, to the Justice Administrative Commission. The Justice Administrative Commission shall review the billings, affidavit, and documentation for completeness and compliance with contractual and statutory requirements. If the Justice Administrative Commission objects to any portion of the proposed billing, the objection and reasons therefor shall be communicated to the private court-appointed counsel. The private court-appointed counsel may thereafter file his or her motion for order approving payment of attorney's fees, costs, or related expenses together with supporting affidavits and all other necessary documentation. The motion must specify whether the Justice Administrative Commission objects to any portion of the billing or the sufficiency of documentation and shall attach the Justice Administrative Commission's letter stating its objection. The attorney shall have the burden to prove the entitlement to attorney's fees, costs, or related expenses. A copy of the motion and attachments shall be served on the Justice Administrative Commission at least 5 business days prior to the date of a hearing. The Justice Administrative Commission shall have standing to appear before the court to contest any motion for order approving payment of attorney's fees, costs,~~

~~or related expenses and may participate in a hearing on the motion by use of telephonic or other communication equipment unless ordered otherwise. The Justice Administrative Commission may contract with other public or private entities or individuals to appear before the court for the purpose of contesting any motion for order approving payment of attorney's fees, costs, or related expenses. The fact that the Justice Administrative Commission has not objected to any portion of the billing or to the sufficiency of the documentation is not binding on the court.~~

(3) The court retains primary authority and responsibility for determining the reasonableness of all billings for attorney's fees, costs, and related expenses, subject to statutory limitations. Private court-appointed counsel is entitled to compensation upon final disposition of a case, ~~except as provided in subsections (7), (8), and (10).~~

(4) 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 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. Before final disposition of a case, a private court-appointed counsel may file a motion for fees, costs, and related expenses for services completed up to the date of the motion in any case or matter in which legal services have been provided by the attorney for more than 1 year. The amount approved by the court may not exceed 80 percent of the fees earned, or costs and related expenses incurred, to date, or an amount proportionate to the maximum fees permitted under this section based on legal services provided to date, whichever is less. The court may grant the motion if counsel shows that failure to grant the motion would work a particular hardship upon counsel.

~~(5)(3)~~ 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 ~~\$3,500~~. 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'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.

~~(4) By January 1 of each year, the Article V Indigent Services Advisory Board shall recommend to the Legislature any adjustments to the compensation provisions of this section.~~

(6)(5) 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. If counsel is entitled to receive compensation for representation pursuant to court appointment in a termination of parental rights proceeding under chapter 39, such compensation shall not exceed \$1,000 at the trial level and \$2,500 at the appellate level.

(7)(b) Counsel entitled to receive compensation from the state for representation pursuant to court appointment in a proceeding under chapter 384, chapter 390, or chapter 392, chapter 393, chapter 394, chapter 397, chapter 415, chapter 743, chapter 744, or chapter 984 shall receive reasonable compensation not to exceed the limits prescribed in the General Appropriations Act as fixed by the court making the appointment.

(8)(6) 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.

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

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

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

~~(c) Following a judicial review hearing.~~

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

~~(9)(8)~~ Private court-appointed counsel representing an individual in an appeal to a district court of appeal or the Supreme Court may submit a request for payment to the Justice Administrative Commission at the following intervals:

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

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

~~(10)(9)~~ Private court-appointed counsel may not bill for preparation of invoices whether or not the case is paid on the basis of an hourly rate or by flat fee.

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

(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 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's fees in excess of these limits.

1. 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 reasons 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 designee shall hold an evidentiary hearing.

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 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 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 prior to the date of a hearing. The Justice Administrative Commission 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'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'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 designee finds that counsel has proved by competent and substantial evidence that the case required extraordinary and unusual efforts, the chief judge or 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 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 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) The Justice Administrative Commission shall provide to the Office of the State Courts Administrator data concerning the number of cases approved for compensation in excess of the limitation and the amount of these awards by circuit and by judge. The Office of the State Courts Administrator shall report the data quarterly to the 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 12. Effective July 1, 2007, section 27.54, Florida Statutes, is amended to read:

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

(1) All payments for the salary of the public defender and the criminal conflict and civil regional counsel and for the necessary expenses of office, including salaries of assistants and staff, shall be considered as being for a valid public purpose. Travel expenses shall be paid in accordance with the provisions of s. 112.061.

(2) A county or municipality may contract with, or appropriate or contribute funds to, the operation of the offices of the various public defenders and regional counsel as provided in this subsection. A public defender or regional counsel defending violations of special laws or county or municipal ordinances punishable by incarceration and not ancillary to a state charge shall contract with counties and municipalities to recover the full cost of services rendered on an hourly basis or reimburse the state for the full cost of assigning one or more full-time equivalent attorney positions to work on behalf of the county or municipality. Notwithstanding any other provision of law, in the case of a county with a population of less than 75,000, the

public defender or regional counsel shall contract for full reimbursement, or for reimbursement as the parties otherwise agree. In local ordinance violation cases, the county or municipality shall pay for due process services that are approved by the court, including deposition costs, deposition transcript costs, investigative costs, witness fees, expert witness costs, and interpreter costs. The person charged with the violation shall be assessed a fee for the services of a public defender or regional counsel and other costs and fees paid by the county or municipality, which assessed fee may be reduced to a lien, in all instances in which the person enters a plea of guilty or no contest or is found to be in violation or guilty of any count or lesser included offense of the charge or companion case charges, regardless of adjudication. The court shall determine the amount of the obligation. The county or municipality may recover assessed fees through collections court or as otherwise permitted by law, and any fees recovered pursuant to this section shall be forwarded to the applicable county or municipality as reimbursement.

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

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

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

(3) No public defender, ~~or assistant public defender,~~ regional counsel, or assistant regional counsel shall receive from any county or municipality any supplemental salary, except as provided in this section.

(4) Unless expressly authorized by law or in the General Appropriations Act, public defenders and regional counsel are prohibited from spending state-appropriated funds on county funding obligations under s. 14, Art. V of the State Constitution beginning January 1, 2005. This includes expenditures on communications services and facilities as defined in s. 29.008. This does not prohibit a public defender from spending funds for these purposes in exceptional circumstances when necessary to maintain operational continuity in the form of a short-term advance pending reimbursement from the county. If a public defender or regional counsel provides short-term advance funding for a county responsibility as authorized by this subsection, the public defender or regional counsel shall request full reimbursement from

the board of county commissioners prior to making the expenditure or at the next meeting of the board of county commissioners after the expenditure is made. The total of all short-term advances authorized by this subsection shall not exceed 2 percent of the public defender's or regional counsel's approved operating budget in any given year. No short-term advances authorized by this subsection shall be permitted until all reimbursements arising from advance funding in the prior state fiscal year have been received by the public defender or regional counsel. All reimbursement payments received by the public defender or regional counsel shall be deposited into the General Revenue Fund. Notwithstanding the provisions of this subsection, the public defender or regional counsel may expend funds for the purchase of computer systems, including associated hardware and software, and for personnel related to this function.

Section 13. Effective October 1, 2007, section 27.59, Florida Statutes, is amended to read:

27.59 Access to prisoners.—The public defenders, ~~and assistant public defenders, criminal conflict and civil regional counsel, and assistant regional counsel~~ shall be empowered to inquire of all persons who are incarcerated in lieu of bond and to tender them advice and counsel at any time, but the provisions of this section shall not apply with respect to persons who have engaged private counsel.

Section 14. Effective October 1, 2007, section 28.24, Florida Statutes, is amended to read:

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

Charges

- (1) For examining, comparing, correcting, verifying, and certifying transcripts of record in appellate proceedings, prepared by attorney for appellant or someone else other than clerk per page 4.50
- (2) For preparing, numbering, and indexing an original record of appellate proceedings, per instrument 3.00
- (3) For certifying copies of any instrument in the public records 1.50

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

1. First page 1.00
2. Each additional page 0.50

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

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

1. If the counties maintain legal responsibility for the costs of the court-related technology needs as defined in s. 29.008(1)(f)2. and (h), 10 cents shall be distributed to the Florida Association of Court Clerks and Comptroller, Inc., for the cost of development, implementation, operation, and maintenance of the clerks' Comprehensive Case Information System, in which system all clerks shall participate on or before January 1, 2006; \$1.90 shall be retained by the clerk to be deposited in the Public Records Modernization Trust Fund and used exclusively for funding court-related technology needs of the clerk as defined in s. 29.008(1)(f)2. and (h); and \$2 shall be distributed to the board of county commissioners to be used exclusively to fund court-related technology, and court technology needs as defined in s. 29.008(1)(f)2. and (h) for the state trial courts, state attorney, and public defender, and criminal conflict and civil regional counsel in that county. If the counties maintain legal responsibility for the costs of the court-related technology needs as defined in s. 29.008(1)(f)2. and (h), notwithstanding any other provision of law, the county is not required to provide additional funding

beyond that provided herein for the court-related technology needs of the clerk as defined in s. 29.008(1)(f)2. and (h). All court records and official records are the property of the State of Florida, including any records generated as part of the Comprehensive Case Information System funded pursuant to this paragraph and the clerk of court is designated as the custodian of such records, except in a county where the duty of maintaining official records exists in a county office other than the clerk of court or comptroller, such county office is designated the custodian of all official records, and the clerk of court is designated the custodian of all court records. The clerk of court or any entity acting on behalf of the clerk of court, including an association, shall not charge a fee to any agency as defined in s. 119.011, the Legislature, or the State Court System for copies of records generated by the Comprehensive Case Information System or held by the clerk of court or any entity acting on behalf of the clerk of court, including an association.

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

- (13) Oath, administering, attesting, and sealing, not otherwise provided for herein 3.00
- (14) For validating certificates, any authorized bonds, each 3.00
- (15) For preparing affidavit of domicile 5.00
- (16) For exemplified certificates, including signing and sealing . . 6.00
- (17) For authenticated certificates, including signing and sealing 6.00
- (18)(a) For issuing and filing a subpoena for a witness, not otherwise provided for herein (includes writing, preparing, signing, and sealing) 6.00
- (b) For signing and sealing only 1.50
- (19) For approving bond 7.50
- (20) For searching of records, for each year's search 1.50
- (21) For processing an application for a tax deed sale (includes application, sale, issuance, and preparation of tax deed, and disbursement of proceeds of sale), other than excess proceeds 60.00
- (22) For disbursement of excess proceeds of tax deed sale, first \$100 or fraction thereof 10.00
- (23) Upon receipt of an application for a marriage license, for preparing and administering of oath; issuing, sealing, and recording of the marriage license; and providing a certified copy 30.00
- (24) For solemnizing matrimony 30.00

- (25) For sealing any court file or expungement of any record . . . 37.50
- (26)(a) For receiving and disbursing all restitution payments, per payment 3.00
- (b) For receiving and disbursing all partial payments, other than restitution payments, for which an administrative processing service charge is not imposed pursuant to s. 28.246, per month 5.00
- (c) For setting up a payment plan, a one-time administrative processing charge in lieu of a per month charge under paragraph (b) 25.00
- (27) Postal charges incurred by the clerk of the circuit court in any mailing by certified or registered mail shall be paid by the party at whose instance the mailing is made.
- (28) For furnishing an electronic copy of information contained in a computer database: a fee as provided for in chapter 119.

Section 15. Effective October 1, 2007, section 28.345, Florida Statutes, is amended to read:

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

Section 16. Effective July 1, 2007, section 29.001, Florida Statutes, is amended to read:

29.001 State courts system elements and definitions.—

(1) For the purpose of implementing s. 14, Art. V of the State Constitution, the state courts system is defined to include the enumerated elements of the Supreme Court, district courts of appeal, circuit courts, county courts, and certain supports thereto. The offices of public defenders and state attorneys are defined to include the enumerated elements of the 20 state attorneys' offices and the enumerated elements of the 20 public defenders' offices and five offices of criminal conflict and civil regional counsel. Court-appointed counsel are defined to include the enumerated elements for counsel appointed to ensure due process in criminal and civil proceedings in accordance with state and federal constitutional guarantees. Funding for the state courts system, the state attorneys' offices, the public defenders' offices, the offices of criminal conflict and civil regional counsel, and other court-appointed counsel shall be provided from state revenues appropriated by general law.

(2) Although a program or function currently may be funded by the state or prescribed or established in general law, this does not designate the program or function as an element of the state courts system, state attorneys' offices, public defenders' offices, or the offices of the circuit and county

court clerks performing court-related functions as described in s. 14, Art. V of the State Constitution.

Section 17. Effective July 1, 2007, section 29.006, Florida Statutes, is amended to read:

~~29.006 Public defenders and~~ Indigent defense costs.—For purposes of implementing s. 14, Art. V of the State Constitution, the elements of the public defenders' offices and criminal conflict and civil regional counsel offices to be provided from state revenues appropriated by general law are as follows:

(1) The public defender of each judicial circuit and assistant public defenders and other staff as determined by general law. The regional counsel of each judicial district, the assistant regional counsel, and other staff as determined by general law.

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

(3) Witnesses, including expert witnesses, summoned to appear for an investigation, preliminary hearing, or trial in a case when the witnesses are summoned on behalf of an indigent defendant, and any other expert witnesses required in a court hearing by law or whomever the public defender or regional counsel deems necessary for the performance of his or her duties.

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

(5) Reasonable transportation services in the performance of constitutional and statutory responsibilities. Motor vehicles owned by counties and provided exclusively to public defenders as of July 1, 2003, and any additional vehicles owned by the counties and provided exclusively to public defenders during fiscal year 2003-2004 shall be transferred by title to the state effective July 1, 2004.

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

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

(8) Reasonable pretrial consultation fees and costs.

Section 18. Effective October 1, 2007, section 29.007, Florida Statutes, is amended to read:

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

(1) Private attorneys appointed by the court to handle cases where the defendant is indigent and cannot be represented by the public defender or the office of criminal conflict and civil regional counsel under ss. 27.42 and 27.53.

(2) When the office of criminal conflict and civil regional counsel has a conflict of interest, private attorneys appointed by the court to represent indigents or other classes of litigants in civil proceedings requiring court-appointed counsel in accordance with state and federal constitutional guarantees and federal and state statutes.

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

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

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

(6) Reasonable pretrial consultation fees and costs.

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

Subsections (3), (4), (5), (6), and (7) apply when court-appointed counsel is appointed; when the court determines that the litigant is indigent for costs; or when the litigant is acting pro se and the court determines that the litigant is indigent for costs at the trial or appellate level. This section applies in any situation in which the court appoints counsel to protect a litigant's due process rights. The Justice Administrative Commission shall approve uniform contract forms for use in processing payments for due process services under this section. In each case in which a private attorney represents a person determined by the court to be indigent for costs, the attorney shall execute the commission's contract for private attorneys representing persons determined to be indigent for costs.

Section 19. Effective July 1, 2007, subsections (1) and (2) of section 29.008, Florida Statutes, are amended to read:

29.008 County funding of court-related functions.—

(1) Counties are required by s. 14, Art. V of the State Constitution to fund the cost of communications services, existing radio systems, existing multi-agency criminal justice information systems, and the cost of construction or lease, maintenance, utilities, and security of facilities for the circuit and

county courts, public defenders' offices, state attorneys' offices, guardian ad litem offices, and the offices of the clerks of the circuit and county courts performing court-related functions. For purposes of this section, the term "circuit and county courts" ~~includes~~ shall include the offices and staffing of the guardian ad litem programs, ~~and the term "public defenders' offices" includes the offices of criminal conflict and civil regional counsel.~~ The county designated under s. 35.05(1) as the headquarters for each appellate district shall fund these costs for the appellate division of the public defender's office in that county. For purposes of implementing these requirements, the term:

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

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

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

(b) "Construction or lease" includes, but is not limited to, all reasonable and necessary costs of the acquisition or lease of facilities for all judicial officers, staff, jurors, volunteers of a tenant agency, and the public for the circuit and county courts, the public defenders' offices, state attorneys' offices, and for performing the court-related functions of the offices of the clerks of the circuit and county courts. This includes expenses related to

financing such facilities and the existing and future cost and bonded indebtedness associated with placing the facilities in use.

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

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

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

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

1. Telephone system infrastructure, including computer lines, telephone switching equipment, and maintenance, and facsimile equipment, wireless communications, cellular telephones, pagers, and video teleconferencing equipment and line charges. Each county shall continue to provide access to a local carrier for local and long distance service and shall pay toll charges for local and long distance service.

2. All computer networks, systems and equipment, including computer hardware and software, modems, printers, wiring, network connections, maintenance, support staff or services including any county-funded support staff located in the offices of the circuit court, county courts, state attorneys, ~~and public defenders~~, guardians ad litem, and criminal conflict and civil regional counsel; training, supplies, and line charges necessary for an integrated computer system to support the operations and management of the state courts system, the offices of the public defenders, the offices of the state

attorneys, the guardian ad litem offices, the offices of criminal conflict and civil regional counsel, and the offices of the clerks of the circuit and county courts; and the capability to connect those entities and reporting data to the state as required for the transmission of revenue, performance accountability, case management, data collection, budgeting, and auditing purposes. The integrated computer system shall be operational by July 1, 2006, and, at a minimum, permit the exchange of financial, performance accountability, case management, case disposition, and other data across multiple state and county information systems involving multiple users at both the state level and within each judicial circuit and be able to electronically exchange judicial case background data, sentencing scoresheets, and video evidence information stored in integrated case management systems over secure networks. Once the integrated system becomes operational, counties may reject requests to purchase communication services included in this subparagraph not in compliance with standards, protocols, or processes adopted by the board established pursuant to s. 29.0086.

3. Courier messenger and subpoena services.

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

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

(h) "Existing multiagency criminal justice information systems" includes, but is not limited to, those components of the multiagency criminal justice information system as defined in s. 943.045, supporting the offices of the circuit or county courts, the public defenders' offices, the state attorneys' offices, or those portions of the offices of the clerks of the circuit and county courts performing court-related functions that are used to carry out the court-related activities of those entities. This includes upgrades and maintenance of the current equipment, maintenance and upgrades of supporting technology infrastructure and associated staff, and services and expenses to assure continued information sharing and reporting of information to the state. The counties shall also provide additional information technology services, hardware, and software as needed for new judges and staff of the state courts system, state attorneys' offices, public defenders' offices, guardian ad litem offices, and the offices of the clerks of the circuit and county courts performing court-related functions.

(2) Counties shall pay reasonable and necessary salaries, costs, and expenses of the state courts system, including associated staff and expenses, to meet local requirements.

(a) Local requirements are those specialized programs, nonjudicial staff, and other expenses associated with specialized court programs, specialized prosecution needs, specialized defense needs, or resources required of a local jurisdiction as a result of special factors or circumstances. Local requirements exist:

1. When imposed pursuant to an express statutory directive, based on such factors as provided in paragraph (b); or

2. When:

a. The county has enacted an ordinance, adopted a local program, or funded activities with a financial or operational impact on the circuit or a county within the circuit; or

b. Circumstances in a given circuit or county result in or necessitate implementation of specialized programs, the provision of nonjudicial staff and expenses to specialized court programs, special prosecution needs, specialized defense needs, or the commitment of resources to the court's jurisdiction.

(b) Factors and circumstances resulting in the establishment of a local requirement include, but are not limited to:

1. Geographic factors;

2. Demographic factors;

3. Labor market forces;

4. The number and location of court facilities; or

5. The volume, severity, complexity, or mix of court cases.

(c) Local requirements under subparagraph (a)2. must be determined by the following method:

1. The chief judge of the circuit, in conjunction with the state attorney, ~~and the public defender, and the criminal conflict and civil regional counsel~~ only on matters that impact their offices, shall identify all local requirements within the circuit or within each county in the circuit and shall identify the reasonable and necessary salaries, costs, and expenses to meet these local requirements.

2. On or before June 1 of each year, the chief judge shall submit to the board of county commissioners a tentative budget request for local requirements for the ensuing fiscal year. The tentative budget must certify a listing of all local requirements and the reasonable and necessary salaries, costs, and expenses for each local requirement. The board of county commissioners may, by resolution, require the certification to be submitted earlier.

3. The board of county commissioners shall thereafter treat the certification in accordance with the county's budgetary procedures. A board of county commissioners may:

a. Determine whether to provide funding, and to what extent it will provide funding, for salaries, costs, and expenses under this section;

b. Require a county finance officer to conduct a preaudit review of any county funds provided under this section prior to disbursement;

c. Require review or audit of funds expended under this section by the appropriate county office; and

d. Provide additional financial support for the courts system, state attorneys, ~~or public defenders, or criminal conflict and civil regional counsel.~~

(d) Counties may satisfy these requirements by entering into interlocal agreements for the collective funding of these reasonable and necessary salaries, costs, and expenses.

Section 20. Effective July 1, 2007, subsections (1), (2), (3), and (5) of section 29.015, Florida Statutes, are amended to read:

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

(1) An appropriation may be provided in the General Appropriations Act in the Justice Administrative Commission to serve as a contingency fund for the purpose of alleviating deficits in contracted due process services appropriation categories, including private court-appointed counsel appropriation categories, that may occur from time to time due to extraordinary cases events that lead to unexpected expenditures.

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

(a) The state attorney, ~~or public defender, or regional counsel~~ shall first attempt to identify surplus funds from other appropriation categories within his or her office and submit a budget amendment pursuant to chapter 216 to transfer funds from within the office.

(b) In the event that the state attorney, ~~or public defender, or regional counsel~~ is unable to identify surplus funds from within his or her office, he or she shall certify this to the Justice Administrative Commission along with a complete explanation of the circumstances which led to the deficit and steps the office has taken to reduce or alleviate the deficit. The Justice Administrative Commission shall inquire as to whether any other office has surplus funds in its contracted due process services appropriation categories which can be transferred to the office that is experiencing the deficit. If other offices indicate that surplus funds are available within the same budget entity appropriation category, the Justice Administrative Commission shall

transfer the amount needed to fund the deficit and notify the Governor and the chair and vice chair of the Legislative Budget Commission 14 days prior to a transfer pursuant to the notice, review, and objection provisions of s. 216.177. If funds appropriated for this purpose are available in a different budget entity, the Justice Administrative Commission shall request a budget amendment pursuant to chapter 216.

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

(3) In the event that there is a deficit in a statewide contracted due process services appropriation category provided for private court-appointed counsel necessary due to withdrawal of the public defender and criminal conflict and civil regional counsel due to an ethical conflict, the following steps shall be taken in order:

(a) The Justice Administrative Commission shall first attempt to identify surplus funds from other contracted due process services appropriation categories within the Justice Administrative Commission and submit a budget amendment pursuant to chapter 216 to transfer funds from within the commission.

(b) In the event that the Justice Administrative Commission is unable to identify surplus funds from within the commission, the commission shall inquire of each of the public defenders and regional counsel as to whether any office has surplus funds in its contracted due process services appropriations categories which can be transferred. If any public defender or regional counsel office or offices indicate that surplus funds are available, the Justice Administrative Commission shall request a budget amendment to transfer funds from the office or offices to alleviate the deficit upon agreement of the contributing office or offices.

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

(5) Notwithstanding any provisions in chapter 216 to the contrary, no office shall transfer funds from a contracted due process services appropriation category or from a contingency fund category authorized in this section except as specifically authorized in this section. In addition, funds shall not

be transferred from a state attorney office to alleviate a deficit in a public defender office or an office of criminal conflict and civil regional counsel, and funds shall not be transferred from a public defender office or regional counsel office to alleviate a deficit in a state attorney office.

Section 21. Effective October 1, 2007, section 29.018, Florida Statutes, is amended to read:

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

Section 22. Subsection (1) of section 39.815, Florida Statutes, is amended to read:

39.815 Appeal.—

(1) Any child, any parent or guardian ad litem of any child, any other party to the proceeding who is affected by an order of the court, or the department may appeal to the appropriate district court of appeal within the time and in the manner prescribed by the Florida Rules of Appellate Procedure. The district court of appeal shall give an appeal from an order terminating parental rights priority in docketing and shall render a decision on the appeal as expeditiously as possible. Appointed counsel shall be compensated as provided in s. 27.5304(6) ~~s. 27.5304(5)~~.

Section 23. Subsections (5) and (6) of section 43.16, Florida Statutes, are amended to read:

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

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

(a) The maintenance of a central state office for administrative services and assistance when possible to and on behalf of the state attorneys and public defenders of Florida, the capital collateral regional counsel of Florida, the criminal conflict and civil regional counsel, and the Guardian Ad Litem Program.

(b) Each state attorney, ~~and public defender, and criminal conflict and civil regional counsel~~ and the Guardian Ad Litem Program shall continue to prepare necessary budgets, vouchers that ~~which~~ represent valid claims

for reimbursement by the state for authorized expenses, and other things incidental to the proper administrative operation of the office, such as revenue transmittals to the Chief Financial Officer and automated systems plans, but will forward same to the commission for recording and submission to the proper state officer. However, when requested by a state attorney, ~~or~~ a public defender, a criminal conflict and civil regional counsel, or the Guardian Ad Litem Program, the commission will either assist in the preparation of budget requests, voucher schedules, and other forms and reports or accomplish the entire project involved.

(6) The provisions contained in this section shall be supplemental to those of chapter 27, relating to state attorneys, ~~and public defenders, criminal conflict and civil regional counsel, and capital collateral regional counsel~~; to those of chapter 39, relating to the Guardian Ad Litem Program; or to other laws pertaining hereto.

Section 24. Effective October 1, 2007, section 57.082, Florida Statutes, is amended to read:

57.082 Determination of civil indigent status.—

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

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

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

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

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

4. All liabilities and debts.

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

(b) The clerk shall assist a person who appears before the clerk and requests assistance in completing the application, and the clerk shall notify

the court if a person is unable to complete the application after the clerk has provided assistance.

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

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

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

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

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

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

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

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

(e) The applicant may seek review of the clerk's determination that the applicant is not indigent in the court having jurisdiction over the matter by filing a petition to review the clerk's determination of nonindigent status, for which a filing fee may not be charged. If the applicant seeks review of the clerk's determination of indigent status, the court shall make a final determination as provided in subsection (4).

(3) APPOINTMENT OF COUNSEL ON AN INTERIM BASIS.—If the clerk of the court has not made a determination of indigent status at the time a person requests appointment of an ~~a private~~ attorney in a civil case eligible for court-appointed counsel, the court shall make a preliminary

determination of indigent status, pending further review by the clerk, and may, by court order, appoint ~~private~~ counsel on an interim basis.

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

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

1. Whether paying for private counsel or other fees and costs creates a substantial hardship for the applicant or the applicant's family.
2. Whether the applicant is proceeding pro se or is represented by a private attorney for a fee or on a pro bono basis.
3. When the applicant retained private counsel.
4. The amount of any attorney's fees and who is paying the fees.
5. Any other relevant financial circumstances of the applicant or the applicant's family.

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

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

(5) 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.

~~(6)~~(5) PROCESSING CHARGE; PAYMENT PLANS.—A person who the clerk or the court determines is indigent for civil proceedings under this section shall be enrolled in a payment plan under s. 28.246 and shall be charged a one-time administrative processing charge under s. 28.24(26)(c). A monthly payment amount, calculated based upon all fees and all anticipated costs, is presumed to correspond to the person's ability to pay if it does not exceed 2 percent of the person's annual net income, as defined in subsection (1), divided by 12. The person may seek review of the clerk's decisions regarding a payment plan established under s. 28.246 in the court having jurisdiction over the matter. A case may not be impeded in any way, delayed in filing, or delayed in its progress, including the final hearing and order, due to nonpayment of any fees by an indigent person.

~~(7)~~(6) FINANCIAL DISCREPANCIES; FRAUD; FALSE INFORMATION.—

(a) If the court learns of discrepancies between the application and the actual financial status of the person found to be indigent, the court shall

determine whether the status and any relief provided as a result of that status shall be revoked. The person may be heard regarding the information learned by the court. If the court, based on the information, determines that the person is not indigent, the court shall revoke the provision of any relief under this section.

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

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

Section 25. Paragraph (y) of subsection (2) of section 110.205, Florida Statutes, is amended to read:

110.205 Career service; exemptions.—

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

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

Section 26. Effective October 1, 2007, subsection (2) of section 125.69, Florida Statutes, is amended to read:

125.69 Penalties; enforcement by code inspectors.—

(2) Each county is authorized and required to pay any attorney appointed by the court to represent a defendant charged with a criminal violation of a special law or county ordinance not ancillary to a state charge if the defendant is indigent and otherwise entitled to court-appointed counsel under the Constitution of the United States or the Constitution of the State of Florida. In these cases, the court shall appoint counsel to represent the defendant in accordance with s. 27.40, and shall order the county to pay the reasonable attorney's fees, costs, and related expenses of the defense. The county may contract with the public defender or the office of criminal conflict and civil regional counsel for ~~of~~ the judicial circuit in which the county is located to serve as court-appointed counsel pursuant to s. 27.54.

Section 27. Paragraph (qq) of subsection (1) of section 216.011, Florida Statutes, is amended to read:

216.011 Definitions.—

(1) For the purpose of fiscal affairs of the state, appropriations acts, legislative budgets, and approved budgets, each of the following terms has the meaning indicated:

(qq) “State agency” or “agency” means any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government. For purposes of this chapter and chapter 215, “state agency” or “agency” includes, but is not limited to, state attorneys, public defenders, criminal conflict and civil regional counsel, capital collateral regional counsel, the Justice Administrative Commission, the Florida Housing Finance Corporation, and the Florida Public Service Commission. Solely for the purposes of implementing s. 19(h), Art. III of the State Constitution, the terms “state agency” or “agency” include the judicial branch.

Section 28. Effective October 1, 2007, subsection (2) of section 744.331, Florida Statutes, is amended to read:

744.331 Procedures to determine incapacity.—

(2) ATTORNEY FOR THE ALLEGED INCAPACITATED PERSON.—

(a) When a court appoints an attorney for an alleged incapacitated person, the court must appoint the office of criminal conflict and civil regional counsel or a private ~~an~~ attorney as prescribed in s. 27.511(6). A private attorney must be one who is included in the attorney registry compiled pursuant to s. 27.40 ss. 27.40 and 27.42 by the circuit’s Article V indigent services committee. Appointments of private attorneys must be made on a rotating basis, taking into consideration conflicts arising under this chapter.

(b) The court shall appoint an attorney for each person alleged to be incapacitated in all cases involving a petition for adjudication of incapacity. The alleged incapacitated person may substitute her or his own attorney for the attorney appointed by the court.

(c) Any attorney representing an alleged incapacitated person may not serve as guardian of the alleged incapacitated person or as counsel for the guardian of the alleged incapacitated person or the petitioner.

(d) Effective January 1, 2007, an attorney seeking to be appointed by a court for incapacity and guardianship proceedings must have completed a minimum of 8 hours of education in guardianship. A court may waive the initial training requirement for an attorney who has served as a court-appointed attorney in incapacity proceedings or as an attorney of record for guardians for not less than 3 years. The education requirement of this paragraph does not apply to the office of criminal conflict and civil regional counsel until July 1, 2008.

Section 29. Effective October 1, 2007, section 938.29, Florida Statutes, is amended to read:

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

(1)(a) A defendant determined to be guilty of a criminal act by a court or jury or through a plea of guilty or nolo contendere and who has received the assistance of the public defender's office, a special assistant public defender, the office of criminal conflict and civil regional counsel, or a private conflict attorney, or who has received due process services after being found indigent for costs under s. 27.52, shall be liable for payment of attorney's fees and costs. The court shall determine the amount of the obligation. Such costs shall include, but not be limited to, the cost of depositions; cost of transcripts of depositions, including the cost of defendant's copy, which transcripts are certified by the defendant's attorney as having served a useful purpose in the disposition of the case; investigative costs; witness fees; the cost of psychiatric examinations; or other reasonable costs specially incurred by the state and the clerk of court for the defense of the defendant in criminal prosecutions. Costs shall not include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law. Any costs assessed pursuant to this paragraph shall be reduced by any amount assessed against a defendant pursuant to s. 938.05.

(b) Upon entering a judgment of conviction, the defendant shall be liable to pay the costs in full after the judgment of conviction becomes final.

(c) The defendant shall pay the application fee under s. 27.52(1)(b) and attorney's fees and costs in full or in installments, at the time or times specified. The court may order payment of the assessed application fee and attorney's fees and costs as a condition of probation, of suspension of sentence, or of withholding the imposition of sentence. The first \$40 from attorney's fees and costs collected under this section shall be transferred monthly by the clerk to the Department of Revenue for deposit into the Indigent Criminal Defense Trust Fund. All remaining attorney's fees and costs collected under this section shall be deposited into the General Revenue Fund.

(2)(a) There is created in the name of the state a lien, enforceable as hereinafter provided, upon all the property, both real and personal, of any person who:

1. Has received any assistance from any public defender of the state, from any special assistant public defender, from any office of criminal conflict and civil regional counsel, or from any private conflict attorney, or who has received due process services after being found indigent for costs; or

2. Is a parent of an accused minor or an accused adult tax-dependent person who is being, or has been, represented by any public defender of the state, by any special assistant public defender, by any office of criminal conflict and civil regional counsel, or by a private conflict attorney, or who is receiving or has received due process services after being found indigent for costs.

Such lien constitutes a claim against the defendant-recipient or parent and his or her estate, enforceable according to law.

(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.

(3) The clerk of the circuit court within the county wherein the defendant-recipient was tried or received the services of a public defender, special assistant public defender, office of criminal conflict and civil regional counsel, or appointed private legal counsel, or received due process services after being found indigent for costs, shall enforce, satisfy, compromise, settle, subordinate, release, or otherwise dispose of any debt or lien imposed under this section. A defendant-recipient or parent, liable to pay attorney's fees or costs and who is not in willful default in the payment thereof, may, at any time, petition the court which entered the order for deferral of the payment of attorney's fees or costs or of any unpaid portion thereof.

(4) No lien thus created shall be foreclosed upon the homestead of such defendant-recipient or parent, nor shall any defendant-recipient or parent liable for payment of attorney's fees or costs be denied any of the protections afforded any other civil judgment debtor.

(5) The court having jurisdiction of the defendant-recipient shall, at such stage of the proceedings as the court may deem appropriate, determine the value of the services of the public defender, special assistant public defender, office of criminal conflict and civil regional counsel, or appointed private legal counsel and costs, at which time the defendant-recipient or parent, after adequate notice thereof, shall have opportunity to be heard and offer objection to the determination, and to be represented by counsel, with due opportunity to exercise and be accorded the procedures and rights provided in the laws and court rules pertaining to civil cases at law.

Section 30. Effective October 1, 2007, section 27.42, Florida Statutes, is repealed.

Section 31. (1) The Legislature finds that the creation of offices of criminal conflict and civil regional counsel and the other provisions of this act are necessary and best steps toward enhancing the publicly funded provision of legal representation and other due process services under constitutional and statutory principles in a fiscally responsible and effective manner.

(2) It is the intent of the Legislature to facilitate the orderly transition to the creation and operation of the offices of criminal conflict and civil regional counsel, as provided in this act, in order to enhance and fiscally support the system of court-appointed representation for eligible individuals in criminal and civil proceedings. To that end, the Legislature intends that the five criminal conflict and civil regional counsel be appointed as soon as practicable after this act becomes law, to assume a term beginning on July 1, 2007. Once appointed, the regional counsel shall use the period between July 1, 2007, and October 1, 2007, to complete the administrative and organizational activities related to establishment of their offices, including, but

not limited to, hiring authorized assistant regional counsel and other staff. It is the further intent of the Legislature that the regional offices begin assuming representation of eligible individuals, as provided in this act, on October 1, 2007. If a court finds that a regional office is not sufficiently operational by that date to assume representation in a particular case, it is the intent of the Legislature that the court appoint private counsel for that case. However, it is also the intent of the Legislature that each regional office be fully operational no later than January 1, 2008. The Justice Administrative Commission shall assist the regional counsel as necessary in establishing their offices. In addition, it is the intent of the Legislature that the various agencies and organizations that comprise the state judicial system also assist with the transition from current law to the creation and operation of the regional offices.

(3) In furtherance of its findings and intent, the Legislature intends to monitor and review the implementation of this act over a period of 3 years, identify any impediments to successful implementation, and evaluate if the delivery of legal representation and due process services as prescribed in this act should be revised.

Section 32. Each private attorney with an active court appointment as of the effective date of this act in a case for which the attorney will seek compensation from the state shall report the case number and type of case to the Justice Administrative Commission by July 15, 2007, unless he or she has already provided this information to the commission. If there is a shortfall in appropriations for court-appointed counsel, the commission shall give priority in payment to those attorneys who have fully complied with the reporting requirement of this section.

Section 33. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 34. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor May 24, 2007.

Filed in Office Secretary of State May 24, 2007.