



Civil Justice Subcommittee

Thursday, March 17, 2011

3:15 PM

404 HOB

**Dean Cannon
Speaker**

**Eric Eisnaugle
Chair**

Committee Meeting Notice
HOUSE OF REPRESENTATIVES

Civil Justice Subcommittee

Start Date and Time: Thursday, March 17, 2011 03:15 pm
End Date and Time: Thursday, March 17, 2011 06:00 pm
Location: 404 HOB
Duration: 2.75 hrs

Consideration of the following proposed committee bill(s):

PCB CVJS 11-06 -- Supreme Court
PCB CVJS 11-07 -- Supreme Court Organization
PCB CVJS 11-08 -- Judicial Nominating Commissions

Consideration of the following bill(s):

HJR 1097 Senate Confirmation of Justices and Judges by McBurney

NOTICE FINALIZED on 03/15/2011 16:13 by Jones.Missy

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 1097 Senate Confirmation of Justices and Judges

SPONSOR(S): McBurney

TIED BILLS: None IDEN./SIM. BILLS: SJR 1664

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee		Billmeier <i>LMB</i>	Bond <i>MB</i>
2) Judiciary Committee			

SUMMARY ANALYSIS

Under current law, the Governor must appoint justices of the Supreme Court and judges of the district courts of appeal from a list of nominees provided by the appropriate judicial nominating commission. There are separate judicial nominating commissions for the Supreme Court and each of the district courts of appeal. The Legislature is not involved in this process. By contrast, the President of the United States appoints federal justices and judges subject to confirmation by the United States Senate.

This joint resolution provides that judicial vacancies on the Supreme Court and district courts of appeal be filled by appointment by the Governor subject to Senate confirmation, similar to the federal system. If the Senate does not confirm an appointment with 180 days of receipt of the nomination, the nominee is deemed unconfirmed. This joint resolution provides that the Senate may sit for purposes of confirmation regardless of whether the House is in session. Circuit and county judges would be subject to Senate confirmation in any circuit or county that opts to provide for merit retention. Once confirmed, justices and judges sit for retention elections as provided under the current constitution. This joint resolution removes the requirement that the Governor appoint Supreme Court justices and judges of the district courts of appeal from a list submitted by a judicial nominating commission.

The proposed joint resolution, if passed by the Legislature, would be considered by the electorate at the November 2012 general election. A joint resolution must be passed by a three-fifths vote of the membership of each house of the Legislature.

The proposed joint resolution appears to require a nonrecurring expense of approximately \$42,000, payable from the General Revenue Fund in FY 2012-2013, for required advertising of the joint resolution. This joint resolution does not appear to have a fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Florida Constitution provides that Governor appoint appellate judges from a list of nominees provided by a judicial nominating commission (JNCs).^{1,2} When a judgeship becomes vacant, candidates submit their applications to the JNC for that court. The commission sends a list of three to six nominees to the Governor and the Governor fills the vacancy by selecting from that list.³ At the next general election occurring at least a year after appointment, justices and district court judges sit for a retention election. If a majority of voters choose to retain the justice or judge, the justice or judge is elected to a six year term.⁴

Nominations must be submitted to the Governor within 30 days of the vacancy unless the Governor extends the period by an additional 30 days.⁵ The Governor must make the appointment within 60 days of receiving the list of nominees from the JNC.⁶

Circuit and county court judges are determined by election.⁷ Elected judges serve six year terms.⁸ Circuits and counties may, by local option, choose to select all judges in the same manner as appellate judges are selected.⁹ No circuit or county has opted to change from election to nomination by the judicial nominating commission and appointment by the governor.

History of Judicial Selection in Florida

When Florida became a state in 1845, the constitution vested the judicial power in the judges of the circuit courts. The circuit judges were elected by the Legislature and also served as justices of the Supreme Court from 1846 until 1851. In 1848 Constitution and subsequent implementing legislation provided that the Supreme Court should have a chief justice and two associate justices. In 1853, the constitution provided for the election of the justices for six-year terms. The 1861 constitution provided for the appointment of the justices by the Governor, with the advice and consent of the Senate, to serve for six-year terms. In 1868, the constitution provided for a Supreme Court appointed by the Governor and confirmed by the Senate.¹⁰ The 1885 Florida Constitution provided for election of Supreme Court justices. The system of appointment of all Supreme Court justices and district court of appeal judges was approved by the voters at the 1976 general election.¹¹

Judicial Selection in Other States

Justices of the United States Supreme Court, judges on the federal circuit courts,¹² and judges on the federal district courts¹³ are appointed by the President of the United States and must be confirmed by

¹ See art. V, s.11, Fla. Const.

² Trial court judgeships that become vacant during a judge's term are also filled by a gubernatorial appointment from a list of nominees provided by a judicial nominating commission.

³ See art. V, s. 11(a), Fla. Const.

⁴ See art. V, s. 10, Fla. Const.

⁵ See art. V, s. 11(c), Fla. Const.

⁶ See art. V, s. 11(c), Fla. Const.

⁷ See art. V, s. 10, Fla. Const.

⁸ See art. V, s. 10, Fla. Const.

⁹ See art. V. s. 10, Fla. Const.

¹⁰ This information is found on the Florida Supreme Court's website at <http://www.floridasupremecourt.org/about/history/schistory.shtml> (accessed March 15, 2011).

¹¹ See CS/SJR 49 & 81 (1976).

¹² Circuit courts at the federal level are appellate courts.

¹³ District courts at the federal level are trial courts.

the United States Senate.¹⁴ There is a great deal of variation among the states in how they select justices and judges. Some states choose justices and judges by direct election, which can be partisan or non-partisan. Some states have a system similar to Florida's merit selection/retention system of selecting appellate judges, with a nomination by a judicial nominating commission and appointment by the governor system. At least eight states, including Delaware, Hawaii, Maine, Maryland, New Jersey, New York, Rhode Island, and Vermont, have systems where the governor selects a justice for the state supreme court who must be confirmed by the state senate.

Effect of the Joint Resolution

This joint resolution provides that judicial vacancies on the Supreme Court and district courts of appeal are filled by the Governor subject to Senate confirmation. The joint resolution provides that the Governor must fill a vacancy by submitting a nominee to the Senate for confirmation. If the Senate does not confirm an appointment with 180 days of receipt, the nominee is deemed unconfirmed. This joint resolution provides that the Senate may sit for purposes of confirmation regardless of whether the House is in session.¹⁵ Once confirmed, justices and judges sit for retention elections as provided under the current constitution. A justice or judge's first retention election is at least one year after Senate confirmation.

This joint resolution does not apply to circuit or county judges unless the circuit or county opts to change from election to selection/retention of judges. If a circuit or county changes to a retention system, the joint resolution would require that the Governor appoint circuit or county judges subject to Senate confirmation.

This joint resolution removes the requirement that the Governor appoint Supreme Court justices and judges of the district courts of appeal from a list submitted by the judicial nominating commission. It abolishes the district court of appeal nominating commissions and removes provisions relating to the supreme court judicial nominating commission from art. V, s. 11. Fla. Const.¹⁶

B. SECTION DIRECTORY:

n/a

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Article XI, s. 5(d), Fla. Const., requires that a proposed constitutional amendment be published twice in one newspaper be published twice in one newspaper of general circulation in each county in which a newspaper is published prior to the election in which the voters will consider it. The Department of State has indicated the average cost to advertise an amendment is \$106.14 per word. The amendment text contains 397 words so the approximate non-recurring expenditure to advertise the amendment is \$42,133.58 payable from the General Revenue Fund in FY 2012-2013.

¹⁴ See art. II, s. 2, U.S. Const.

¹⁵ The House and Senate must generally meet in session at the same time. See art. III, s. 3, Fla. Const. Article III, s. 17(c), Fla. Const., allows the Senate to meet whether or not the House is in session for purposes of holding impeachment trials.

¹⁶ The judicial nominating commission of the supreme court is referenced in art. IV, s. 4(b), Fla. Const. This joint resolution does not change that provision.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The state may see increased expenditures if the Senate elects to sit for the purposes of considering confirmations at times when the Senate is not otherwise in Tallahassee.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

A mandates analysis is inapplicable as this bill is a proposed constitutional amendment.

2. Other:

A joint resolution must be passed by a three-fifths vote of the membership of each house of the Legislature before it can be proposed to the voters. It must be approved by 60% of the voters in order to be adopted as part of the Constitution. See Art. XI, ss. 1, 5, Fla. Const.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The joint resolution abolishes the Supreme Court Judicial Nominating commission from art. V, s. 10, Fla. Const., but the entity remains in the constitution and in statute. Article IV, s. 4(b), Fla. Const., provides that the statewide prosecutor is appointed by the Attorney General from a list provided by the "judicial nominating commission for the supreme court, or as otherwise provided by general law." Section 16.56, F.S., provides that the Supreme Court Judicial Nominating Commission must submit nominees to the Attorney General for appointment as statewide prosecutor. Section 27.701, F.S., provides that the Supreme Court Judicial Nominating Commission must submit nominees to the Governor for appointment as Capital Collateral Regional Counsel for each of the three regions in the state. Section 27.511, F.S., provides that the Supreme Court Judicial Nominating Commission submit nominees to the Governor for appointment as Criminal Conflict and Civil Regional Counsel.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

n/a

House Joint Resolution

A joint resolution proposing an amendment to Section 11 of Article V of the State Constitution to provide for Senate confirmation of justices and judges subject to a merit-retention vote.

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

That the following amendment to Section 11 of Article V of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE V

JUDICIARY

SECTION 11. Vacancies.—

(a) Whenever a vacancy occurs in a judicial office to which election for retention applies, the governor shall fill the vacancy by appointment subject to senate confirmation. If the senate does not confirm an appointment within 180 days after receipt of the governor's communication, the nominee shall be deemed unconfirmed. The senate may sit for the purposes of confirmation regardless of whether the house of representatives is in session. An appointment shall be ~~appointing~~ for a term ending on the first Tuesday after the first Monday in January of the year following the next general election occurring at least one year after the date of confirmation ~~appointment, one of not fewer than three persons nor more than six persons nominated by~~

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29 | ~~the appropriate judicial nominating commission.~~

30 | (b) The governor shall fill each vacancy on a circuit
 31 | court or on a county court, wherein the judges are elected by a
 32 | majority vote of the electors, by appointing for a term ending
 33 | on the first Tuesday after the first Monday in January of the
 34 | year following the next primary and general election occurring
 35 | at least one year after the date of appointment, one of not
 36 | fewer than three persons nor more than six persons nominated by
 37 | the appropriate judicial nominating commission. An election
 38 | shall be held to fill that judicial office for the term of the
 39 | office beginning at the end of the appointed term.

40 | (c) The nominations shall be made within thirty days from
 41 | the occurrence of a vacancy unless the period is extended by the
 42 | governor for a time not to exceed thirty days. The governor
 43 | shall make the appointment within sixty days after the
 44 | nominations have been certified to the governor.

45 | (d) There shall be a separate judicial nominating
 46 | commission as provided by general law for ~~the supreme court,~~
 47 | ~~each district court of appeal,~~ and each judicial circuit for all
 48 | trial courts within the circuit. Uniform rules of procedure
 49 | shall be established by the judicial nominating commissions ~~at~~
 50 | ~~each level of the court system.~~ Such rules, or any part thereof,
 51 | may be repealed by general law enacted by a majority vote of the
 52 | membership of each house of the legislature, or by the supreme
 53 | court, five justices concurring. Except for deliberations of the
 54 | judicial nominating commissions, the proceedings of the
 55 | commissions and their records shall be open to the public.

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56 BE IT FURTHER RESOLVED that the following statement be
 57 placed on the ballot:

58 CONSTITUTIONAL AMENDMENT

59 ARTICLE V, SECTION 11

60 SENATE CONFIRMATION OF JUSTICES AND JUDGES.—Proposing an
 61 amendment to the State Constitution to modify the judicial
 62 nominating and appointment process for judicial offices
 63 requiring merit-retention votes by requiring Senate approval of
 64 judicial nominations to the Supreme Court and district courts of
 65 appeal. Currently, when a vacancy in the office of justice of
 66 the Supreme Court or in the office of judge of a district court
 67 of appeal arises, the State Constitution requires that a
 68 judicial nominating commission convenes to interview applicants
 69 and then present to the Governor a list of three to six
 70 qualified nominees for the vacancy. The Governor must appoint
 71 one of those nominees to the position. Upon appointment by the
 72 Governor, the nominee is in office as a justice or judge. The
 73 proposed amendment would eliminate the constitutional
 74 requirement that a judicial nominating commission provide the
 75 Governor with a list of candidates for appointment. If this
 76 amendment passes, the Governor could appoint any qualified
 77 person as justice or judge, subject to confirmation by the
 78 Florida Senate. The Senate would have 180 days in which to vote
 79 on a nominee. If the Senate fails to vote for the nominee in
 80 that time period, the nomination would fail and the Governor
 81 would have to make another nomination. The requirement for
 82 Senate confirmation would also apply to nominations for circuit

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83 | judge or county judge in any jurisdiction that has elected to
84 | use merit selection and retention in the jurisdiction.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB CVJS 11-06 Supreme Court
SPONSOR(S): Civil Justice Subcommittee
TIED BILLS: PCB CVJS 11-07 IDEN./SIM. BILLS: None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Civil Justice Subcommittee		De La Paz	Bond MB

SUMMARY ANALYSIS

Article V, Section 1 of the Florida Constitution (Constitution) provides that “[t]he judicial power shall be vested in a supreme court, district courts of appeal, circuit courts and county courts.” The Supreme Court of Florida (Supreme Court) is the state’s highest court and consists of seven justices. The justices are appointed by the Governor and are subject to retention elections at the end of their terms. The Chief Justice is chosen by a majority of the members of the court.

The Supreme Court must review final orders imposing death sentences, district court decisions declaring a statute or provision of the Constitution invalid, bond validations, and certain orders of the Public Service Commission on utility rates and services. The Supreme Court may review any decision of a district court of appeal that expressly declares a statute valid, construes a provision of the state or federal constitution, affects a class of constitutional or state officers, or conflicts with a decision of another district court or of the Supreme Court on the same question of law. It may also review certain categories of judgments, decisions, and questions of law certified to it by the district courts of appeal and federal appellate courts. The Supreme Court may also issue writs of prohibition, mandamus, quo warranto, and habeas corpus and other writs necessary to the complete exercise of its jurisdiction.

PCB CVJS 11-06 creates a Supreme Court of Civil Appeals and a Supreme Court of Criminal Appeals to replace the current Supreme Court. The bill provides that each supreme court consist of five justices. To fill the positions on the new supreme courts, the three existing justices with the most seniority are assigned to the Supreme Court of Criminal Appeals, and the remaining four justices are assigned to the Supreme Court of Civil Appeals. The remaining vacant positions will be appointed by the Governor. The bill provides that the Chief Justice of each supreme court will be selected by the Governor, with the advice and consent of the Senate. PCB CVJS 11-06 provides that the two supreme courts have all of the jurisdictional powers given to the current Supreme Court, divided among them according to whether the case involved is a criminal case or a civil case.

If passed by the Legislature, the joint resolution would be considered by the electorate at the November 2012 general election. If adopted by the electorate, the new courts would begin operation 120 days after the election.

This proposed committee bill requires a nonrecurring expenditure for publication in FY 2012-2013 of approximately \$800,000 payable from the General Revenue Fund. If adopted by the electorate, the first full fiscal year of implementation, and beyond, would require recurring funding of approximately \$1.6 million, commencing in FY 2013-2014, payable from the General Revenue Fund. The proposed committee bill does not appear to have a fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Overview of the Florida Supreme Court

Article V, Section 1 of the Constitution currently provides that “[t]he judicial power shall be vested in a supreme court, district courts of appeal, circuit courts and county courts.” The state is divided into five appellate districts and twenty judicial circuits according to general law.¹ The Supreme Court is the state’s highest court and consists of seven justices, five of which constitute a quorum.² Of the seven justice positions two are “at large” seats and the remaining five are appointed from each appellate district.³ The Constitution requires four justices to concur in order for the Court to reach a decision.⁴ Justices are appointed by the Governor and, except when appointed to fill an unexpired term, serve six year terms. The justices are subject to retention elections at the end of each term.⁵ The Chief Justice is chosen by a majority of the members of the court.⁶ In practice, the justices select the Chief Justice by rotating the position every two years to the most senior justice who has not previously served as chief.⁷

Historical Background

From 1846 until 1851, the first state Constitution created a Supreme Court but gave it no justices of its own. At that time, the Supreme Court was simply a panel consisting of all of the state's circuit judges. The circuit judges were elected by the Legislature, collectively serving in the capacity of Justices of the Supreme Court. Pursuant to an 1848 constitutional amendment, in 1851 the first justices were named to the Supreme Court. These justices were elected by the Legislature for the term of their "good behavior." In 1853 an amendment provided for popular election of justices for six-year terms. The 1861 Constitution provided for the appointment of the justices by the Governor, with the advice and consent of the Senate, to serve for six-year terms. The 1868 Constitution changed the terms of justices to "life or during good behavior," and the 1885 Constitution returned to popular elections.

In 1902, an amendment allowed the Legislature to increase the Supreme Court membership from three to as many six justices. Initially there were six, but the 1911 Legislature reduced the number of justices to five. In 1923 the number was again raised to six and continued to be six until a 1940 constitutional amendment increased the size of the court to seven justices.⁸

In 1956, three intermediate appellate courts (district courts of appeal) were created to ease the workload of the Supreme Court. A fourth district court of appeal was added in 1965, and a fifth was added in 1979.⁹

Jurisdiction

Article V, s. 3(b) of the Constitution establishes the jurisdiction of the Supreme Court. The court must review by appeal:

¹ Fla. Const. art V. section 3; Section 35.01, F.S.; Section 26.01, F.S.

² Fla. Const. art. V. section 3

³ Fla. Const. art. V. section 3.

⁴ Fla. Const. art. V. section 3.

⁵ Fla. Const. art. V. section 10.

⁶ Fla. Const. art. V. section 2.

⁷ Florida Supreme Court, Manual of Internal Operating Procedures, Section 1, B.

⁸ <http://www.floridasupremecourt.org/about/history/schistory.shtml>, accessed March 16, 2011.

⁹ HJR 810 (1955); SJR 261 (1965); Ch. 65-294, Laws of Florida; SJR 52-D (1971); Ch. 79-413, Laws of Florida.

- Final orders of courts imposing a death sentence; and
- Decisions of a district court of appeal declaring invalid a state statute or provision of the state constitution.¹⁰

When provided by general law, the Supreme Court reviews by appeal:

- Final judgments entered in proceedings for the validation of bonds or certificates of indebtedness; and
- Action of statewide agencies relating to rates or service of utilities providing electric, gas, or telephone service.¹¹

The Supreme Court has discretion to review decisions of a district court of appeal that:

- Expressly declares valid a state statute;
- Expressly construes a provision of the state or federal constitution;
- Expressly affects a class of constitutional or state officers;
- Expressly and directly conflicts directly with a decision of another district court of appeal or of the Supreme Court on the same question of law;¹² and
- Passes upon a question certified by it to be of great public importance, or that is certified by it to be in direct conflict with a decision of another district court of appeal.¹³

In addition, the Supreme Court may:

- Review trial court orders certified by the district court of appeal to be of great public importance, or to have a great effect on the proper administration of justice, and certified to require immediate resolution by the Supreme Court.¹⁴
- Review a question of law certified by the Supreme Court of the United States or a United States Court of Appeals which is determinative of the cause and for which there is no controlling precedent of the Supreme Court of Florida.¹⁵

The Supreme Court has original jurisdiction to issue writs of prohibition to courts, issue writs of mandamus and quo warranto to state officers and state agencies, writs of habeas corpus, and all writs necessary to the complete exercise of its jurisdiction.¹⁶

Other Responsibilities of the Supreme Court

In addition to its duties related to the exercise of jurisdiction noted above, the Supreme Court:

- Has authority to adopt rules for practice and procedure in all courts.¹⁷
- Has authority to adopt rules for the administration of all courts.¹⁸
- Has express exclusive jurisdiction to regulate “the admission of persons to the practice of law and the discipline of persons admitted.”¹⁹
- Shall, when requested by the attorney general pursuant to the provisions of Section 10 of Article IV, render an advisory opinion of the justices, addressing issues as provided by general law.²⁰

¹⁰ Fla. Const. art. V. section 3(b)(1).

¹¹ Fla. Const. art. V. section 3(b)(2).

¹² Fla. Const. art. V. section 3(b)(3).

¹³ Fla. Const. art. V. section 3(b)(4).

¹⁴ Fla. Const. art. V. section 3(b)(5).

¹⁵ Fla. Const. art. V. section 3(b)(6).

¹⁶ Fla. Const. art. V. section 3(b)(7)-(9).

¹⁷ Fla. Const. art. V. section 2(a).

¹⁸ *Id.*

¹⁹ Fla. Const. art. V. section 15.

²⁰ Fla. Const. art. V. section 3(b)(10).

- Has the responsibility to determine the need for additional lower court judges based on a court rule providing uniform criteria to perform the evaluation.²¹
- Responds to requests of the Governor for advisory opinions interpreting a provision of the Constitution upon any question affecting the Governor's executive powers and duties.²²

Duties of the Chief Justice

The Chief Justice is the administrative officer of the Supreme Court, responsible for managing the Supreme Court's business, and is also the chief administrative officer of the state's judicial system. The Chief Justice has the power to make temporary assignments of senior and active justices and judges to duty on any court for which they are qualified. The Chief Justice also appoints an administrative justice who is authorized to act on routine procedural motions and other case-related matters which do not require action by a panel of justices.²³

The Chief Justice also presides over trials of impeachment in the senate except when the Chief Justice is the subject of the impeachment trial.²⁴ In lieu of presiding over a trial his or herself, the Chief Justice may designate another justice to preside over an impeachment trial.²⁵

The Clerk and Marshal

Under current law, the Supreme Court appoints its own clerk and marshal. The clerk and marshal serve at the pleasure of the court and perform such duties as the court directs. Their compensation is set by general law. The marshal has the power to execute process for the court throughout its territorial jurisdiction.

The Judicial Qualifications Commission

The Judicial Qualifications Commission (JQC) has constitutional authority to investigate any judge or justice for misconduct. If the JQC files charges against a justice or judge, the Supreme Court may remove a justice or judge from office if the misconduct demonstrates a present unfitness to hold office. Alternatively, the Supreme Court may impose a lesser disciplinary action (i.e. reprimand, fine or suspension) if the conduct warrants.²⁶

The Supreme Court receives recommendations from the JQC and may accept, reject or modify in whole or in part the findings, conclusions and recommendations of the JQC.²⁷ Judges or justices whom are the subject of a JQC investigation may be suspended from office, with or without compensation, pending determination of an inquiry once a formal proceeding has commenced. If the person who is the subject of proceedings by the JQC is a justice of the Supreme Court, all justices of the Court are automatically disqualified to sit as justices with respect to the inquiry against the justice. In such cases, panels of seven of the most senior chief judges of the judicial circuits serve the Supreme Court's function.

Current Caseload Statistics From the Supreme Court

The following are selected case statistics regarding the Supreme Court from the court's latest budget documents for FY 2009-10.²⁸

- Initial death penalty appeals disposed of within 2 years of case filing: 31%

²¹ Fla. Const. art. V. section 9.

²² Fla. Const. art IV. section 1(c).

²³ Florida Supreme Court Manual of Internal Operating Procedures. Section I.

²⁴ Fla. Const. art. V. section 17(c).

²⁵ Id.

²⁶ Fla. Const. art. V. section 12.

²⁷ Fla. Const. art. V, section 12(c).

²⁸ Long Range Program Plan, FY 2011-12 through 2015-16 reflecting performance measure information for FY 2009-10.

- Post-conviction death penalty cases disposed of within 1 year of filing: 42.6%
- Other mandatory review jurisdiction cases disposed of within 1 year of filing: 96.3%
- Discretionary review jurisdiction cases disposed of within 1 year of filing: 93.8%
- Non-death penalty original writ petition cases disposed of within one year of filing: 99.4%
- Florida Bar disciplinary cases disposed of within 1 year of filing: 82.1%
- Other original jurisdiction cases disposed of within 1 year of filing: 81.7%

In FY 2010-11, criminal cases constituted 68% of the Supreme Court's mandatory jurisdiction, while civil cases constituted 32%. Also, criminal cases made up 60% of the court's discretionary jurisdiction, while civil cases made up 40%. With regard to original proceedings, criminal cases were 33%, civil cases were 30%, and Florida Bar, Board of Bar Examiners, and court rule proceedings combined to make up 35% of the Supreme Court's jurisdiction.

Current Timeliness of the Florida Supreme Court

According to the time standards the Supreme Court established for itself and the district courts of appeal, the presumptively reasonable time frame for the disposition of cases is within 180 days of either oral argument or from the submission of the case to the court for a decision without oral argument.²⁹

Every case decided with a written opinion, issued from July 1, 2010 through December 31, 2010, was reviewed to determine how many cases met this standard. Of the 68 opinions issued during that time period, 23, or roughly one-third of the opinions, exceeded the time limit. The longest delay was 617 days from oral argument to opinion in a death penalty post-conviction case.

Another measure of the ability of an appellate court to process its workload in a timely manner is to measure the time from "perfection" of the case to oral argument. Perfection is the point at which the record on appeal and the briefs are complete and the case can be set for oral argument.³⁰ The advantage to this measure is that it does not include delays caused by the parties. Looking at criminal cases from the same time period above, the following results were found:

Table 1: Criminal Cases With Written Opinions July 1 – December 31, 2010

Type of Proceeding	Opinions Issued	Average Number of Days Between Perfection and Oral Argument	Most Days Between Perfection and Oral Argument in a Single Case
Criminal non-death penalty	9	119	296
Death penalty, direct appeal	16	160	334
Death penalty post-conviction	8	184	275

In terms of all cases in which an opinion was rendered between July 1, 2010, and December 31, 2010, for the 68 opinions issued overall, the average time from filing to disposition was 547 days. The longest time period was 1575 days (4.3 years). A total of 15 cases took over 2 years from filing to opinion, and 4 of those took over 3 years. The shortest time period was 21 days from filing to opinion.

²⁹ The presumptive nature of the time period recognizes that there are some cases, because of their complexity, present problems that cause reasonable delays. The exceptions to this rule are juvenile dependency cases or termination of parental rights cases which have a 60 day presumptive time frame. See, Fla. R. Jud. Admin. 2.250(a).

³⁰ Even after reaching this point, however, there may still be some cause for reasonable delay.

As of March 15, 2011, of cases outstanding and pending resolution by the Supreme Court, the oldest:

- Criminal case was filed in 2005.³¹
- Civil case was filed in 2006.³²
- Direct appeal of a death sentence conviction was filed in 2007.³³
- Appeal of a post-conviction motion was filed in 2007.³⁴
- Bar disciplinary case was filed in 2008.³⁵

The Death Penalty and the Supreme Court's Workload

The processing of cases involving persons sentenced to death is a significant part of the Supreme Court's workload.³⁶ A report of the State Court Administrator explains:

The volume of the record on appeal, and the thoroughness and number of briefings, is unique in criminal law to capital case litigation. These factors have a very direct bearing on the workload of the Court. Furthermore, because of the gravity of the ultimate punishment of death, every case is afforded oral argument, and every decision is released with a written opinion. Every capital case, both on initial appeal and in postconviction, requires and receives the full, in-depth scrutiny of the Court.³⁷

In the years following the reinstatement of Florida's death penalty in 1976, delays in the execution of persons sentenced to death have steadily increased. For executions carried out from 1994 to 1999, delays averaged nearly 14 years, which represents an 80% increase from the 7.74 year average for executions between 1979 and 1983.

In January of 2000, the Legislature held a special session to craft legislation directed toward eliminating known causes of delay in carrying out death sentences of persons convicted of capital murder whose convictions and sentences had been affirmed on appeal. The product of the Legislature's efforts was called the Death Penalty Reform Act of 2000 ("DPRA"). In *Allen v. Butterworth*,³⁸ the Supreme Court struck down the DPRA, holding that it violated the separation of powers provision of the Constitution and that it was an unconstitutional encroachment of the their exclusive power to adopt rules for the practice and procedure in all courts. The ruling eliminated the Legislature's ability to address by general law the protracted nature of litigating death penalty postconviction claims. The table below shows the progression of delays in the years before and after *Allen v. Butterworth*.

³¹ *State v. Lemuel Isaac*, SC05-2047. Oral argument was April 8, 2010.

³² *Genovese v. Provident Life & Accident Ins. Co.*, SC06-2508. Oral argument was August 31, 2009.

³³ *Richard Knight v. State*, SC07-841. Oral argument is set for April 11, 2011.

³⁴ *Barwick v. State*, SC07-1831. Oral argument was September 3, 2009.

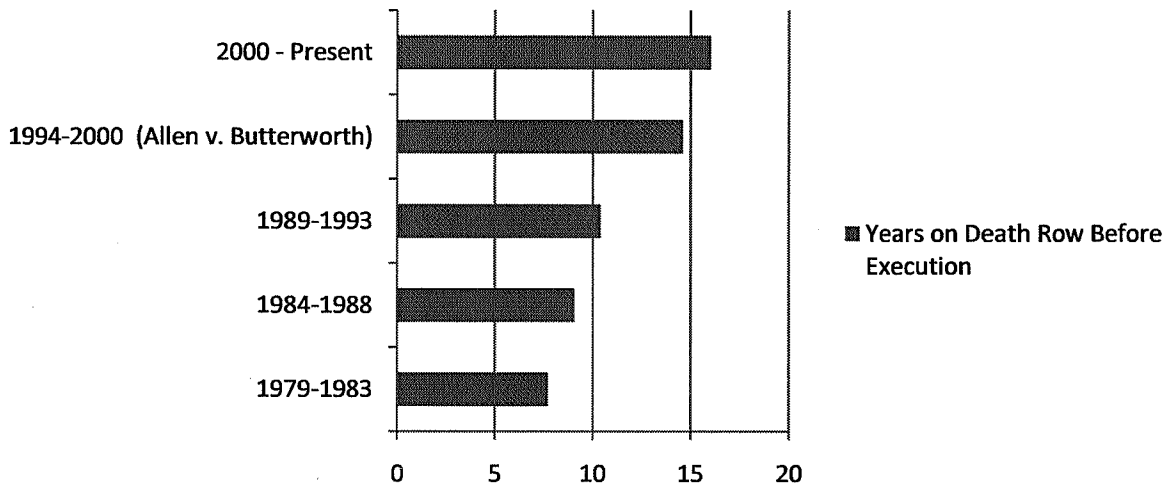
³⁵ *The Florida Bar v. Gwynn*, SC08-622.

³⁶ Report of the Office of State Courts Administrator: *Workload of the Supreme Court of Florida*, at 46. November 7, 2000. http://www.floridasupremecourt.org/pub_info/workload/workloadcomplete.pdf

³⁷ *Id.* at 50.

³⁸ *Allen v. Butterworth*, 756 So.2d 52 (Fla. 2000).

Years on Death Row Before Execution



As the table above reflects, in the ten years since *Allen v. Butterworth*, the average years spent on death row before execution has increased to just over 16 years. In June of 1998 Florida's death row housed 367 inmates; as of March 3, 2011, there were 394. The number of inmates since 2000 on death row dying of natural causes (29) has now surpassed the number of inmates executed (25).³⁹ Presently there are 145 inmates who have been on death row for 20 years or longer, of those, 34 have been on death row for 30 years or more.

When the Supreme Court invalidated the DPRA it assumed responsibility for reforming capital postconviction procedures.⁴⁰ In July of 2001, the Supreme Court adopted newly amended rules governing procedures for capital postconviction proceedings, saying:

We are hopeful that the new rule will allow future capital postconviction proceedings to be *resolved within two years from the time the case becomes final*, thereby eliminating the months and years of needless delay that we have seen in the past.⁴¹ (emphasis added).

However, eleven years later, no apparent progress toward the goal of improving the timely review of meritorious claims, and more importantly, curtailing, discouraging and sanctioning the filing of dilatory and frivolous motions has been made.

Some might point to delays in the trial courts as a reason for the increasing overall delays in the death penalty process. However, that argument overlooks the Supreme Court's oversight role over the lower courts under art. V, s. 2(a), Fla. Const. Florida Rule of Criminal Procedure 3.851(c)(2) requires status conferences to be conducted every 90 days after a judge has been assigned to a death penalty case after the issuance of the mandate on direct appeal. All circuit judges are subject to the administrative supervision of the chief judge of the judicial circuit.⁴² Pursuant to Rule of Judicial Administration 2.215, the chief judge of the judicial circuit must monitor the status of all postconviction proceedings in capital cases and "shall take necessary actions to assure that such cases proceed without undue delay."⁴³

³⁹ One inmate committed suicide.

⁴⁰ *Allen v. Butterworth*, 756 So.2d 52, 67 (Fla. 2000).

⁴¹ *Amendments to Florida Rules of Criminal Procedure 3.851, 3.852, and 3.993 and Florida Rule of Judicial Administration 2.050*, 797 So.2d 1213 (Fla. 2001).

⁴² Fla. R. Jud. Admin. 2.215(b)(4).

⁴³ Fla. R. Jud. Admin. 2.215(b)(7).

The chief judge of a circuit is also required to inform the Chief Justice of the Supreme Court of the status of all such cases on a quarterly basis starting in January of each year.⁴⁴

2001 Supreme Court Workload Study Commission

In 2001, the Supreme Court Workload Study Commission (“study commission”) was created to “develop recommendations for addressing workload issues, including but not limited to, the need for additional justices on the Supreme Court.”⁴⁵ There were three proposals that the commission did not adopt:

- First, the commission unanimously decided not to recommend increasing the number of justices on the Supreme Court from seven to nine, noting that increasing the number of justices on an appellate panel tends to slow resolution of cases. (See, “Drafting Issues or Other Comments” section)
- Second, a majority of the commission “was not convinced that the present workload of the Supreme Court was great enough to create a separate criminal court of appeals at this time.” The report further noted that “[s]ome of the members thought the idea should be subject to further study and if the caseloads continued to increase, creation of a new court might be necessary.”
- Third, none of the commission members suggested changes to the Supreme Court’s jurisdiction.

In its 2001 final report, the study commission acknowledged that there exists a workload problem at the Supreme Court and that some civil cases were not being heard in a timely fashion because of the work devoted to criminal cases.⁴⁶ The study commission made five recommendations:

1. The Legislature support the court’s request for additional staff and technology support at the Supreme Court to address the processing of death penalty cases and “tag” cases.⁴⁷
 2. The Supreme Court develop a plan for the efficient and expeditious handling of “tag” cases.
 3. The Supreme Court request from the Legislature sufficient law clerk staff at the trial court level to address the quality of decisions in death penalty cases.
 4. The selection of the Chief Justice remain with the Supreme Court but that efficiency could be effected by the election of a Chief Justice being based on the person’s background and experience; the option for re-election for a Chief Judge; expanding the duties of the Administrative Justice; and the extension of the term for which the Chief Justice serves.
- 5A. The Legislature further study the potential to reduce the Supreme Court’s workload by requiring a supermajority vote of the jury (of no less than 9 to 3) before a trial judge may impose the death penalty.
- 5B. The Legislature further study the potential to reduce the Supreme Court’s workload by passing a law preventing the trial judge from overriding a jury’s recommendation of life imprisonment [in a death penalty case].

⁴⁴ *Id.*

⁴⁵ Chapter 2000-237, Laws of Florida.

⁴⁶ 2001 Final Report of the Supreme Court Workload Study Commission, at 14.

⁴⁷ The Supreme Court had requested two more attorneys for the central staff, paralegals in the Clerk’s office, and funding for upgrades to the case management system. A tag case is where two or more cases are tagged because of similar legal issues.

As to funding issues, the table below reflects the funding of Supreme Court positions from FY 2000-01 through FY 2010-11:

Table 2: Supreme Court Funded Positions

Fiscal Years	Number of Positions Funded	Difference from Prior Year
2000-01	104	
2001-02	88	- 16
2002-03	88	No change
2003-04	86	- 2
2004-05	88	+2
2005-06	91	+3
2006-07	94	+3
2007-08	101	+7
2008-09	97	-4
2009-10	97	No change
2010-11	97	No change

With respect to trial court positions, over the course of the regular sessions of 2005 and 2006, the Legislature added 69 circuit judge positions, and 39 county judge positions.⁴⁸ Additionally in 2006, 122 full-time positions were funded and authorized to implement the additional judicial positions created in 2006.

With respect to the fourth recommendation, the Supreme Court has not implemented any changes to its current system of selecting the Chief Justice. Regarding recommendation 5A, the House of Representative further studied the issue from the context of requiring unanimous jury verdicts to impose a death sentence, and declined to require unanimity for a death sentence.⁴⁹ Recommendation 5B has not been acted upon, however, according to the capital appeals division of the Attorney General's Office there are an extremely limited number of cases that are still pending involving a trial judge's decision to override a jury's recommendation for a life sentence. In practice, trial judges are no longer overriding jury recommendations for life imprisonment in capital cases.

In arriving at its recommendations, the study commission identified two major areas where improvements could be made: 1) the processing of death penalty cases, and 2) the processing of "tag" cases.⁵⁰ As previously discussed, the delay in the processing of death penalty cases has increased in the ten years since the study commission issued its report.⁵¹

Splitting the Workload

The Supreme Court does not report the number of work hours consumed according to the type of case processed for review. An article published in the Florida Bar News quoted Florida Supreme Court Clerk Tom Hall recalling that when then Chief Justice Charles Wells [2000-02] testified before the work load study commission considering whether to expand the number of justices on the Supreme Court from seven justices to nine, he said death penalty cases constituted about 50 percent of their workload,

⁴⁸ Chapter 2005-150, Laws of Florida; Ch. 2006-166, Laws of Florida.

⁴⁹ House Resolution 1627 (2006).

⁵⁰ 2001 Final Report of the Supreme Court Workload Study Commission, at 8.

⁵¹ Testimony from the head of the criminal appeals division of the Attorney's General's Office before the Civil Justice Committee on February 9, 2011, described the futile nature of the post *Allen v. Butterworth* modifications to the court rules governing capital postconviction proceedings describing them as "cosmetic." She also characterized the current rules as preserving a postconviction process in which "we are spinning our wheels" in litigation. Video clip of testimony at the House Civil Justice Subcommittee held on February 9, 2011, at time position 3:12:40 to 3:13:15. For a full description of the effect of the Supreme Court's current rules governing capital postconviction litigation see position 3:06:25 to 3:13:15. See, <http://www.myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?SessionId=66&CommitteeId=2613>

though only 12 percent of their caseload in terms of the number of cases processed. Hall in the same article reported that approximately 40 percent of cases heard in oral arguments are death cases.⁵²

The division of the Supreme Court's workload according to case filings is as follows based on 2010 filings:

	Number of Filings	Percentage of Filings
Mandatory Review		
Criminal	64	68%
Civil	30	32%
Discretionary Review		
Criminal	578	60%
Civil	389	40%
Original Proceedings		
Criminal	479	33%
Civil	444	30%
Bar/Bar Examiners/Rules	523	35% ⁵³

Effect of PCB CVJS 11-06

Overview

PCB CVJS 11-06 amends Article V of the Constitution to create a Supreme Court of Civil Appeals and a Supreme Court of Criminal Appeals. The bill divides among these two distinct supreme courts the duties currently performed by the Supreme Court. The two supreme courts will each serve as the courts of last resort for matters within their respective jurisdictions. The bill provides that each supreme court consist of five justices, four of which constitute a quorum.⁵⁴ The five justices for both supreme courts must be appointed from each of the five appellate districts. The bill requires three justices to concur in order for the Court to reach a decision. Like the current law, the bill provides that justices are appointed by the Governor and, except when appointed to fill an unexpired term, serve six year terms. The justices are subject to retention elections at the end of each term. The bill provides that the Chief Justice of both supreme courts will be selected by the Governor, with the advice and consent of the Senate. The bill also expressly requires that all justices receive the same compensation.

Jurisdiction

PCB CVJS 11-06 amends Article V to split the jurisdiction of the two supreme courts. The Supreme Court of Civil Appeals has jurisdiction over the civil law, as provided in general law. The Supreme Court of Criminal Appeals has jurisdiction over the criminal law, as provided in general law. The implementing provision, creating art. V, s. 21 of the Constitution provides further details regarding the jurisdictional split. Section 21 provides that the courts collectively have all of the jurisdiction of the current Supreme Court.

All appeals from a death sentence are assigned to the Supreme Court of Criminal Appeals, both direct and post-conviction. The bill expressly provides that the Supreme Court of Civil Appeals has no

⁵² *What About the Death Penalty*, Florida Bar News, December 15, 2008.

⁵³ The clerk's office had 2% of cases marked as "no entry" because the deputy clerk could not classify the case.

⁵⁴ Eighteen other states currently have 5 justices on a supreme court.

jurisdiction to issue a stay of execution or to hear any challenge of any law or procedure regarding the death penalty.

In the event that in a particular case the jurisdiction of the supreme courts is unclear, both supreme courts assert jurisdiction and neither one withdraws, the determination of where the appropriate jurisdiction resides will be made by the chief judge of the Supreme Court of Civil Appeals.⁵⁵

Other Responsibilities of the Supreme Courts

The proposed committee bill authorizes the Supreme Court of Civil Appeals to adopt rules for practice and procedure in civil court proceedings and appeals, and authorizes the Supreme Court of Criminal Appeals to adopt rules for practice and procedure in criminal court proceedings and appeals. Administration of the court system is as provided by general law. The Supreme Court of Civil Appeals is given exclusive jurisdiction to regulate the admission of persons to the practice of law and the discipline of persons admitted, while the Supreme Court of Criminal Appeals is given the authority for judicial discipline. The two supreme courts jointly establish uniform criteria for the determination of the need for additional lower court judges in the same manner as provided under current law for the Supreme Court.

Duties of the Chief Justice

The bill provides the chief justices of each supreme court administrative supervision over his or her own supreme court. The Chief Justice of the Supreme Court of Civil Appeals is provided with the authority to assign justices or judges, including consenting retired justices or judges, to temporary duty in any court for which the judge is qualified. He also has the power to delegate to a chief judge of a judicial circuit the power to assign judges for duty in that circuit.

The bill assigns to the Chief Justice of the Supreme Court of Criminal Appeals the responsibility of presiding over impeachment trials. The Chief Justice of the Supreme Court of Criminal Appeals may designate another justice from either supreme court to preside over the trial. When the Chief Justice of either supreme court is the subject of the impeachment trial, however, the Governor presides.

The Clerk and Marshal

PCB CVJS 11-06 removes the provision concerning the clerk and marshal of the Supreme Court and of the district courts of appeal from the Constitution.⁵⁶

The Judicial Qualifications Commission

PCB CVJS 11-06 assigns to the Supreme Court of Criminal Appeal the responsibility of receiving JQC recommendations concerning judicial misconduct. The Supreme Court of Criminal Appeals is provided the same authority to accept, reject or modify the JQC's findings, conclusions and recommendations regarding an inquiry, and to suspend from office judges or justices whom are the subject of a JQC investigation, to the same extent as provided for the present Supreme Court. In the event the subject of a JQC investigation is a justice of the Supreme Court of Criminal Appeals, the Supreme Court of Civil Appeals hears the case.

Transition and Implementation

PCB CVJS 11-06 contains specific provisions to govern issues relating to the transition from the current Supreme Court to the Supreme Court of Criminal Appeals and the Supreme Court of Civil Appeals.

⁵⁵ Texas also refers jurisdictional disputes to the civil supreme court.

⁵⁶ The duties and compensation of marshals and clerks of the district courts of appeal and of the supreme court are provided by general law. Sections 35.25, F.S., 35.26, F.S., 35.27, F.S., 25.191, F.S., 25.231, F.S., 25.241, F.S., 25.251, F.S., 25.262, F.S., 25.281, F.S.

Existing Law

The bill provides that unless laws or rules are inconsistent with the provisions of the revised Article V, all laws and rules of court in force on the effective date of the new Article V, will remain in effect until superseded in a manner authorized by the Constitution. The clause is taken from previous amendments modifying the court system.

Beginning Jurisdiction

The bill provides that the two supreme courts will begin operations on the 120th day after the election. Until that time, the present Supreme Court shall retain jurisdiction and power to issue final process until the cases are actually transferred. The present Supreme Court will be responsible for inventorying all cases in its possession and transferring each case to the appropriate supreme court. At the time the term of the present Supreme Court ends all of its mandates shall be final and not subject to recall or reconsideration.

Initial Appointments to the Supreme Courts

The bill requires the present Supreme Court, on the first day after election approving the amendment, to rank all of the justices according to seniority in office. The three most senior justices will be assigned to the Supreme Court of Criminal Appeals while the remaining four justices will be assigned to the Supreme Court of Civil Appeals. The initial appointments are not limited by the district court jurisdiction that the justice was appointed from. The vacant positions on each supreme court shall be filled by the Governor, who must be presented with recommendations from the supreme court judicial nominating commission within 45 days after the election. Also, at the time of making initial appointments to the supreme courts, the Governor must also select a Chief Justice for each court, which for the initial selection will not require Senate confirmation.

Rules of Procedure

All rules of criminal and civil procedure will remain in effect through the start of both supreme courts as if adopted by each supreme court respectively.

B. SECTION DIRECTORY:

n/a

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

According to the Office of State Courts Administrator based on the current rate of salary and benefits for Supreme Court justices and associated full time employees (FTEs) presently provided for each justice, the cost of adding three Supreme Court justices can be broken down as follows:

	Recurring	Expenses	HR Services	Non-Recurring	Total
<u>Justices</u>					
Salary and Benefits per FTE					
\$210,745 (x 3 FTEs)	\$632,235	\$31,359	\$654	\$11,694	\$664,248
<u>Staff Attorney</u>					
Salary and Benefits per FTE					
\$67,878 (x 9 FTEs)	\$610,902	\$94,077	\$1962	\$35,082	\$706,941
<u>Judicial Assistant</u>					
Salary and Benefits per FTE					
\$75,653 (x 3 FTEs)	\$226,959	\$331,359	\$654	\$11,694	\$258,972
Totals	\$1,470,096	\$156,795	\$3,270	\$58,470	\$1,630,161

In addition, this amendment requires publication prior to the election. The Florida Department of State estimates that required publication of a proposed constitutional amendment costs \$106.14 per word. At 7,785 words, the amendment would require \$826,300. This must be paid regardless of whether the amendment passes, and would be payable in FY 2012-2013 from General Revenue.

Total costs by year, payable from the General Revenue Fund, should the amendment be adopted:

FY 2012-2013 Non-recurring: \$884,770
 FY 2012-2013 Recurring: \$407,540

FY 2013-2014 and beyond Recurring: \$1,630,161

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

This proposed committee bill is a legislative joint resolution, which is one of the methods for proposing amendments to the Constitution. The joint resolution requires passage by a three-fifths vote of the membership of each house of the Legislature. The proposed constitutional amendment must be submitted to the electors at the next general election held more than 90 days after the joint resolution is filed with the custodian of state records. If approved by 60% of the electors voting on the question, the proposed amendment becomes effective on the Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment. This proposed constitutional amendment has specific effective dates (see above).

B. RULE-MAKING AUTHORITY:

This proposed committee bill neither expands or limits the existing rulemaking power of the courts, although the power is split between two entities.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Increasing the Number of Justices to Florida's Supreme Court

As noted earlier in this analysis, the Supreme Court Workload Study Commission, when evaluating the Supreme Court's workload in 2001, decided not to recommend increasing the number of Supreme Court justices from seven to nine. The report stated:

. . . Theoretically, increasing the number of justices on the court would reduce the workload on the members of the court by spreading the justices' existing individual duties among more people. The Commission heard testimony that the expansion of the court may actually increase workload for the court by slowing down those court processes requiring a consensus of the justices. For example, the . . . Chief Justice of the Texas Supreme Court, and . . . the Chief Justice of the Washington State Supreme Court, testified that a seven-member supreme court is more efficient than a nine-member court. (The Texas and Washington State Supreme Court both have nine members.⁵⁷ (footnote added) After considering the testimony, the Commission was persuaded that an increase in the number of justices would slow down the court by requiring more justices to resolve each case.⁵⁸

If additional justices on a panel lead to increased delays in making decisions, it is possible that decreasing the size of panels may correspondingly decrease delays.

Other States

On moving to a 5 justice panel: Currently there are 18 other states that have 5 justices serving on a supreme court.

⁵⁷ The report does not indicate if these justices had any experience working on a seven-member court.

⁵⁸ 2001 Final Report of the Supreme Court Workload Study Commission, at 13.

On having separate civil and criminal panels: Currently there are two states, Texas and Oklahoma, that have two separate courts of last resort.

Texas

Texas has a Court of Criminal Appeals and a Supreme Court. Each has 9 justices. The Court of Criminal Appeals has final jurisdiction over all criminal cases except for juvenile proceedings. The Texas Supreme Court has jurisdiction over civil appeals and juvenile proceedings. The justices of both courts are elected to six-year terms in state-wide elections. When a vacancy arises the Governor may appoint a justice, subject to Senate confirmation, to serve out the remainder of an unexpired term until the next general election. By statute, the Texas Supreme Court has administrative control over the State Bar of Texas⁵⁹ and sole authority for licensing attorneys in Texas.⁶⁰

Oklahoma

Oklahoma's court of last resort in criminal cases is the Oklahoma Court of Criminal Appeals. It has 5 justices. It has exclusive appellate jurisdiction in criminal cases. There is no intermediate appellate court for criminal cases in Oklahoma. Criminal appeals come directly to the Court of Criminal Appeals from Oklahoma's district courts and municipal courts of record. District courts are the trial level courts handling both criminal and civil cases. Municipal courts of record handle most violations of parking, traffic, criminal and environmental municipal ordinances and some misdemeanor level criminal cases. The Supreme Court of Oklahoma is the court of last resort for civil cases. All appeals from civil cases are first filed with the Supreme Court which then assigns cases to its intermediate appellate court for civil cases, the Court of Civil Appeals. Oklahoma's appellate judges are first appointed by the Governor from a list of three names of qualified individuals prepared by the Judicial Nominating Commission. Thereafter they are subject to a retention vote. The terms are for 6 years. Vacancies are filled by Governor's appointment. The Oklahoma Supreme Court has the authority to regulate admission to the state bar.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

n/a

⁵⁹ Tex. Gov't Code § 81.011.

⁶⁰ Tex. Gov't Code §§ 82.00, 82.004.

House Joint Resolution

A joint resolution proposing an amendment to Sections 1, 2, 3, 4, 7, 8, 9 and 11 of Article V, creating Section 21 of Article V, and amending Section 2 of Article II, Section 17 of Article III, and Section 1 of Article IV, of the State Constitution to create a supreme court of civil appeals and a supreme court of criminal appeals; providing for administration of the courts; providing for transition from the supreme court.

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

That the following amendments to Sections 1, 2, 3, 4, 7, 8, 9, 11, 12 and 15 of Article V, and the creation of Section 21 of Article V, of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE V

Judiciary

SECTION 1. Courts.—The judicial power shall be vested in a supreme court of civil appeals, supreme court of criminal appeals, district courts of appeal, circuit courts and county courts. No other courts may be established by the state, any political subdivision or any municipality. The legislature shall, by general law, divide the state into appellate court districts and judicial circuits following county lines. Commissions established by law, or administrative officers or

29 | bodies may be granted quasi-judicial power in matters connected
 30 | with the functions of their offices. The legislature may
 31 | establish by general law a civil traffic hearing officer system
 32 | for the purpose of hearing civil traffic infractions. The
 33 | legislature may, by general law, authorize a military court-
 34 | martial to be conducted by military judges of the Florida
 35 | National Guard, with direct appeal of a decision to the District
 36 | Court of Appeal, First District.

37 | SECTION 2. Administration; practice and procedure.-

38 | (a) The supreme court of civil appeals shall adopt rules
 39 | for the practice and procedure in all civil court proceedings
 40 | and appeals. ~~courts~~ The supreme court of criminal appeals shall
 41 | adopt rules for the practice and procedure in criminal court
 42 | proceedings and appeals. Court rules may include rules regarding
 43 | ~~including~~ the time for seeking appellate review, ~~the~~
 44 | ~~administrative supervision of all courts,~~ the transfer to the
 45 | court having jurisdiction of any proceeding when the
 46 | jurisdiction of another court has been improvidently invoked,
 47 | and a requirement that no cause shall be dismissed because an
 48 | improper remedy has been sought. The supreme court of criminal
 49 | appeals shall adopt rules to allow the supreme court of criminal
 50 | appeals and the district courts of appeal to submit questions
 51 | relating to military law to the federal Court of Appeals for the
 52 | Armed Forces for an advisory opinion. Rules of court may be
 53 | repealed by general law enacted by two-thirds vote of the
 54 | membership of each house of the legislature.

55 | (b) The chief justice of the supreme court of civil
 56 | appeals shall be chosen by the governor with the advice and

57 | consent of the senate ~~a majority of the members of the court;~~
 58 | shall be the chief administrative officer of the supreme court
 59 | of civil appeals ~~judicial system~~; and shall have the power to
 60 | assign justices or judges, including consenting retired justices
 61 | or judges, to temporary duty in any court for which the judge is
 62 | qualified and to delegate to a chief judge of a judicial circuit
 63 | the power to assign judges for duty in that circuit. The chief
 64 | justice of the supreme court of criminal appeals shall be chosen
 65 | by the governor with the advice and consent of the senate and
 66 | shall be the chief administrative officer of the supreme court
 67 | of criminal appeals.

68 | (c) A chief judge for each district court of appeal shall
 69 | be chosen by a majority of the judges thereof ~~or, if there is no~~
 70 | ~~majority, by the chief justice.~~ The chief judge of a district
 71 | court shall be responsible for the administrative supervision of
 72 | the district court.

73 | (d) A chief judge in each circuit shall be chosen from
 74 | among the circuit judges as provided by ~~supreme~~ court rule. The
 75 | chief judge of a circuit shall be responsible for the
 76 | administrative supervision of the circuit courts and county
 77 | courts in the ~~his~~ circuit.

78 | (e) Administration of the court system shall be as provided
 79 | in general law.

80 | SECTION 3. Supreme court of civil appeals; supreme court
 81 | of criminal appeals.-

82 | (a) SUPREME COURT OF CIVIL APPEALS.-

83 | (1) ~~(a)~~ Organization.-The supreme court of civil appeals
 84 | shall consist of five ~~seven~~ justices. Of the five ~~seven~~

85 justices, each appellate district shall have at least one
 86 justice ~~electe~~d or appointed from the district to the supreme
 87 court of civil appeals who is a resident of the district at the
 88 time of the original appointment ~~or election~~. Four ~~Five~~ justices
 89 shall constitute a quorum. The concurrence of three ~~four~~
 90 justices shall be necessary to a decision. When recusals for
 91 cause would prohibit the court from convening because of the
 92 requirements of this section, judges assigned to temporary duty
 93 may be substituted for justices.

94 (2)(b) Jurisdiction.—The supreme court of civil appeals
 95 shall have jurisdiction over the civil law, as provided in
 96 general law.†

97 ~~(1) Shall hear appeals from final judgments of trial~~
 98 ~~courts imposing the death penalty and from decisions of district~~
 99 ~~courts of appeal declaring invalid a state statute or a~~
 100 ~~provision of the state constitution.~~

101 ~~(2) When provided by general law, shall hear appeals from~~
 102 ~~final judgments entered in proceedings for the validation of~~
 103 ~~bonds or certificates of indebtedness and shall review action of~~
 104 ~~statewide agencies relating to rates or service of utilities~~
 105 ~~providing electric, gas, or telephone service.~~

106 ~~(3) May review any decision of a district court of appeal~~
 107 ~~that expressly declares valid a state statute, or that expressly~~
 108 ~~construes a provision of the state or federal constitution, or~~
 109 ~~that expressly affects a class of constitutional or state~~
 110 ~~officers, or that expressly and directly conflicts with a~~
 111 ~~decision of another district court of appeal or of the supreme~~
 112 ~~court on the same question of law.~~

113 ~~(4) May review any decision of a district court of appeal~~
 114 ~~that passes upon a question certified by it to be of great~~
 115 ~~public importance, or that is certified by it to be in direct~~
 116 ~~conflict with a decision of another district court of appeal.~~

117 ~~(5) May review any order or judgment of a trial court~~
 118 ~~certified by the district court of appeal in which an appeal is~~
 119 ~~pending to be of great public importance, or to have a great~~
 120 ~~effect on the proper administration of justice throughout the~~
 121 ~~state, and certified to require immediate resolution by the~~
 122 ~~supreme court.~~

123 ~~(6) May review a question of law certified by the Supreme~~
 124 ~~Court of the United States or a United States Court of Appeals~~
 125 ~~which is determinative of the cause and for which there is no~~
 126 ~~controlling precedent of the supreme court of Florida.~~

127 ~~(7) May issue writs of prohibition to courts and all writs~~
 128 ~~necessary to the complete exercise of its jurisdiction.~~

129 ~~(8) May issue writs of mandamus and quo warranto to state~~
 130 ~~officers and state agencies.~~

131 ~~(9) May, or any justice may, issue writs of habeas corpus~~
 132 ~~returnable before the supreme court or any justice, a district~~
 133 ~~court of appeal or any judge thereof, or any circuit judge.~~

134 ~~(10) Shall, when requested by the attorney general~~
 135 ~~pursuant to the provisions of Section 10 of Article IV render an~~
 136 ~~advisory opinion of the justices, addressing issues as provided~~
 137 ~~by general law.~~

138 (b) SUPREME COURT OF CRIMINAL APPEALS.-

139 (1) Organization.-The supreme court of criminal appeals
 140 shall consist of five justices. Of the five justices, each

141 appellate district shall have at least one justice appointed
 142 from the district to the supreme court of criminal appeals who
 143 is a resident of the district at the time of the original
 144 appointment. Four justices shall constitute a quorum. The
 145 concurrence of three justices shall be necessary to a decision.
 146 When recusals for cause would prohibit the court from convening
 147 because of the requirements of this section, judges assigned to
 148 temporary duty may be substituted for justices.

149 (2) Jurisdiction.—The supreme court of criminal appeals
 150 shall have jurisdiction over the criminal law, as provided in
 151 general law.

152 (c) RELATIONSHIP BETWEEN COURTS.—The supreme court of civil
 153 appeals and the supreme court of criminal appeals are to be
 154 separate courts of last resort. All justices shall receive the
 155 same compensation. If both courts assert jurisdiction over a
 156 particular case, the chief justice of the court of civil appeals
 157 shall decide where jurisdiction is appropriate. ~~CLERK AND~~
 158 ~~MARSHAL.~~ The supreme court shall appoint a clerk and a marshal
 159 ~~who shall hold office during the pleasure of the court and~~
 160 ~~perform such duties as the court directs. Their compensation~~
 161 ~~shall be fixed by general law. The marshal shall have the power~~
 162 ~~to execute the process of the court throughout the state, and in~~
 163 ~~any county may deputize the sheriff or a deputy sheriff for such~~
 164 ~~purpose.~~

165 SECTION 4. District courts of appeal.—

166 (a) ORGANIZATION.—There shall be a district court of
 167 appeal serving each appellate district. Each district court of
 168 appeal shall consist of at least three judges. Three judges

169 shall consider each case and the concurrence of two shall be
 170 necessary to a decision.

171 (b) JURISDICTION.—

172 (1) District courts of appeal shall have jurisdiction to
 173 hear appeals, that may be taken as a matter of right, from final
 174 judgments or orders of trial courts, including those entered on
 175 review of administrative action, not directly appealable to the
 176 supreme court of civil appeals, the supreme court of criminal
 177 appeals, or a circuit court. They may review interlocutory
 178 orders in such cases to the extent provided by court rule ~~rules~~
 179 ~~adopted by the supreme court.~~

180 (2) District courts of appeal shall have the power of
 181 direct review of administrative action, as prescribed by general
 182 law.

183 (3) A district court of appeal or any judge thereof may
 184 issue writs of habeas corpus returnable before the court or any
 185 judge thereof or before any circuit judge within the territorial
 186 jurisdiction of the court. A district court of appeal may issue
 187 writs of mandamus, certiorari, prohibition, quo warranto, and
 188 other writs necessary to the complete exercise of its
 189 jurisdiction. To the extent necessary to dispose of all issues
 190 in a cause properly before it, a district court of appeal may
 191 exercise any of the appellate jurisdiction of the circuit
 192 courts.

193 ~~(c) CLERKS AND MARSHALS.—Each district court of appeal~~
 194 ~~shall appoint a clerk and a marshal who shall hold office during~~
 195 ~~the pleasure of the court and perform such duties as the court~~
 196 ~~directs. Their compensation shall be fixed by general law. The~~

197 ~~marshal shall have the power to execute the process of the court~~
 198 ~~throughout the territorial jurisdiction of the court, and in any~~
 199 ~~county may deputize the sheriff or a deputy sheriff for such~~
 200 ~~purpose.~~

201 SECTION 7. Specialized divisions.—All courts except the
 202 supreme court of civil appeals or the supreme court of criminal
 203 appeals may sit in divisions as may be established by general
 204 law. A circuit or county court may hold civil and criminal
 205 trials and hearings in any place within the territorial
 206 jurisdiction of the court as designated by the chief judge of
 207 the circuit.

208 SECTION 8. Eligibility.—No person shall be eligible for
 209 office of justice or judge of any court unless the person is an
 210 elector of the state and resides in the territorial jurisdiction
 211 of the court. No justice or judge shall serve after attaining
 212 the age of seventy years except upon temporary assignment or to
 213 complete a term, one-half of which has been served. No person is
 214 eligible for the office of justice of the supreme court of civil
 215 appeals, justice of the supreme court of criminal appeals, or
 216 judge of a district court of appeal unless the person is, and
 217 has been for the preceding ten years, a member of the bar of
 218 Florida. No person is eligible for the office of circuit judge
 219 unless the person is, and has been for the preceding five years,
 220 a member of the bar of Florida. Unless otherwise provided by
 221 general law, no person is eligible for the office of county
 222 court judge unless the person is, and has been for the preceding
 223 five years, a member of the bar of Florida. Unless otherwise
 224 provided by general law, a person shall be eligible for election

225 or appointment to the office of county court judge in a county
 226 having a population of 40,000 or less if the person is a member
 227 in good standing of the bar of Florida.

228 SECTION 9. Determination of number of judges.—The supreme
 229 courts ~~court~~ shall establish ~~by rule~~ uniform criteria for the
 230 determination of the need for additional judges except supreme
 231 court justices, the necessity for decreasing the number of
 232 judges and for increasing, decreasing or redefining appellate
 233 districts and judicial circuits. If the supreme courts jointly
 234 find ~~court finds~~ that a need exists for increasing or decreasing
 235 the number of judges or increasing, decreasing or redefining
 236 appellate districts and judicial circuits, they ~~it~~ shall, prior
 237 to the next regular session of the legislature, certify to the
 238 legislature their ~~its~~ findings and recommendations concerning
 239 such need. Upon receipt of such certificate, the legislature, at
 240 the next regular session, shall consider the findings and
 241 recommendations and may reject the recommendations or by law
 242 implement the recommendations in whole or in part; provided the
 243 legislature may create more judicial offices than are
 244 recommended ~~by the supreme court~~ or may decrease the number of
 245 judicial offices by a greater number than recommended ~~by the~~
 246 ~~court~~ only upon a finding of two-thirds of the membership of
 247 both houses of the legislature, that such a need exists. A
 248 decrease in the number of judges shall be effective only after
 249 the expiration of a term. If the supreme courts fail ~~court fails~~
 250 to make findings as provided above when need exists, the
 251 legislature may by concurrent resolution request the courts
 252 ~~court~~ to jointly certify their ~~its~~ findings and recommendations

253 and upon the failure of the courts ~~court~~ to certify their ~~its~~
 254 findings for nine consecutive months, the legislature may, upon
 255 a finding of two-thirds of the membership of both houses of the
 256 legislature that a need exists, increase or decrease the number
 257 of judges or increase, decrease or redefine appellate districts
 258 and judicial circuits.

259 SECTION 11. Vacancies.—

260 (a) Whenever a vacancy occurs in a judicial office to
 261 which election for retention applies, the governor shall fill
 262 the vacancy by appointing for a term ending on the first Tuesday
 263 after the first Monday in January of the year following the next
 264 general election occurring at least one year after the date of
 265 appointment, one of not fewer than three persons nor more than
 266 six persons nominated by the appropriate judicial nominating
 267 commission.

268 (b) The governor shall fill each vacancy on a circuit
 269 court or on a county court, wherein the judges are elected by a
 270 majority vote of the electors, by appointing for a term ending
 271 on the first Tuesday after the first Monday in January of the
 272 year following the next primary and general election occurring
 273 at least one year after the date of appointment, one of not
 274 fewer than three persons nor more than six persons nominated by
 275 the appropriate judicial nominating commission. An election
 276 shall be held to fill that judicial office for the term of the
 277 office beginning at the end of the appointed term.

278 (c) The nominations shall be made within thirty days from
 279 the occurrence of a vacancy unless the period is extended by the
 280 governor for a time not to exceed thirty days. The governor

281 shall make the appointment within sixty days after the
 282 nominations have been certified to the governor.

283 (d) There shall be a separate judicial nominating
 284 commission as provided by general law, one for the supreme
 285 courts court, one for each district court of appeal, and one for
 286 each judicial circuit for all trial courts within the circuit.
 287 Uniform rules of procedure shall be established by the judicial
 288 nominating commissions at each level of the court system. Such
 289 rules, or any part thereof, may be repealed by general law
 290 enacted by a majority vote of the membership of each house of
 291 the legislature, or by a majority vote of justices of the
 292 supreme courts court, ~~five justices concurring~~. Except for
 293 deliberations of the judicial nominating commissions, the
 294 proceedings of the commissions and their records shall be open
 295 to the public.

296 SECTION 12. Discipline; removal and retirement.—

297 (a) JUDICIAL QUALIFICATIONS COMMISSION.—A judicial
 298 qualifications commission is created.

299 (1) There shall be a judicial qualifications commission
 300 vested with jurisdiction to investigate and recommend to the
 301 supreme court of criminal appeals ~~Supreme Court of Florida~~ the
 302 removal from office of any justice or judge whose conduct,
 303 during term of office or otherwise ~~occurring on or after~~
 304 ~~November 1, 1966, (without regard to the effective date of this~~
 305 ~~section)~~ demonstrates a present unfitness to hold office, and to
 306 investigate and recommend the discipline of a justice or judge
 307 whose conduct, during term of office or otherwise ~~occurring on~~
 308 ~~or after November 1, 1966 (without regard to the effective date~~

309 ~~of this section),~~ warrants such discipline. For purposes of this
 310 section, discipline is defined as any or all of the following:
 311 reprimand, fine, suspension with or without pay, or lawyer
 312 discipline. The commission shall have jurisdiction over justices
 313 and judges regarding allegations that misconduct occurred before
 314 or during service as a justice or judge if a complaint is made
 315 no later than one year following service as a justice or judge.
 316 The commission shall have jurisdiction regarding allegations of
 317 incapacity during service as a justice or judge. The commission
 318 shall be composed of:

319 a. Two judges of district courts of appeal selected by the
 320 judges of those courts, two circuit judges selected by the
 321 judges of the circuit courts and two judges of county courts
 322 selected by the judges of those courts;

323 b. Four electors who reside in the state, who are members
 324 of the bar of Florida, and who shall be chosen by the governing
 325 body of the bar of Florida; and

326 c. Five electors who reside in the state, who have never
 327 held judicial office or been members of the bar of Florida, and
 328 who shall be appointed by the governor.

329 (2) The members of the judicial qualifications commission
 330 shall serve staggered terms, not to exceed six years, as
 331 prescribed by general law. No member of the commission except a
 332 judge shall be eligible for state judicial office while acting
 333 as a member of the commission and for a period of two years
 334 thereafter. No member of the commission shall hold office in a
 335 political party or participate in any campaign for judicial
 336 office or hold public office; provided that a judge may campaign

337 for judicial office and hold that office. The commission shall
 338 elect one of its members as its chairperson.

339 (3) Members of the judicial qualifications commission not
 340 subject to impeachment shall be subject to removal from the
 341 commission pursuant to the provisions of Article IV, Section 7,
 342 Florida Constitution.

343 (4) The commission shall adopt rules regulating its
 344 proceedings, the filling of vacancies by the appointing
 345 authorities, the disqualification of members, the rotation of
 346 members between the panels, and the temporary replacement of
 347 disqualified or incapacitated members. The commission's rules,
 348 or any part thereof, may be repealed by general law enacted by a
 349 majority vote of the membership of each house of the
 350 legislature, or by the supreme court of criminal appeals, ~~five~~
 351 ~~justices concurring~~. The commission shall have power to issue
 352 subpoenas. Until formal charges against a justice or judge are
 353 filed by the investigative panel with the clerk of the supreme
 354 court of Florida all proceedings by or before the commission
 355 shall be confidential; provided, however, upon a finding of
 356 probable cause and the filing by the investigative panel with
 357 said clerk of such formal charges against a justice or judge
 358 such charges and all further proceedings before the commission
 359 shall be public.

360 (5) The commission shall have access to all information
 361 from all executive, legislative and judicial agencies, including
 362 grand juries, subject to the rules of the commission. At any
 363 time, on request of the speaker of the house of representatives
 364 ~~or the governor~~, the commission shall make available all

365 information in the possession of the commission for use in
 366 consideration of impeachment ~~or suspension, respectively.~~

367 (b) PANELS.—The commission shall be divided into an
 368 investigative panel and a hearing panel as established by rule
 369 of the commission. The investigative panel is vested with the
 370 jurisdiction to receive or initiate complaints, conduct
 371 investigations, dismiss complaints, and upon a vote of a simple
 372 majority of the panel submit formal charges to the hearing
 373 panel. The hearing panel is vested with the authority to receive
 374 and hear formal charges from the investigative panel and upon a
 375 two-thirds vote of the panel recommend to the supreme court of
 376 criminal appeals the removal of a justice or judge or the
 377 involuntary retirement of a justice or judge for any permanent
 378 disability that seriously interferes with the performance of
 379 judicial duties. Upon a simple majority vote of the membership
 380 of the hearing panel, the panel may recommend to the supreme
 381 court of criminal appeals that the justice or judge be subject
 382 to appropriate discipline.

383 (c) SUPREME COURT OF CRIMINAL APPEALS.—The supreme court
 384 of criminal appeals shall receive recommendations from the
 385 judicial qualifications commission's hearing panel.

386 (1) The supreme court of criminal appeals may accept,
 387 reject, or modify in whole or in part the findings, conclusions,
 388 and recommendations of the commission and it may order that the
 389 justice or judge be subjected to appropriate discipline, or be
 390 removed from office with termination of compensation for willful
 391 or persistent failure to perform judicial duties or for other
 392 conduct unbecoming a member of the judiciary demonstrating a

393 present unfitness to hold office, or be involuntarily retired
 394 for any permanent disability that seriously interferes with the
 395 performance of judicial duties. Malafides, scienter or moral
 396 turpitude on the part of a justice or judge shall not be
 397 required for removal from office of a justice or judge whose
 398 conduct demonstrates a present unfitness to hold office. After
 399 the filing of a formal proceeding and upon request of the
 400 investigative panel, the supreme court of criminal appeals may
 401 suspend the justice or judge from office, with or without
 402 compensation, pending final determination of the inquiry.

403 (2) The supreme court of criminal appeals may award costs
 404 to the prevailing party.

405 (d) The power of removal conferred by this section shall
 406 be both alternative and cumulative to the power of impeachment.

407 (e) Notwithstanding any of the foregoing provisions of
 408 this section, if the person who is the subject of proceedings by
 409 the judicial qualifications commission is a justice of the
 410 supreme court of criminal appeals, ~~Florida all justices of such~~
 411 ~~court automatically shall be disqualified to sit as justices of~~
 412 ~~such court with respect to all proceedings therein concerning~~
 413 ~~such person and the supreme court of civil appeals shall hear~~
 414 ~~the case for such purposes shall be composed of a panel~~
 415 ~~consisting of the seven chief judges of the judicial circuits of~~
 416 ~~the state of Florida most senior in tenure of judicial office as~~
 417 ~~circuit judge. For purposes of determining seniority of such~~
 418 ~~circuit judges in the event there be judges of equal tenure in~~
 419 ~~judicial office as circuit judge the judge or judges from the~~
 420 ~~lower numbered circuit or circuits shall be deemed senior. In~~

421 ~~the event any such chief circuit judge is under investigation by~~
 422 ~~the judicial qualifications commission or is otherwise~~
 423 ~~disqualified or unable to serve on the panel, the next most~~
 424 ~~senior chief circuit judge or judges shall serve in place of~~
 425 ~~such disqualified or disabled chief circuit judge.~~

426 (f) SCHEDULE TO SECTION 12.-

427 (1) Except to the extent inconsistent with the provisions
 428 of this section, all provisions of law and rules of court in
 429 force on the effective date of this article shall continue in
 430 effect until superseded in the manner authorized by the
 431 constitution.

432 (2) After this section becomes effective and until adopted
 433 by rule of the commission consistent with it:

434 a. The commission shall be divided, as determined by the
 435 chairperson, into one investigative panel and one hearing panel
 436 to meet the responsibilities set forth in this section.

437 b. The investigative panel shall be composed of:

- 438 1. Four judges,
- 439 2. Two members of the bar of Florida, and
- 440 3. Three non-lawyers.

441 c. The hearing panel shall be composed of:

- 442 1. Two judges,
- 443 2. Two members of the bar of Florida, and
- 444 3. Two non-lawyers.

445 d. Membership on the panels may rotate in a manner
 446 determined by the rules of the commission provided that no
 447 member shall vote as a member of the investigative and hearing
 448 panel on the same proceeding.

449 e. The commission shall hire separate staff for each
450 panel.

451 f. The members of the commission shall serve for staggered
452 terms of six years.

453 g. deleted. ~~The terms of office of the present members of~~
454 ~~the judicial qualifications commission shall expire upon the~~
455 ~~effective date of the amendments to this section approved by the~~
456 ~~legislature during the regular session of the legislature in~~
457 ~~1996 and new members shall be appointed to serve the following~~
458 ~~staggered terms:~~

459 1. ~~Group I. The terms of five members, composed of two~~
460 ~~electors as set forth in s. 12(a)(1)c. of Article V, one member~~
461 ~~of the bar of Florida as set forth in s. 12(a)(1)b. of Article~~
462 ~~V, one judge from the district courts of appeal and one circuit~~
463 ~~judge as set forth in s. 12(a)(1)a. of Article V, shall expire~~
464 ~~on December 31, 1998.~~

465 2. ~~Group II. The terms of five members, composed of one~~
466 ~~elector as set forth in s. 12(a)(1)c. of Article V, two members~~
467 ~~of the bar of Florida as set forth in s. 12(a)(1)b. of Article~~
468 ~~V, one circuit judge and one county judge as set forth in s.~~
469 ~~12(a)(1)a. of Article V shall expire on December 31, 2000.~~

470 3. ~~Group III. The terms of five members, composed of two~~
471 ~~electors as set forth in s. 12(a)(1)c. of Article V, one member~~
472 ~~of the bar of Florida as set forth in s. 12(a)(1)b., one judge~~
473 ~~from the district courts of appeal and one county judge as set~~
474 ~~forth in s. 12(a)(1)a. of Article V, shall expire on December~~
475 ~~31, 2002.~~

476 h. An appointment to fill a vacancy of the commission
477 shall be for the remainder of the term.

478 i. Selection of members by district courts of appeal
479 judges, circuit judges, and county court judges, shall be by no
480 less than a majority of the members voting at the respective
481 courts' conferences. Selection of members by the board of
482 governors of the bar of Florida shall be by no less than a
483 majority of the board.

484 j. The commission shall be entitled to recover the costs
485 of investigation and prosecution, in addition to any penalty
486 levied by the supreme court hearing the case.

487 k. The compensation of members and referees shall be the
488 travel expenses or transportation and per diem allowance as
489 provided by general law.

490 SECTION 15. Attorneys; admission and discipline.—The
491 supreme court of civil appeals shall have exclusive jurisdiction
492 to regulate the admission of persons to the practice of law and
493 the discipline of persons admitted.

494 SECTION 21. Schedule to Article V amendment creating a
495 supreme court of civil appeals and a supreme court of criminal
496 appeals.—

497 (a) Except to the extent inconsistent with the provisions
498 of this article, all provisions of law and rules of court in
499 force on the effective date of this article shall continue in
500 effect until superseded in the manner authorized by the
501 constitution.

502 (b) The effective date of the amendment creating the
 503 supreme court of criminal appeals and supreme court of civil
 504 appeals shall be upon passage by the electorate.

505 (1) On the first day after the election approving the
 506 amendment, the supreme court shall rank all of the justices then
 507 in office by seniority in service on the supreme court. The
 508 three who have the most seniority shall be the initial justices
 509 of the supreme court of criminal appeals, and the remaining
 510 justices shall be the initial justices of the supreme court of
 511 civil appeals. Initial appointments of existing justices to
 512 either of the new supreme courts shall not be limited by the
 513 district court that the justice was appointed from. A justice
 514 transferred to a new supreme court shall remain in the same term
 515 of office that he or she had when he or she was a member of the
 516 supreme court and shall sit for future retention elections on
 517 the same cycle. The supreme court shall immediately transmit to
 518 the Governor the names of those justices and the districts they
 519 were appointed from. The Governor shall direct the supreme court
 520 nominating commission to make its recommendations for the open
 521 seats of justices for the supreme court of civil appeals and for
 522 the supreme court of criminal appeals, which recommendations
 523 must be delivered to the governor no later than the 45th day
 524 after the election. The governor shall make the appointments by
 525 the 60th day after the election. At the time of making the
 526 initial appointments the governor shall also designate the chief
 527 justices of each court, which appointment in this instance shall
 528 not be subject in the advice and consent of the senate.

529 (2) The supreme court shall undertake to inventory all
 530 cases and case files in its possession and determine as to each
 531 case whether it is to be transferred to the supreme court of
 532 criminal appeals or the supreme court of civil appeals. Newly
 533 filed cases will be designated between the two new supreme
 534 courts. The supreme court shall retain full jurisdiction and
 535 power over cases in the inventory until actually transferred,
 536 including the power to issue final process which would have the
 537 effect of removing the case from the inventory of cases to be
 538 transferred.

539 (c) The supreme court of civil appeals and the supreme
 540 court of criminal appeals shall begin formal operations on the
 541 120th day after the election. On that day:

542 (1) Newly appointed justices shall take office.

543 (2) The jurisdiction of the two supreme courts shall be
 544 divided.

545 (3) The supreme court shall transfer all criminal cases to
 546 the supreme court of criminal appeals and shall transfer all
 547 civil cases to the supreme court of civil appeals.

548 (4) The term of the supreme court shall be deemed to have
 549 ended. All mandates issued by the supreme court prior to the
 550 end of the term shall be final and not subject to recall. No
 551 motion for reconsideration shall be considered.

552 (d) Until the jurisdiction of the supreme court of civil
 553 appeals is provided in general law, the supreme court of civil
 554 appeals:

555 (1) Shall hear appeals from decisions of district courts
 556 of appeal declaring invalid a state statute or a provision of

557 the state constitution, unless such appeal is within the
 558 jurisdiction of the supreme court of criminal appeals.

559 (2) When provided by general law, shall hear appeals from
 560 final judgments entered in proceedings for the validation of
 561 bonds or certificates of indebtedness and shall review action of
 562 statewide agencies relating to rates or service of utilities
 563 providing electric, gas, or telephone service.

564 (3) May review any decision of a district court of appeal
 565 that expressly declares valid a state statute, or that expressly
 566 construes a provision of the state or federal constitution, or
 567 that expressly affects a class of constitutional or state
 568 officers, or that expressly and directly conflicts with a
 569 decision of another district court of appeal, of the former
 570 supreme court, or of the supreme court of civil appeals on the
 571 same question of law, unless such appeal is within the
 572 jurisdiction of the supreme court of criminal appeals.

573 (4) May review any decision of a district court of appeal
 574 that passes upon a question certified by it to be of great
 575 public importance, or that is certified by it to be in direct
 576 conflict with a decision of another district court of appeal,
 577 unless such appeal is within the jurisdiction of the supreme
 578 court of criminal appeals.

579 (5) May review any order or judgment of a trial court
 580 certified by the district court of appeal in which an appeal is
 581 pending to be of great public importance, or to have a great
 582 effect on the proper administration of justice throughout the
 583 state, and certified to require immediate resolution by the

584 supreme court of civil appeals, unless such appeal is within the
 585 jurisdiction of the supreme court of criminal appeals.

586 (6) May review a question of law certified by the Supreme
 587 Court of the United States or a United States Court of Appeals
 588 which is determinative of the cause and for which there is no
 589 controlling precedent of the former supreme court of Florida or
 590 of the supreme court of civil appeals, unless such question is
 591 within the jurisdiction of the supreme court of criminal
 592 appeals.

593 (7) May issue writs of prohibition to courts and all writs
 594 necessary to the complete exercise of its jurisdiction, unless
 595 the writ is within the jurisdiction of the supreme court of
 596 criminal appeals.

597 (8) May issue writs of mandamus and quo warranto to state
 598 officers and state agencies, unless the writ is within the
 599 jurisdiction of the supreme court of criminal appeals.

600 (9) May, or any justice may, issue writs of habeas corpus
 601 returnable before the supreme court of civil appeals or any
 602 justice thereof, a district court of appeal or any judge
 603 thereof, or any circuit judge. Neither the supreme court of
 604 civil appeals nor any justice of the supreme court of civil
 605 appeals shall issue a writ of habeas corpus regarding any person
 606 under a sentence of death, any person imprisoned for commission
 607 of a crime, or any person jailed facing criminal charges.

608 (10) Shall, when requested by the attorney general
 609 pursuant to the provisions of Section 10 of Article IV, and if
 610 related to a civil matter, render an advisory opinion of the
 611 justices, addressing issues as provided by general law.

612 (11) Shall have no jurisdiction or authority, whether
 613 express or implied, to issue a stay of execution or to hear any
 614 challenge of any law or procedure regarding the death penalty.

615 (e) Until the jurisdiction of the supreme court of criminal
 616 appeals is provided by general law, the supreme court of
 617 criminal appeals:

618 (1) Shall hear appeals from final judgments of trial
 619 courts imposing the death penalty.

620 (2) Shall hear appeals from decisions of district courts
 621 of appeal declaring invalid a state statute or a provision of
 622 the state constitution, in a criminal case.

623 (3) May review any decision of a district court of appeal
 624 that expressly declares valid a state statute, or that expressly
 625 construes a provision of the state or federal constitution, or
 626 that expressly affects a class of constitutional or state
 627 officers, or that expressly and directly conflicts with a
 628 decision of another district court of appeal or of the supreme
 629 court on the same question of law, in a criminal case.

630 (4) May review any decision of a district court of appeal
 631 that passes upon a question certified by it to be of great
 632 public importance, or that is certified by it to be in direct
 633 conflict with a decision of another district court of appeal, in
 634 a criminal case.

635 (5) May review any order or judgment of a trial court
 636 certified by the district court of appeal in which an appeal is
 637 pending to be of great public importance, or to have a great
 638 effect on the proper administration of justice throughout the

639 state, and certified to require immediate resolution by the
 640 supreme court of criminal appeals, in a criminal case.

641 (6) May review a question of law certified by the Supreme
 642 Court of the United States or a United States Court of Appeals
 643 which is determinative of the cause and for which there is no
 644 controlling precedent of the former supreme court or the supreme
 645 court of criminal appeals, in a criminal case.

646 (7) May issue writs of prohibition to courts and all writs
 647 necessary to the complete exercise of its jurisdiction, related
 648 to a criminal case.

649 (8) May issue writs of mandamus and quo warranto to state
 650 officers and state agencies, related to a criminal case.

651 (9) May, or any justice may, issue writs of habeas corpus
 652 returnable before the supreme court of criminal appeals or any
 653 justice thereof, a district court of appeal or any judge
 654 thereof, or any circuit judge. The power to issue a writ of
 655 habeas corpus under this sub-paragraph applies to any person
 656 under a sentence of death, any person imprisoned for commission
 657 of a crime, any person jailed facing criminal charges, or any
 658 person who cannot seek the writ from the supreme court of civil
 659 appeals because the supreme court of civil appeals lacks
 660 jurisdiction. Neither the supreme court of criminal appeals nor
 661 any justice of the supreme court of criminal appeals shall issue
 662 a writ of habeas corpus regarding any person held in civil
 663 confinement.

664 (10) Shall, when requested by the attorney general
 665 pursuant to the provisions of Section 10 of Article IV, and if

666 related to a criminal case, render an advisory opinion of the
 667 justices, addressing issues as provided by general law.

668 (11) May hear any challenge to the constitutionality of the
 669 death penalty, any challenge to the method of carrying out the
 670 death penalty, or any request for a stay of a death penalty.

671 (f) For purposes of interpreting the jurisdiction of the
 672 supreme court of civil appeals and the supreme court of the
 673 criminal appeals, unless changed by general law:

674 (1) The term "criminal case" shall be defined to mean any
 675 case or controversy primarily involving the commission of a
 676 felony or misdemeanor. It shall also mean any case or
 677 controversy involving criminal law, criminal penalties, criminal
 678 procedure, or any related action regarding the interpretation of
 679 or resolution of matters directly affecting the criminal law.
 680 Criminal cases are within the jurisdiction of the supreme court
 681 of criminal appeals.

682 (2) A tort or contract case or controversy alleging civil
 683 damages resulting from criminal activity is not a criminal case.

684 (3) Confinement for the purpose of evaluation and treatment
 685 of a mentally ill person is not a criminal case unless the
 686 confinement is related to the commission of a criminal offense
 687 by an adult.

688 (4) Confinement related to contempt of court is a civil
 689 case even if the contempt occurred during a criminal case.

690 (5) Jurisdiction over juvenile delinquency shall be with
 691 the supreme court of civil appeals.

692 (6) Equitable relief related to the criminal law, including
 693 where a party seeks to enjoin application of a criminal penalty,

694 shall be within the jurisdiction of the court of criminal
 695 appeals.

696 (g) The Florida Rules of Criminal Procedure, as adopted and
 697 amended as of the date that the supreme court of criminal
 698 appeals begins operation, shall be in full force and effect as
 699 if adopted by the supreme court of criminal appeals, subject to
 700 amendment or repeal. The Florida Rules of Appellate Procedure,
 701 as amended and adopted as of the date that the supreme court of
 702 criminal appeals begins operation, shall apply in criminal
 703 appeals, subject to adoption by the court of criminal appeals of
 704 appellate rules applicable to criminal appeals. All other court
 705 rules shall be in full force and effect as if adopted by the
 706 supreme court of civil appeals, subject to amendment or repeal.

707 (h) The legislature may by general law otherwise provide
 708 for the administrative transfer of employees, property, duties
 709 and functions from the former supreme court to the supreme court
 710 of civil appeals and the supreme court of criminal appeals.

711 (i) The legislature shall have power, by concurrent
 712 resolution, to delete from this article any subsection of this
 713 section 21 including this subsection, when all events to which
 714 the subsection to be deleted is or could become applicable have
 715 occurred.

716

717 And that the following amendment to Section 2 of Article II
 718 of the State Constitution is agreed to and shall be submitted to
 719 the electors of this state for approval or rejection at the next
 720 general election or at an earlier special election specifically
 721 authorized by law for that purpose:

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ARTICLE II

GENERAL PROVISIONS

SECTION 2. Seat of government.—The seat of government shall be the City of Tallahassee, in Leon County, where the offices of the governor, lieutenant governor, cabinet members, supreme court of civil appeals, and the supreme court of criminal appeals shall be maintained and the sessions of the legislature shall be held; provided that, in time of invasion or grave emergency, the governor by proclamation may for the period of the emergency transfer the seat of government to another place.

And that the following amendment to Section 17 of Article III of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE III

LEGISLATURE

SECTION 17. Impeachment.—

(a) The governor, lieutenant governor, members of the cabinet, justices of a ~~the~~ supreme court, judges of district courts of appeal, judges of circuit courts, and judges of county courts shall be liable to impeachment for misdemeanor in office. The house of representatives by two-thirds vote shall have the power to impeach an officer. The speaker of the house of representatives shall have power at any time to appoint a

749 committee to investigate charges against any officer subject to
750 impeachment.

751 (b) An officer impeached by the house of representatives
752 shall be disqualified from performing any official duties until
753 acquitted by the senate, and, unless impeached, the governor may
754 by appointment fill the office until completion of the trial.

755 (c) All impeachments by the house of representatives shall
756 be tried by the senate. The chief justice of the supreme court
757 of criminal appeals, or another justice of either supreme court
758 designated by the chief justice of the supreme court of criminal
759 appeals, shall preside at the trial, except in a trial of the
760 chief justice of either supreme court, in which case the
761 governor shall preside. The senate shall determine the time for
762 the trial of any impeachment and may sit for the trial whether
763 the house of representatives be in session or not. The time
764 fixed for trial shall not be more than six months after the
765 impeachment. During an impeachment trial senators shall be upon
766 their oath or affirmation. No officer shall be convicted without
767 the concurrence of two-thirds of the members of the senate
768 present. Judgment of conviction in cases of impeachment shall
769 remove the offender from office and, in the discretion of the
770 senate, may include disqualification to hold any office of
771 honor, trust or profit. Conviction or acquittal shall not affect
772 the civil or criminal responsibility of the officer.

773

774 And that the following amendment to Sections 1 and 4 of
775 Article IV of the State Constitution is agreed to and shall be
776 submitted to the electors of this state for approval or

777 rejection at the next general election or at an earlier special
 778 election specifically authorized by law for that purpose:

779 ARTICLE IV

780 EXECUTIVE

781 SECTION 1. Governor.—

782 (a) The supreme executive power shall be vested in a
 783 governor, who shall be commander-in-chief of all military forces
 784 of the state not in active service of the United States. The
 785 governor shall take care that the laws be faithfully executed,
 786 commission all officers of the state and counties, and transact
 787 all necessary business with the officers of government. The
 788 governor may require information in writing from all executive
 789 or administrative state, county or municipal officers upon any
 790 subject relating to the duties of their respective offices. The
 791 governor shall be the chief administrative officer of the state
 792 responsible for the planning and budgeting for the state.

793 (b) The governor may initiate judicial proceedings in the
 794 name of the state against any executive or administrative state,
 795 county or municipal officer to enforce compliance with any duty
 796 or restrain any unauthorized act.

797 (c) The governor may request in writing the opinion of the
 798 justices of the appropriate ~~the~~ supreme court as to the
 799 interpretation of any portion of this constitution upon any
 800 question affecting the governor's executive powers and duties.
 801 The justices shall, subject to their rules of procedure, permit
 802 interested persons to be heard on the questions presented and
 803 shall render their written opinion not earlier than ten days

804 from the filing and docketing of the request, unless in their
 805 judgment the delay would cause public injury.

806 (d) The governor shall have power to call out the militia
 807 to preserve the public peace, execute the laws of the state,
 808 suppress insurrection, or repel invasion.

809 (e) The governor shall by message at least once in each
 810 regular session inform the legislature concerning the condition
 811 of the state, propose such reorganization of the executive
 812 department as will promote efficiency and economy, and recommend
 813 measures in the public interest.

814 (f) When not otherwise provided for in this constitution,
 815 the governor shall fill by appointment any vacancy in state or
 816 county office for the remainder of the term of an appointive
 817 office, and for the remainder of the term of an elective office
 818 if less than twenty-eight months, otherwise until the first
 819 Tuesday after the first Monday following the next general
 820 election.

821 SECTION 4. Cabinet.—

822 (a) There shall be a cabinet composed of an attorney
 823 general, a chief financial officer, and a commissioner of
 824 agriculture. In addition to the powers and duties specified
 825 herein, they shall exercise such powers and perform such duties
 826 as may be prescribed by law. In the event of a tie vote of the
 827 governor and cabinet, the side on which the governor voted shall
 828 be deemed to prevail.

829 (b) The attorney general shall be the chief state legal
 830 officer. There is created in the office of the attorney general
 831 the position of statewide prosecutor. The statewide prosecutor

832 shall have concurrent jurisdiction with the state attorneys to
 833 prosecute violations of criminal laws occurring or having
 834 occurred, in two or more judicial circuits as part of a related
 835 transaction, or when any such offense is affecting or has
 836 affected two or more judicial circuits as provided by general
 837 law. The statewide prosecutor shall be appointed by the attorney
 838 general from not less than three persons nominated by the
 839 judicial nominating commission for the supreme courts ~~court~~, or
 840 as otherwise provided by general law.

841 (c) The chief financial officer shall serve as the chief
 842 fiscal officer of the state, and shall settle and approve
 843 accounts against the state, and shall keep all state funds and
 844 securities.

845 (d) The commissioner of agriculture shall have supervision
 846 of matters pertaining to agriculture except as otherwise
 847 provided by law.

848 (e) The governor as chair, the chief financial officer,
 849 and the attorney general shall constitute the state board of
 850 administration, which shall succeed to all the power, control,
 851 and authority of the state board of administration established
 852 pursuant to Article IX, Section 16 of the Constitution of 1885,
 853 and which shall continue as a body at least for the life of
 854 Article XII, Section 9(c).

855 (f) The governor as chair, the chief financial officer,
 856 the attorney general, and the commissioner of agriculture shall
 857 constitute the trustees of the internal improvement trust fund
 858 and the land acquisition trust fund as provided by law.

859 (g) The governor as chair, the chief financial officer,
 860 the attorney general, and the commissioner of agriculture shall
 861 constitute the agency head of the Department of Law Enforcement.
 862

863 BE IT FURTHER RESOLVED that the following statement be
 864 placed on the ballot:

865 CONSTITUTIONAL AMENDMENT

866 ARTICLE II, SECTION 2

867 ARTICLE III, SECTION 17

868 ARTICLE IV, SECTION 1

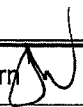
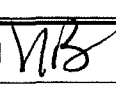
869 ARTICLE V, SECTIONS 1, 2, 3, 4, 7, 8, 9, 11, 12, 15 AND 21

870 SUPREME COURT.—Proposing an amendment to the State
 871 Constitution to create a supreme court of civil appeals and a
 872 supreme court of criminal appeals. Under current law, the
 873 Florida Supreme Court, consisting of 7 appointed justices, is
 874 the highest court in Florida, hearing both civil and criminal
 875 cases. This resolution would abolish the current Supreme Court
 876 and create a new supreme court of civil appeals and a new
 877 supreme court of criminal appeals. Each of the new supreme
 878 courts would have 5 appointed justices. The 3 most senior
 879 justices of the Florida Supreme Court would be transferred to
 880 the new supreme court of criminal appeals, the remaining 4
 881 current justices of the Florida Supreme Court would be
 882 transferred to the new supreme court of civil appeals, and the
 883 Governor will have to appoint 3 new justices to fill in openings
 884 in the 2 courts. The existing constitution creates the
 885 jurisdiction of the Supreme Court, which jurisdiction can only
 886 be changed by constitutional amendment. This proposed amendment

887 splits the jurisdiction between the two supreme courts to
 888 provide that the supreme court of civil appeals will have
 889 jurisdiction over civil matters, and the supreme court of
 890 criminal appeals will have jurisdiction over criminal matters.
 891 The amendment also provides that the jurisdictions of the
 892 supreme courts will be set in general law in the future and thus
 893 may be changed by general law in the future. The power of these
 894 new courts to issue a writ of habeas corpus is limited by this
 895 amendment. Currently, the Florida Supreme Court has jurisdiction
 896 over judicial discipline and the regulation of attorneys; this
 897 amendment places jurisdiction over judicial discipline with the
 898 supreme court of criminal appeals and jurisdiction over attorney
 899 regulation with the supreme court of civil appeals. The proposed
 900 amendment also creates a position of chief justice in each of
 901 the supreme courts, removes the positions of clerk and marshal
 902 from the constitution, provides for transition, and makes
 903 conforming changes in various sections of the constitution.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB CVJS 11-07 Supreme Court Organization
SPONSOR(S): Civil Justice Subcommittee
TIED BILLS: PCB CVJS 11-06 **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Civil Justice Subcommittee		Woodburn 	Bond 

SUMMARY ANALYSIS

Pending before the Legislature is a proposed committee bill that is a constitutional amendment to create the Supreme Court of Civil Appeals and the Supreme Court of Criminal Appeals. This proposed committee bill is the implementing bill related to the constitutional amendment. The bill is contingent upon passage by the electorate of the proposed constitutional amendment.

The proposed committee bill amends Florida Statutes related to the Supreme Court to reflect the changes made by the constitutional amendment.

The proposed constitutional amendment has a recurring fiscal effect on state government expenditures. This proposed committee bill would require an unknown non-recurring expenditure in FY 2012-2013 that is in addition to the fiscal requirements of the constitutional amendment. This proposed committee bill does not appear to have a fiscal effect on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Pending before the Legislature is a proposed committee bill that is a constitutional amendment to create the Supreme Court of Civil Appeals and the Supreme Court of Criminal Appeals. This proposed committee bill is the implementing bill related to the constitutional amendment. The bill is contingent upon passage by the electorate of the proposed constitutional amendment.

Under current law, the Florida Supreme Court performs a number of duties. In general, this proposed committee bill:

- Moves responsibility for clearly civil matters to the Supreme Court of Civil Appeals.
- Moves responsibility for clearly criminal matters to the Supreme Court of Criminal Appeals.
- Requires the two supreme courts to share administrative and all other duties between them.

The proposed committee bill does not specify how the two supreme courts are to share various duties, leaving it to the two courts, as equal partners, to work out a means for sharing such duties.

The proposed committee bill changes references to the Supreme Court to the Supreme Court of Civil Appeals, the Supreme Court of Criminal or both.

The proposed committee bill also requires recommendations from various government agencies, commissions and task forces to send their recommendations and finding to the Office of the State Court Administrators rather than the Chief Justice. The bill requires the Office of the State Court of Administrators to submit budget requests and facilities requests rather than the Chief Justice.

The proposed committee bill provides that certain administrative functions are to be under the jurisdiction of the Supreme Court of Civil Appeals including:

- Standards for court reporters;¹
- Regulation of the Court Education Trust Fund;²
- Standards for foreign language court interpreters;³
- Electronic filing standards for the Clerk's office;⁴
- Rules of practice and procedure of mediators;⁵
- Certification of mediators;⁶ and
- Regulation and admission of attorney's to the Florida Bar.⁷

This proposed committee bill places the new supreme courts in the building currently occupied by the First District Court of Appeal. The building would require some remodeling for use by the two supreme courts. The bill does not specify where the First District Court of Appeals is to be re-located. The proposed committee bill allows the library to be in a building other than the Supreme Court Building, giving the flexibility to leave the library in the existing building at 500 South Duval Street, Tallahassee.

The proposed committee bill deletes outdated and unnecessary provisions of ch. 25, F.S., including: terms of the court, the restriction on practice of law by a retired justice, the location of the clerk's office,

¹ Section 25.383, F.S.

² Section 25.384, F.S.

³ Section 25.386, F.S.

⁴ Section 28.22205, F.S.

⁵ Section 44.102, F.S.

⁶ Section 44.102, F.S.

⁷ Section 454.021, F.S.

the provision that requires that a clerk perform duties directed by the court, the provision that requires that the clerk be paid a salary, and the provision that requires that the marshal be paid a salary.

Section 1.01, F.S., creates definitions applicable to all of the Florida Statutes. The proposed committee bill defines the term Supreme Court to mean the new supreme courts. This change clarifies application of the term should this proposed committee bill neglect to have amended a provision regarding the Supreme Court.

Many statutes refer to court rules adopted by the "Supreme Court." The proposed committee bill changes such references to simply "court rules".

The proposed committee bill is only effective should the proposed constitutional amendment be adopted by the voters.

B. SECTION DIRECTORY:

Section 1 creates s. 1.01(16), F.S., regarding Supreme Court references.

Section 2 amends s.10.001, F.S., regarding legislative representation.

Section 3 amends s.11.513, F.S., regarding program evaluation.

Section 4 amends s. 11.90, F.S., regarding legislative budget commission.

Section 5 amends s.11.9005, F.S., regarding government efficiency task force.

Section 6 amends s. 16.01, F.S., regarding residence and duties of the Attorney General.

Section 7 amends s.16.061, F.S., regarding Supreme Court of Civil Appeals.

Section 8 amends s. 16.101, F.S., regarding initiative petitions.

Section 9 amends s. 17.13, F.S., regarding duplicate warrants.

Section 10 amends s. 20.055, F.S., regarding agency inspectors general.

Section 11 creates s. 25.015, F.S., regarding Supreme Court of Civil Appeals jurisdiction and location.

Section 12 creates s. 25.025, F.S., regarding Supreme Court of Criminal Appeals jurisdiction and location.

Section 13 amends s. 25.031, F.S., regarding appropriate court and reporting to other courts.

Section 14 repeals s. 25.032, F.S., regarding certification of questions of law.

Section 15 amends s. 25.041, F.S., regarding power to execute judgments.

Section 16 repeals s. 25.051, F.S., regarding regular terms.

Section 17 amends s. 25.075, F.S., regarding uniform case reporting.

Section 18 repeals s. 25.151, F.S., regarding practice of law.

Section 19 amends s. 25.181, F.S., regarding court records.

Section 20 amends s. 25.191, F.S., regarding clerk of Supreme Courts.

Section 21 repeals s. 25.201, F.S., regarding deputy clerk of Supreme Court.

Section 22 repeals s. 25.211, F.S., regarding location of the clerk's office.

Section 23 repeals s. 25.221, F.S., regarding custody of books and records.

Section 24 repeals s. 25.231, F.S., regarding duties of the clerk.

Section 25 amends s. 25.241, F.S., regarding duties of the clerk and filing fees.

Section 26 amends s. 25.251, F.S., regarding marshal of the Supreme Courts.

Section 27 repeals s. 25.262, F.S., regarding duties of the marshal.

Section 28 creates s. 25.265, F.S., regarding the Supreme Court building.

Section 29 amends s. 25.271, F.S., regarding custody of the Supreme Court building and grounds.

Section 30 repeals s. 25.281, F.S., regarding compensation of the marshal.

Section 31 repeals s. 25.291, F.S., regarding fines for contempt.

Section 32 amends s. 25.341, F.S., regarding Supreme Court library.

Section 33 repeals s. 25.351, F.S., regarding acquisition of books.

Section 34 amends s. 25.375, F.S., regarding identification of related cases.

Section 35 amends s. 25.382, F.S., regarding state court system.

Section 36 amends s. 25.383, F.S., regarding standards of court reporting.

Section 37 amends s. 25.384, F.S., regarding Court Education Trust Fund.

Section 38 amends s. 25.386, F.S., regarding foreign language court interpreters.

Section 39 amends s. 26.55, F.S., regarding conference of circuit judges.

Section 40 amends s. 26.57, F.S., regarding temporary designation of county judge.

Section 41 amends s. 27.05, F.S., regarding assisting state attorney.

Section 42 amends s. 27.14, F.S., regarding assigning state attorneys to other circuits.

Section 43 amends s. 27.151, F.S., regarding confidentiality of specified executive orders.

Section 44 amends s. 27.40, F.S., regarding court appointed counsel.

Section 45 amends s. 27.405, F.S., regarding court appointed counsel.

Section 46 amends s. 27.51, F.S., regarding duties of the public defender.

Section 47 amends s. 27.511, F.S., regarding offices of criminal conflict and civil regional counsel.

Section 48 amends s. 27.512, F.S., regarding order of no imprisonment.

Section 49 amends s. 27.52, F.S., regarding determination of indigent status.

Section 50 amends s. 27.5303, F.S., regarding public defenders and criminal conflict.

Section 51 amends s. 27.5304, F.S., regarding private court-appointed counsel.

Section 52 amends s. 27.7081, F.S., regarding capital postconviction public records production.

Section 53 amends s. 27.709, F.S., regarding commission on capital cases.

Section 54 amends s. 27.7091, F.S., regarding legislative recommendations to the Supreme Court of Criminal Appeals.

Section 55 amends s. 27.710, F.S., regarding registry of attorneys applying to represent person in postconviction capital collateral proceedings.

Section 56 amends s. 27.711, F.S., regarding terms and conditions of appointment of attorneys.

Section 57 amends s. 28.22205, F.S., regarding electronic filing process.

Section 58 amends s. 28.241, F.S., regarding filing fees for trial and appellate proceedings.

Section 59 amends s. 28.35, F.S., regarding Florida Clerks of Court Operations Corporation.

Section 60 amends s. 28.36, F.S., regarding budget procedure.

Section 61 amends s. 29.001, F.S., regarding state court systems elements and definitions.

Section 62 amends s. 29.004, F.S., regarding state court systems.

Section 63 amends s. 30.15, F.S., regarding powers, duties and obligations of sheriffs.

Section 64 amends s. 34.01, F.S., regarding jurisdiction of county court.

Section 65 amends s. 34.181, F.S., regarding branch courts.

Section 66 amends s. 35.07, F.S., regarding power to make rules and regulations of district supreme courts.

Section 67 amends s. 35.28, F.S., regarding district courts of appeal libraries.

Section 68 amends s. 38.07, F.S., regarding effect of orders entered prior to disqualification.

Section 69 amends s. 39.4075, F.S., regarding referral of dependency case to mediation.

Section 70 amends s. 39.501, F.S., regarding petition for dependency.

Section 71 amends s. 39.501, F.S., regarding procedures and jurisdiction.

Section 72 amends s. 39.8296, F.S., regarding statewide guardian ad litem office.

Section 73 amends s. 40.001, F.S., regarding authority and duties of chief judge.

Section 74 amends s. 40.225, F.S., regarding drawing jury venire.

Section 75 amends s. 43.26, F.S., regarding selection of chief judge and powers of chief judge of circuit.

Section 76 amends s. 43.30, F.S., regarding divisions of court.

Section 77 amends s. 44.102, F.S., regarding court ordered mediation.

Section 78 amends s. 44.103, F.S., regarding court ordered non-binding arbitration.

Section 79 amends s. 44.104, F.S., regarding voluntary binding arbitration.

Section 80 amends s. 44.106, F.S., regarding standards and procedures for mediators and arbitrators.

Section 81 amends s. 44.107, F.S., regarding immunity for arbitrators and mediators.

Section 82 amends s. 44.108, F.S., regarding funding of mediation and arbitration.

Section 83 amends s. 44.402, F.S., regarding mediation.

Section 84 amends s. 57.082, F.S., regarding determination of indigent status.

Section 85 amends s. 57.101, F.S., regarding costs in Supreme Court.

Section 86 amends s. 59.081, F.S., regarding time for invoking appellate jurisdiction of any court.

Section 87 amends s. 59.45, F.S., regarding misconception of remedy.

Section 88 amends s. 61.125, F.S., regarding parenting coordination.

Section 89 amends s. 61.183, F.S., regarding mediation of certain contested issues.

Section 90 amends s. 75.08, F.S., regarding appeal and review.

Section 91 amends s. 90.902, F.S., regarding self-authentication.

Section 92 amends s. 100.371, F.S., regarding procedure for placement on ballot.

Section 93 amends s. 105.036, F.S., regarding initiatives for method of selection for circuit or county judges.

Section 94 amends s. 112.215, F.S., regarding government employees deferred compensation plan.

Section 95 amends s. 112.321, F.S., regarding membership terms.

Section 96 amends s. 112.324, F.S., regarding procedures for complaints of violations of public records and meeting exemptions.

Section 97 amends s. 121.091, F.S., regarding benefits payable.

Section 98 amends s. 121.591, F.S., regarding benefits payable under the optional retirement program.

Section 99 amends s. 215.91, F.S., regarding Florida financial management information system.

Section 100 amends s. 216.011, F.S., regarding definitions of the judicial branch.

Section 101 amends s. 216.0158, F.S., regarding assessment of financial needs.

Section 102 amends s. 216.023, F.S., regarding legislative budget requests.

Section 103 amends s. 216.043, F.S., regarding budgets for fixed capital outlay.

Section 104 amends s. 216.044, F.S., regarding budget evaluation by Department of Management.

Section 105 amends s. 216.131, F.S., regarding public hearings on legislative budgets.

Section 106 amends s. 216.163, F.S., regarding governor's recommended budget.

Section 107 amends s. 216.177, F.S., regarding appropriations acts.

Section 108 amends s. 216.179, F.S., regarding reinstatement of vetoed appropriations by administrative means prohibited.

Section 109 amends s. 216.181, F.S., regarding approved budgets for operations and fixed capital outlay.

Section 110 amends s. 216.1815, F.S., regarding agency incentive and savings program.

Section 111 amends s. 216.1826, F.S., regarding activity based planning and budgeting.

Section 112 amends s. 216.1827, F.S., regarding requirements for performance measures and standards.

Section 113 amends s. 216.192, F.S., regarding release of appropriations and revision of budget.

Section 114 amends s. 216.195, F.S., regarding impoundment of funds.

Section 115 amends s. 216.212, F.S., regarding budgets for federal funds.

Section 116 amends s. 216.221, F.S., regarding appropriations.

Section 117 amends s. 216.262, F.S., regarding authorized positions.

Section 118 amends s. 216.292, F.S., regarding exceptions to nontransferable appropriations.

Section 119 amends s. 216.301, F.S., regarding appropriations

Section 120 amends s. 272.04, F.S., regarding authority of Department of Management Services.

Section 121 amends s. 287.059, F.S., regarding private attorney services.

Section 122 amends s. 288.9606, F.S., regarding issue of revenue bonds.

Section 123 amends s. 318.30, F.S., regarding legislative intent for civil traffic hearing officers.

Section 124 amends s. 318.34, F.S., regarding qualifications of hearing officers.

Section 125 amends s. 350.128, F.S., regarding judicial review.

Section 126 amends s. 364.381, F.S., regarding judicial review.

Section 127 amends s. 366.10, F.S., regarding judicial review.

Section 128 amends s. 366.8260, F.S., regarding storm recovery finance orders.

Section 129 amends s. 368.112, F.S., regarding judicial review.

Section 130 amends s. 379.332, F.S., regarding representation of the state by state attorney.

Section 131 amends s. 383.0115, F.S., regarding the Commission on Marriage and Family Support.

Section 132 amends s. 390.01114, F.S., regarding procedure for judicial waiver of notice.

Section 133 amends s. 397.333, F.S., regarding statewide drug policy advisory council.

Section 134 amends s. 397.484, F.S., regarding lawyer assistance programs.

Section 135 amends s. 400.0233, F.S., regarding presuit notice.

Section 136 amends s. 402.56, F.S., regarding children's cabinet.

Section 137 amends s. 403.1837, F.S., regarding Florida water pollution control financing corporation.

Section 138 amends s. 403.519, F.S., regarding exclusive forum.

Section 139 amends s. 421.17, F.S., regarding validation of debentures and proceedings.

Section 140 amends s. 429.293, F.S., regarding presuit notice.

Section 141 amends s. 429.87, F.S., regarding civil actions to enforce rights.

Section 142 amends s. 440.106, F.S., regarding civil remedies.

Section 143 amends s. 440.25, F.S., regarding procedures for mediation and hearings.

Section 144 amends s. 440.271, F.S., regarding appeal of order of judge of compensation claims.

Section 145 amends s. 440.29, F.S., regarding procedure before a judge of compensations claims.

Section 146 amends s. 440.32, F.S., regarding cost in proceeding brought without reasonable ground.

Section 147 amends s. 440.442, F.S., regarding code of judicial conduct.

Section 148 amends s. 454.021, F.S., regarding admission to practice law.

Section 149 amends s. 454.31, F.S., regarding practicing law while disbarred or suspended.

Section 150 amends s. 454.32, F.S., regarding aiding or assisting disbarred or suspended attorney.

Section 151 amends s. 489.533, F.S., regarding disciplinary proceedings.

Section 152 amends s. 627.7015, F.S., regarding alternative procedure for resolution of disputed property insurance claims.

Section 153 amends s. 723.038, F.S., regarding dispute settlement.

Section 154 amends s. 744.703, F.S., regarding office of public guardian.

Section 155 amends s. 752.015, F.S., regarding mediation of visitation disputes.

Section 156 amends s. 753.03, F.S., regarding standards for supervised visitation.

Section 157 amends s. 766.107, F.S., regarding court-ordered arbitration.

Section 158 amends s. 766.206, F.S., regarding presuit investigations of medical negligence.

Section 159 amends s. 766.311, F.S., regarding conclusiveness and determination of award.

Section 160 amends s. 768.79, F.S., regarding offer of judgment and demand for judgment.

Section 161 amends s. 849.42, F.S., regarding state attorney representing state.

Section 162 amends s. 877.02, F.S., regarding solicitations of legal services.

Section 163 amends s. 905.33, F.S., regarding petition to Supreme Court of Criminal Appeals by governor.

Section 164 amends s. 905.37, F.S., regarding list of prospective jurors.

Section 165 amends s. 907.041, F.S., regarding pretrial detention and release.

Section 166 amends s. 918.19, F.S., regarding closing argument.

Section 167 amends s. 921.141, F.S., regarding sentence of death or life imprisonment for capital felonies.

Section 168 amends s. 921.142, F.S., regarding sentence of death or life imprisonment for capital drug trafficking.

Section 169 amends s. 922.105, F.S., regarding execution of death sentence.

Section 170 amends s. 922.14, F.S., regarding sentence of death unexecuted for unjustifiable reason.

Section 171 amends s. 922.15, F.S., regarding return of warrant of execution issued by Supreme Court of Criminal Appeals.

Section 172 amends s. 924.055, F.S., regarding postconviction review in capital cases.

Section 173 amends s. 924.056, F.S., regarding commencement of postconviction capital actions.

Section 174 amends s. 924.057, F.S., regarding limitation on postconviction cases in which death sentence was imposed.

Section 175 amends s. 924.058, F.S., regarding capital postconviction claims.

Section 176 amends s. 924.059, F.S., regarding time limitations in postconviction judicial review.

Section 177 amends s. 925.12, F.S., regarding DNA testing.

Section 178 amends s. 934.02, F.S., regarding definition of "judge of competent jurisdiction."

Section 179 amends s. 939.185, F.S., regarding assessment of additional court costs and surcharges.

Section 180 amends s. 944.096, F.S., regarding budget requests for residential facility construction.

Section 181 amends s. 984.15, F.S., regarding petition for a child in need of services.

Section 182 amends s. 984.151, F.S., regarding truancy petition.

Section 183 amends s. 984.18, F.S., regarding referral of child in of services cases to mediation.

Section 184 amends s. 985.16, F.S., regarding community arbitration.

Section 185 amends s. 985.318, F.S., regarding petition form.

Section 186 amends s. 985.66, F.S., regarding juvenile justice training academies.

Section 187 provides a contingent effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

This proposed committee bill does not affect recurring expenditures any more than the proposed constitutional amendment (15.0 FTE's and approximately \$1.6 million in salaries and benefits).

This proposed committee bill would require a nonrecurring expense in FY 2012-2013 related to the moving and building remodeling costs for the Supreme Court. It would also require expenditures for moving the First District Court of Appeal to another location that has not yet been determined. These costs have not been estimated.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

n/a

1 A bill to be entitled
 2 An act relating to the Supreme Court; amending ss. 1.01,
 3 10.001, 11.513, 11.90, 11.9005, 16.01, 16.061, 16.101,
 4 17.13, 20.055, 25.031, 25.041, 25.075, 25.181, 25.191,
 5 25.241, 25.251, 25.271, 25.341, 25.375, 25.382, 25.383,
 6 25.384, 25.386, 26.55, 26.57, 27.05, 27.14, 27.151, 27.40,
 7 27.405, 27.51, 27.511, 27.512, 27.52, 27.5303, 27.5304,
 8 27.7081, 27.709, 27.7091, 27.710, 27.711, 28.22205,
 9 28.241, 28.35, 28.36, 29.001, 29.004, 30.15, 34.01,
 10 34.181, 35.07, 35.28, 38.07, 39.4075, 39.501, 39.824,
 11 39.8296, 40.001, 40.225, 43.26, 43.30, 44.102, 44.103,
 12 44.104, 44.106, 44.107, 44.108, 44.402, 57.082, 57.101,
 13 59.081, 59.45, 61.125, 61.183, 75.08, 90.902, 100.371,
 14 105.036, 112.215, 112.321, 112.324, 121.091, 121.591,
 15 215.91, 216.011, 216.0158, 216.023, 216.043, 216.044,
 16 216.131, 216.163, 216.177, 216.179, 216.181, 216.1815,
 17 216.1826, 216.1827, 216.192, 216.195, 216.212, 216.221,
 18 216.262, 216.292, 216.301, 272.04, 287.059, 288.9606,
 19 318.30, 318.34, 350.128, 364.381, 366.10, 366.8260,
 20 368.112, 379.332, 383.0115, 390.01114, 397.333, 397.484,
 21 400.0233, 402.56, 403.1837, 403.519, 421.17, 429.293,
 22 429.87, 440.106, 440.25, 440.271, 440.29, 440.32, 440.442,
 23 454.021, 454.31, 454.32, 489.533, 627.7015, 723.038,
 24 744.703, 752.015, 753.03, 766.107, 766.206, 766.311,
 25 768.79, 849.42, 877.02, 905.33, 905.37, 907.041, 918.19,
 26 921.141, 921.142, 922.105, 922.14, 922.15, 924.055,
 27 924.056, 924.057, 924.058, 924.059, 925.12, 934.02,
 28 939.185, 944.096, 984.15, 984.151, 984.18, 985.16,

29 985.318, and 985.66, F.S.; implementing provisions of the
 30 joint resolution creating the Supreme Court of Civil
 31 Appeals and the Supreme Court of Criminal Appeals;
 32 clarifying jurisdiction of the Supreme Courts; creating s.
 33 25.015, F.S.; providing for jurisdiction, membership, and
 34 headquarters of the Supreme Court of Civil Appeals;
 35 creating s. 25.025, F.S.; providing for jurisdiction,
 36 membership, and headquarters of the Supreme Court of
 37 Criminal Appeals; creating s. 25.265, F.S.; providing for
 38 the location of the Supreme Court Building; repealing s.
 39 25.032, F.S., relating to certification of questions of
 40 law, rules and regulations; repealing s. 25.051, F.S.,
 41 relating to terms of the supreme court; repealing s.
 42 25.151, F.S., relating to the practice of law by retired
 43 justices of the Supreme Court; repealing s. 25.201, F.S.,
 44 relating to the appointment of a deputy clerk of the
 45 Supreme Court; repealing s. 25.211, F.S., relating to the
 46 location of the Supreme Court clerk's office; repealing s.
 47 25.221, F.S., relating to the custody of books, papers,
 48 records, files, and the seal of the Supreme Court;
 49 repealing s. 25.231, F.S., relating to the duties of the
 50 Supreme Court clerk; repealing s. 25.262, F.S., relating
 51 to the Supreme Court marshal's power to execute the
 52 process of the court; repealing s. 25.281, F.S., relating
 53 to the compensation of the Supreme Court marshal;
 54 repealing s. 25.291, F.S., relating to the deposit of
 55 fines for contempt of the Supreme Court; repealing s.

56 25.351, F.S., relating to the acquisition of books for the
 57 library of the Supreme Court; providing an effective date.

58

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

60

61 Section 1. Subsection (16) is added to section 1.01,
 62 Florida Statutes, to read:

63 1.01 Definitions.—In construing these statutes and each
 64 and every word, phrase, or part hereof, where the context will
 65 permit:

66 (16) References to the "Supreme Court" referring to the
 67 Florida Supreme Court, shall mean the former Supreme Court of
 68 Florida, the Supreme Court of Civil Appeals or the Supreme Court
 69 of Criminal Appeals, as appropriate.

70 Section 2. Section 10.001, Florida Statutes, is amended to
 71 read:

72 10.001 Legislative representation.—Beginning with the
 73 general election held in the second year following each
 74 decennial census, the representation of the people of Florida in
 75 the Florida Legislature shall be as set forth earlier in such
 76 year by the Legislature by joint resolution or by the Supreme
 77 Court of Civil Appeals by order, as the case may be. A joint
 78 resolution of apportionment or an order of the Supreme Court of
 79 Civil Appeals adopted or entered pursuant to s. 16 of Art. III
 80 of the State Constitution shall be included in the Florida
 81 Statutes in the same manner as a statute.

82 Section 3. Subsections (2) and (5) of section 11.513,
 83 Florida Statutes, are amended to read:

84 11.513 Program evaluation and justification review.—
 85 (2) A state agency's inspector general, internal auditor,
 86 or other person designated by the agency head or the Office of
 87 the State Court Administrator ~~Chief Justice of the Supreme Court~~
 88 ~~shall develop~~, in consultation with the Office of Program Policy
 89 Analysis and Government Accountability, a plan for monitoring
 90 and reviewing the state agency's or the judicial branch's major
 91 programs to ensure that performance measures and standards, as
 92 well as baseline and previous-year performance data, are
 93 maintained and supported by agency records.

94 (5) The Office of Program Policy Analysis and Government
 95 Accountability may perform evaluation and justification reviews
 96 when necessary and as directed by the Legislature in order to
 97 determine whether current agency and judicial branch performance
 98 measures and standards are adequate. Reports concerning the
 99 evaluation and review of agency and judicial branch performance
 100 measures and standards shall be submitted to the Executive
 101 Office of the Governor, the President of the Senate, the Speaker
 102 of the House of Representatives, and the chair and vice chair of
 103 the Legislative Budget Commission. Reports concerning the
 104 evaluation and review of the judicial branch performance
 105 measures and standards shall be submitted to the Office of the
 106 State Court Administrator ~~Chief Justice of the Supreme Court~~.

107 Section 4. Subsection (6) of section 11.90, Florida
 108 Statutes, is amended to read:

109 11.90 Legislative Budget Commission.—

110 (6) The commission shall have the power and duty to:

111 (a) Review and approve or disapprove budget amendments

112 recommended by the Governor or the Office of the State Court
 113 Administrator ~~Chief Justice of the Supreme Court~~ as provided in
 114 chapter 216.

115 (b) Develop the long-range financial outlook described in
 116 s. 19, Art. III of the State Constitution.

117
 118 In addition to the powers and duties specified in this
 119 subsection, the commission shall exercise all other powers and
 120 perform any other duties prescribed by the Legislature.

121 Section 5. Subsection (6) of section 11.9005, Florida
 122 Statutes, is amended to read:

123 11.9005 Government Efficiency Task Force.—

124 (6) The task force shall complete its work within 1 year
 125 and submit its recommendations to the chairperson and vice
 126 chairperson of the Legislative Budget Commission, the Governor,
 127 and the Office of the State Court Administrator ~~Chief Justice of~~
 128 ~~the Supreme Court~~. The task force may submit all or part of its
 129 recommendations at any time during the year, but a final report
 130 summarizing its recommendations must be submitted at the
 131 completion of its work.

132 Section 6. Subsection (4) of section 16.01, Florida
 133 Statutes, is amended to read:

134 16.01 Residence, office, and duties of Attorney General.—

135 The Attorney General:

136 (4) Shall appear in and attend to, in behalf of the state,
 137 all suits or prosecutions, civil or criminal or in equity, in
 138 which the state may be a party, or in anywise interested, in the
 139 appropriate Supreme Court and district courts of appeal of this

140 state.

141 Section 7. Subsection (1) of section 16.061, Florida
 142 Statutes, is amended to read:

143 16.061 Initiative petitions.—

144 (1) The Attorney General shall, within 30 days after
 145 receipt of a proposed revision or amendment to the State
 146 Constitution by initiative petition from the Secretary of State,
 147 petition the Supreme Court of Civil Appeals, requesting an
 148 advisory opinion regarding the compliance of the text of the
 149 proposed amendment or revision with s. 3, Art. XI of the State
 150 Constitution and the compliance of the proposed ballot title and
 151 substance with s. 101.161. The petition may enumerate any
 152 specific factual issues that the Attorney General believes would
 153 require a judicial determination.

154 Section 8. Section 16.101, Florida Statutes, is amended to
 155 read:

156 16.101 Supreme Court reporter.—The Attorney General shall
 157 be the reporter for each ~~the~~ Supreme Court.

158 Section 9. Subsection (1) of section 17.13, Florida
 159 Statutes, is amended to read:

160 17.13 To duplicate warrants lost or destroyed.—

161 (1) The Chief Financial Officer is required to duplicate
 162 any Chief Financial Officer's warrants that may have been lost
 163 or destroyed, or may hereafter be lost or destroyed, upon the
 164 owner thereof or the owner's agent or attorney presenting the
 165 Chief Financial Officer the statement, under oath, reciting the
 166 number, date, and amount of any warrant or the best and most
 167 definite description in his or her knowledge and the

168 | circumstances of its loss; if the Chief Financial Officer deems
 169 | it necessary, the owner or the owner's agent or attorney shall
 170 | file in the office of the Chief Financial Officer a surety bond,
 171 | or a bond with securities, to be approved by one of the judges
 172 | of the circuit court or one of the justices of the Supreme Court
 173 | of Civil Appeals, in a penalty of not less than twice the amount
 174 | of any warrants so duplicated, conditioned to indemnify the
 175 | state and any innocent holders thereof from any damages that may
 176 | accrue from such duplication.

177 | Section 10. Paragraph (b) of subsection (1) of section
 178 | 20.055, Florida Statutes, is amended to read:

179 | 20.055 Agency inspectors general.—

180 | (1) For the purposes of this section:

181 | (b) "Agency head" means the Governor, a Cabinet officer, a
 182 | secretary as defined in s. 20.03(5), or an executive director as
 183 | defined in s. 20.03(6). It also includes the chair of the Public
 184 | Service Commission, the Director of the Office of Insurance
 185 | Regulation of the Financial Services Commission, the Director of
 186 | the Office of Financial Regulation of the Financial Services
 187 | Commission, and the Chief Justices ~~Justice~~ of the ~~State~~ Supreme
 188 | Court.

189 | Section 11. Section 25.015, Florida Statutes, is created
 190 | to read:

191 | 25.015 Supreme Court of Civil Appeals.—

192 | (1) The jurisdiction and membership of the Supreme Court of
 193 | Civil Appeals shall be as provided in art. V of the State
 194 | Constitution.

195 (2) The Supreme Court of Civil Appeals shall be
 196 headquartered in the Supreme Court Building.

197 Section 12. Section 25.025, Florida Statutes, is created
 198 to read:

199 25.025 Supreme Court of Criminal Appeals.—

200 (1) The jurisdiction and membership of the Supreme Court of
 201 Criminal Appeals shall be as provided in art. V of the State
 202 Constitution.

203 (2) The Supreme Court of Criminal Appeals shall be
 204 headquartered in the Supreme Court Building.

205 Section 13. Section 25.031, Florida Statutes, is amended
 206 to read:

207 25.031 Supreme Courts ~~Court~~ authorized to receive and
 208 answer certificates as to state law from federal appellate
 209 courts.—

210 (1) The appropriate Supreme Court of this state may, by
 211 rule of court, provide that, when it shall appear to the Supreme
 212 Court of the United States, to any circuit court of appeals of
 213 the United States, or to the Court of Appeals of the District of
 214 Columbia, that there are involved in any proceeding before it
 215 questions or propositions of the laws of this state, which are
 216 determinative of the said cause, and there are no clear
 217 controlling precedents in the decisions of the appropriate
 218 Supreme Court of this state, such federal appellate court may
 219 certify such questions or propositions of the laws of this state
 220 to the appropriate Supreme Court of this state for instructions
 221 concerning such questions or propositions of state law, which
 222 certificate the appropriate Supreme Court of this state, by

223 written opinion, may answer.

224 (2) Each Supreme Court of this state is hereby authorized
 225 and empowered to collaborate with any and all other courts of
 226 last resort, of other states and of the United States, in the
 227 preparation and approval of uniform rules of court to make
 228 effective this and similar laws.

229 Section 14. Section 25.032, Florida Statutes, is repealed.

230 Section 15. Section 25.041, Florida Statutes, is amended
 231 to read:

232 25.041 Power to execute its judgments, decrees, and
 233 determinations.—

234 (1) Each ~~The~~ Supreme Court is vested with all the power
 235 and authority necessary for carrying into complete execution all
 236 its judgments, decrees and determinations in the matters before
 237 it, agreeable to the usage and principles of law.

238 (2) No judgment of either ~~the~~ Supreme Court shall take
 239 effect until the decision of the court in such case shall be
 240 filed with the clerk of said court.

241 Section 16. Section 25.051, Florida Statutes, is repealed.

242 Section 17. Section 25.075, Florida Statutes, is amended
 243 to read:

244 25.075 Uniform case reporting system.—

245 (1) The Supreme Court of Civil Appeals ~~Court~~ shall develop
 246 a uniform civil case reporting system. The Supreme Court of
 247 Criminal Appeals shall develop a uniform criminal case reporting
 248 system. The two systems shall be coordinated with one another in
 249 order to standardize input and reporting requirements. The two
 250 systems shall include, ~~including~~ a uniform means of reporting

251 categories of cases, time required in the disposition of cases,
 252 and manner of disposition of cases.

253 (2) If any clerk shall willfully fail to report ~~to the~~
 254 ~~Supreme Court~~ as directed by the courts ~~court~~, the clerk shall
 255 be guilty of misfeasance in office.

256 (3) The Auditor General shall audit the reports made to
 257 the Supreme Courts ~~Court~~ in accordance with the uniform system
 258 established by the appropriate Supreme Court.

259 Section 18. Section 25.151, Florida Statutes, is
 260 repealed.

261 Section 19. Section 25.181, Florida Statutes, is amended
 262 to read:

263 25.181 Records ~~Record~~ of prior courts ~~territorial court of~~
 264 ~~appeals.-~~

265 (1) The files, rolls and books of record of the courts of
 266 appeals of the late Territory of Florida, so far as the same, by
 267 the concurrence of the Congress and of the Legislature of this
 268 state, may relate to matters of appropriate state authority and
 269 jurisdiction, are placed in the custody and under the control of
 270 the Clerk ~~Supreme Court of this state,~~ and are files, rolls and
 271 records of the ~~said~~ Supreme Courts. ~~Court;~~ and The courts said
 272 ~~court~~ may lawfully have and exercise such judicial cognizance
 273 and power over them as it may lawfully have and exercise over
 274 its own files, rolls and records.

275 (2) The files, rolls and books of record of the Supreme
 276 Court of Florida are placed in the custody and under the control
 277 of the Clerk, and are files, rolls and records of the Supreme
 278 Courts. The courts may lawfully have and exercise such judicial

279 cognizance and power over them as it may lawfully have and
 280 exercise over its own files, rolls and records.

281 Section 20. Section 25.191, Florida Statutes, is amended
 282 to read:

283 25.191 Clerk of Supreme Courts ~~Court~~.—

284 (1) The Supreme Courts ~~Court~~ shall appoint a Clerk ~~of the~~
 285 ~~Supreme Court~~, who shall hold office during the pleasure of the
 286 courts ~~court~~.

287 (2) The clerk may appoint a deputy or deputies who, being
 288 duly sworn, may discharge all of the duties of the office of
 289 clerk during his or her absence. The clerk shall be responsible
 290 for the acts of any deputy.

291 (3) All books, papers, records, files, and the seal of each
 292 Supreme Court shall be kept in the office of the clerk and in
 293 the clerk's custody. The clerk shall keep the books, papers,
 294 records, files and the seal of each Supreme Court separate from
 295 the other.

296 Section 21. Section 25.201, Florida Statutes, is repealed.

297 Section 22. Section 25.211, Florida Statutes, is repealed.

298 Section 23. Section 25.221, Florida Statutes, is repealed.

299 Section 24. Section 25.231, Florida Statutes, is repealed.

300 Section 25. Section 25.241, Florida Statutes, is amended
 301 to read:

302 25.241 ~~Clerk of Supreme Court; compensation; assistants;~~
 303 Filing fees; duties of the clerk, etc.—

304 ~~(1) The Clerk of the Supreme Court shall be paid an annual~~
 305 ~~salary to be determined in accordance with s. 25.382.~~

306 ~~(2) The Clerk of the Supreme Court is authorized to employ~~

307 ~~such deputies and clerical assistants as may be necessary. Their~~
 308 ~~number and compensation shall be approved by the court. The~~
 309 ~~compensation of such employees shall be paid from the annual~~
 310 ~~appropriation for the appropriate Supreme Court.~~

311 (1)~~(3)~~(a) The Clerk ~~of the Supreme Court~~ is hereby
 312 required to collect, upon the filing of a certified copy of a
 313 notice of appeal or petition, \$300 for each case docketed, and
 314 for copying, certifying, or furnishing opinions, records,
 315 papers, or other instruments, except as otherwise herein
 316 provided, the same fees that are allowed clerks of the circuit
 317 court; however, no fee shall be less than \$1. ~~The State of~~
 318 ~~Florida or its agencies, when appearing as appellant or~~
 319 ~~petitioner, is exempt from the filing fees required in this~~
 320 ~~subsection.~~ From each attorney appearing pro hac vice, the Clerk
 321 ~~of the Supreme Court~~ shall collect an additional fee of \$100 ~~to~~
 322 ~~be deposited into the General Revenue Fund.~~

323 (b) Upon the filing of a notice of cross-appeal, or a
 324 notice of joinder or motion to intervene as an appellant, cross-
 325 appellant, or petitioner, the Clerk ~~of the Supreme Court~~ shall
 326 charge and collect a filing fee of \$295.

327 (c) ~~The clerk shall remit the fee to the Department of~~
 328 ~~Revenue for deposit into the General Revenue Fund.~~ The state and
 329 its agencies are exempt from paying any ~~the~~ filing fee or other
 330 cost required in this subsection ~~paragraph~~.

331 (2)~~(4)~~ The Clerk ~~of the Supreme Court~~ is hereby
 332 authorized, immediately after a case is disposed of, to supply
 333 the judge who tried the case and from whose order, judgment, or
 334 decree, appeal or other review is taken and any court which

335 reviewed it, a copy of all opinions, orders, or judgments filed
 336 in such case. Copies of opinions, orders, and decrees shall be
 337 furnished in all cases to each attorney of record; copies for
 338 publication in Florida reports shall be without charge; and
 339 copies furnished to the law book publishers shall be at one-half
 340 the regular statutory fee.

341 (3)~~(5)~~ The Clerk ~~of the Supreme Court~~ is hereby required
 342 to prepare a statement of all monies ~~fees~~ collected each month
 343 and remit such statement, together with all monies ~~fees~~
 344 collected by him or her, to the Chief Financial Officer. The
 345 Chief Financial Officer shall deposit \$250 of each \$300 filing
 346 fee and all other fees or monies collected into the General
 347 Revenue Fund. The Chief Financial Officer shall deposit \$50 of
 348 each filing fee collected into the State Courts Revenue Trust
 349 Fund to fund court operations as authorized in the General
 350 Appropriations Act.

351 Section 26. Section 25.251, Florida Statutes, is amended
 352 to read:

353 25.251 Marshal of Supreme Courts ~~Court~~; appointment;
 354 training; process.-

355 (1) The Supreme Courts ~~Court~~ shall jointly appoint a
 356 marshal who shall hold office during the pleasure of the courts
 357 ~~court~~.

358 (2) The marshal and his or her assistants shall attend and
 359 successfully complete a minimum standards training program
 360 approved by the Criminal Justice Standards and Training
 361 Commission within the Department of Law Enforcement.

362 (3) The marshal shall have the power to execute the process

363 of the Supreme Courts throughout the state, and in any county he
 364 or she may deputize the sheriff or a deputy sheriff for such
 365 purpose.

366 Section 27. Section 25.262, Florida Statutes, is repealed.

367 Section 28. Section 25.265, Florida Statutes, is created
 368 to read:

369 25.265 Supreme Court Building.—The Supreme Court Building
 370 shall be at 2000 Drayton Drive, Tallahassee, Florida.

371 Section 29. Section 25.271, Florida Statutes, is amended
 372 to read:

373 25.271 Custody of Supreme Court Building and grounds.—

374 (1) The ~~said~~ marshal shall, under the direction of the
 375 Supreme Courts ~~Court~~, be custodian of the Supreme Court Building
 376 and grounds and shall keep the same clean, sanitary, and free of
 377 trespassers and marauders and shall maintain the same in good
 378 state of repair and cause the grounds to be beautified and
 379 preserved against depredations and trespasses.

380 (2) The marshal and his or her assistants shall be
 381 conservators of the peace in the Supreme Court Building, or in
 382 any building in which either ~~the~~ Supreme Court is sitting, and
 383 shall apprehend without warrant any person disturbing the peace
 384 and deliver that person to the appropriate law enforcement
 385 officer of the municipality or county in which further
 386 proceedings may be held according to law.

387 Section 30. Section 25.281, Florida Statutes, is repealed.

388 Section 31. Section 25.291, Florida Statutes, is repealed.

389 Section 32. Section 25.341, Florida Statutes, is amended
 390 to read:

391 25.341 Library ~~of Supreme Court~~, custodian.—The library of
 392 the Supreme Courts Court shall be in custody of the librarian
 393 appointed by the Court of Civil Appeals, ~~who shall be subject to~~
 394 ~~its direction~~. Books for the library may be acquired by purchase
 395 or by exchange. The library may be located in a building other
 396 than the Supreme Court Building.

397 Section 33. Section 25.351, Florida Statutes, is repealed.

398 Section 34. Section 25.375, Florida Statutes, is amended
 399 to read:

400 25.375 Identification of related cases.—The Supreme Courts
 401 ~~Court~~ may create a unique identifier for each person by which to
 402 identify all court cases related to that person or his or her
 403 family previously or currently in the court system. The unique
 404 identifier must be the same for that person in any court case.
 405 To create the unique identifier, the court may collect a portion
 406 of the person's social security number or other personal
 407 identification information, such as the person's date of birth.
 408 Failure to provide a social security number for this purpose may
 409 not be grounds to deny any services, rights, or remedies
 410 otherwise provided by law. To implement a unique identifier, the
 411 Courts ~~Supreme Court~~ may require the revision of only those
 412 information technology systems that are directly operated and
 413 funded by the state court system.

414 Section 35. Section 25.382, Florida Statutes, is amended
 415 to read:

416 25.382 State courts system.—

417 (1) As used in this section, "state courts system" means
 418 all officers, employees, and divisions of the Supreme Court of

419 Civil Appeals, the Supreme Court of Criminal Appeals, district
 420 courts of appeal, circuit courts, and county courts.

421 (2) It is declared and determined that the officers,
 422 employees, committees, and divisions of the state courts system
 423 of the judicial branch are and shall continue to be officers,
 424 employees, committees, and divisions of the state courts system
 425 to perform such services as may be provided by the State
 426 Constitution, by law, by rules of practice and procedure adopted
 427 by either ~~the~~ Supreme Court, or by administrative order of
 428 either ~~the~~ Chief Justice, whichever is applicable.

429 (3) The manner of selection of employees, the
 430 determination of qualifications and compensation, and the
 431 establishment of policies relating to the work of such
 432 employees, including hours of work, leave, and other matters,
 433 shall be determined by ~~rule of the Supreme Courts Court as~~
 434 ~~provided in s. 2(a), Art. V of the State Constitution.~~

435 (4) The Supreme Courts ~~Court~~ shall ensure that clearly
 436 written policies, procedures, and goals for the recruitment,
 437 selection, promotion, and retention of minorities, including
 438 minority women, are established throughout all levels of the
 439 judicial system. An annual report shall be submitted to the
 440 Supreme Courts ~~Chief Justice~~ outlining progress, problems, and
 441 corrective actions relating to the implementation of this plan.

442 Section 36. Section 25.383, Florida Statutes, is amended
 443 to read:

444 25.383 Standards for court reporters; procedures; rules of
 445 professional conduct, discipline, and training.—The Supreme
 446 Court of Civil Appeals shall establish minimum standards and

447 procedures for qualifications, certification, discipline, and
 448 training for court reporters. The Supreme Court of Civil Appeals
 449 shall determine the amount of fees to charge applicants for
 450 certification and renewal of certification. Fees shall be set in
 451 an amount necessary to recover the full cost of administering
 452 the certification process. All proceeds from fees collected
 453 pursuant to this section shall be deposited into the
 454 Administrative Trust Fund within the state courts. The Supreme
 455 Court of Civil Appeals may appoint or employ such personnel as
 456 are necessary to assist the court in exercising its powers and
 457 performing its duties under this section.

458 Section 37. Section 25.384, Florida Statutes, is amended
 459 to read:

460 25.384 Court Education Trust Fund.—

461 (1) There is created a Court Education Trust Fund to be
 462 administered by the Supreme Court of Civil Appeals through the
 463 Florida Court Educational Council.

464 (2) (a) The trust fund moneys shall be used to provide
 465 education and training for judges and other court personnel as
 466 defined and determined by the Florida Court Educational Council.

467 (b) The Supreme Court of Civil Appeals, through its
 468 Florida Court Educational Council, shall adopt a comprehensive
 469 plan for the operation of the trust fund and the expenditure of
 470 the moneys deposited in the trust fund. The plan shall provide
 471 for travel, per diem, tuition, educational materials, and other
 472 related costs incurred for educational programs, in and out of
 473 state, which will be of benefit to the judiciary of the state.

474 (3) The trust fund shall be funded with moneys generated

475 from fees assessed pursuant to ss. 28.241(1) and 28.2401(3).

476 (4) The Supreme Court of Civil Appeals, through the
 477 Florida Court Educational Council, shall submit a report each
 478 year, on October 1, to the President of the Senate and the
 479 Speaker of the House of Representatives, which report shall
 480 include the total number of judges and other court personnel
 481 attending each training or educational program, the educational
 482 program attended and the location of the program, and the costs
 483 incurred. In addition, the report shall identify the judges and
 484 other court personnel attending out-of-state programs and the
 485 costs associated with such programs. The report shall also show
 486 the total dollars deposited in the fund for the fiscal year and
 487 the balance at the end of the fiscal year.

488 Section 38. Section 25.386, Florida Statutes, is amended
 489 to read:

490 25.386 Foreign language court interpreters.—The Supreme
 491 Court of Civil Appeals shall establish minimum standards and
 492 procedures for qualifications, certification, professional
 493 conduct, discipline, and training of foreign language court
 494 interpreters who are appointed by a court of competent
 495 jurisdiction. The Supreme Court of Civil Appeals shall set fees
 496 to be charged to applicants for certification and renewal of
 497 certification as a foreign language court interpreter. The
 498 revenues generated from such fees shall be used to offset the
 499 costs of administration of the certification program and shall
 500 be deposited into the Administrative Trust Fund within the state
 501 courts system. The Supreme Court of Civil Appeals may appoint or
 502 employ such personnel as are necessary to assist the court in

503 administering this section.

504 Section 39. Paragraph (a) of subsection (3) of section
505 26.55, Florida Statutes, is amended to read:

506 26.55 Conference of Circuit Judges of Florida; duties and
507 reports.—

508 (3) (a) It is declared to be the responsibility of the
509 conference to:

510 1. Consider and make recommendations concerning the
511 betterment of the judicial system of the state and its various
512 parts;

513 2. Consider and make recommendations concerning the
514 improvement of rules and methods of procedure and practice in
515 the several courts; and

516 3. Report to each ~~the~~ Supreme Court such findings and
517 recommendations as the conference may have with reference
518 thereto.

519 Section 40. Section 26.57, Florida Statutes, is amended to
520 read:

521 26.57 Temporary designation of county court judge to
522 preside over circuit court cases.—A county court judge may be
523 designated on a temporary basis to preside over circuit court
524 cases by the Chief Justice of either ~~the~~ Supreme Court upon
525 recommendation of the chief judge of the circuit. He or she may
526 be assigned to exercise all county and circuit court
527 jurisdiction in the county, except appeals from the county
528 court. In addition, he or she may be required to perform the
529 duties of circuit judge in other counties of the circuit as time
530 may permit and as the need arises, as determined by the chief

531 judge of the circuit. A county court judge designated to preside
 532 over circuit court cases shall receive the same salary as a
 533 circuit court judge, to the extent that funds are specifically
 534 appropriated by law for such purposes.

535 Section 41. Section 27.05, Florida Statutes, is amended to
 536 read:

537 27.05 Assisting Attorney General.—In addition to the
 538 duties now imposed upon the several state attorneys of this
 539 state, by statute, they shall assist the Attorney General in the
 540 preparation and presentation of all appeals to the appropriate
 541 Supreme Court, from the circuit court of their respective
 542 circuits, of all cases, civil or criminal, in which the state is
 543 a party.

544 Section 42. Subsections (1) and (2) of section 27.14,
 545 Florida Statutes, are amended to read:

546 27.14 Assigning state attorneys to other circuits.—

547 (1) If any state attorney is disqualified to represent the
 548 state in any investigation, case, or matter pending in the
 549 courts of his or her circuit or if, for any other good and
 550 sufficient reason, the Governor determines that the ends of
 551 justice would be best served, the Governor may, by executive
 552 order filed with the Department of State, either order an
 553 exchange of circuits or of courts between such state attorney
 554 and any other state attorney or order an assignment of any state
 555 attorney to discharge the duties of the state attorney with
 556 respect to one or more specified investigations, cases, or
 557 matters, specified in general in the executive order of the
 558 Governor. Any exchange or assignment of any state attorney to a

559 particular circuit shall expire 12 months after the date of
 560 issuance, unless an extension is approved by order of the
 561 Supreme Court of Criminal Appeals upon application of the
 562 Governor showing good and sufficient cause to extend such
 563 exchange or assignment.

564 (2) If the statewide prosecutor in charge of the Office of
 565 Statewide Prosecution determines that he or she is not qualified
 566 to represent the state in any investigation, case, or matter
 567 pending in the courts of the state or if a court of competent
 568 jurisdiction disqualifies him or her from representing the
 569 state, the Governor may, by executive order filed with the
 570 Department of State, order an assignment of any state attorney
 571 to discharge the duties of such prosecutor with respect to one
 572 or more specified investigations, cases, or matters, generally
 573 described in the order. The assignment of any state attorney
 574 shall expire 12 months after the date of issuance, unless an
 575 extension is approved by order of the Supreme Court of Criminal
 576 Appeals upon application of the Governor showing good and
 577 sufficient cause to extend such assignment.

578 Section 43. Subsection (1) of section 27.151, Florida
 579 Statutes, is amended to read:

580 27.151 Confidentiality of specified executive orders;
 581 criteria.—

582 (1) If the Governor provides in an executive order issued
 583 pursuant to s. 27.14 or s. 27.15 that the order or a portion
 584 thereof is confidential, the order or portion so designated, the
 585 application of the Governor to the Supreme Court of Criminal
 586 Appeals and all proceedings thereon, and the order of the

587 Supreme Court of Criminal Appeals shall be confidential and
 588 exempt from the provisions of s. 119.07(1).

589 Section 44. Paragraph (d) of subsection (3) of section
 590 27.40, Florida Statutes, is amended to read:

591 27.40 Court-appointed counsel; circuit registries; minimum
 592 requirements; appointment by court.-

593 (3) In utilizing a registry:

594 (d) Quarterly, each chief judge shall provide a current
 595 copy of each registry to the Chief Justice of each ~~the~~ Supreme
 596 Court, the state attorney and public defender in each judicial
 597 circuit, the office of criminal conflict and civil regional
 598 counsel, the clerk of court in each county, and the Justice
 599 Administrative Commission. From October 1, 2005, through
 600 September 30, 2007, the report submitted by the Eleventh
 601 Judicial Circuit shall include the race, gender, and national
 602 origin of all attorneys listed in and appointed under the
 603 registry.

604 Section 45. Subsection (2) of section 27.405, Florida
 605 Statutes, is amended to read:

606 27.405 Court-appointed counsel; Justice Administrative
 607 Commission tracking and reporting.-

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

615 Justice of each ~~the~~ Supreme Court, the President of the Senate,
 616 and the Speaker of the House of Representatives.

617 Section 46. Paragraph (e) of subsection (1) and paragraph
 618 (a) of subsection (5) of section 27.51, Florida Statutes, is
 619 amended to read:

620 27.51 Duties of public defender.—

621 (1) The public defender shall represent, without
 622 additional compensation, any person determined to be indigent
 623 under s. 27.52 and:

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

626 (5)(a) When direct appellate proceedings prosecuted by a
 627 public defender on behalf of an accused and challenging a
 628 judgment of conviction and sentence of death terminate in an
 629 affirmance of such conviction and sentence, whether by the
 630 Florida Supreme Court of Criminal Appeals or by the United
 631 States Supreme Court or by expiration of any deadline for filing
 632 such appeal in a state or federal court, the public defender
 633 shall notify the accused of his or her rights pursuant to Rule
 634 3.850, Florida Rules of Criminal Procedure, including any time
 635 limits pertinent thereto, and shall advise such person that
 636 representation in any collateral proceedings is the
 637 responsibility of the capital collateral regional counsel. The
 638 public defender shall then forward all original files on the
 639 matter to the capital collateral regional counsel, retaining
 640 such copies for his or her files as may be desired. However, the
 641 trial court shall retain the power to appoint the public
 642 defender or other attorney not employed by the capital

643 collateral regional counsel to represent such person in
 644 proceedings for relief by executive clemency pursuant to ss.
 645 27.40 and 27.5303.

646 Section 47. Paragraph (e) of subsection (5) and subsection
 647 (9) of section 27.511, Florida Statutes, is amended to read:

648 27.511 Offices of criminal conflict and civil regional
 649 counsel; legislative intent; qualifications; appointment;
 650 duties.—

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

662 (e) Convicted and sentenced to death, for purposes of
 663 handling an appeal to the Supreme Court of Criminal Appeals;

664 (9) When direct appellate proceedings prosecuted by the
 665 office of criminal conflict and civil regional counsel on behalf
 666 of an accused and challenging a judgment of conviction and
 667 sentence of death terminate in an affirmance of such conviction
 668 and sentence, whether by the Supreme Court of Criminal Appeals
 669 or by the United States Supreme Court or by expiration of any
 670 deadline for filing such appeal in a state or federal court, the

671 office of criminal conflict and civil regional counsel shall
 672 notify the accused of his or her rights pursuant to Rule 3.850,
 673 Florida Rules of Criminal Procedure, including any time limits
 674 pertinent thereto, and shall advise such person that
 675 representation in any collateral proceedings is the
 676 responsibility of the capital collateral regional counsel. The
 677 office of criminal conflict and civil regional counsel shall
 678 forward all original files on the matter to the capital
 679 collateral regional counsel, retaining such copies for his or
 680 her files as may be desired or required by law. However, the
 681 trial court shall retain the power to appoint the office of
 682 criminal conflict and civil regional counsel or other attorney
 683 not employed by the capital collateral regional counsel to
 684 represent such person in proceedings for relief by executive
 685 clemency pursuant to ss. 27.40 and 27.5303.

686 Section 48. Subsection (2) of section 27.512, Florida
 687 Statutes, is amended to read:

688 27.512 Order of no imprisonment.—

689 (2) The form and contents of an order of no imprisonment
 690 shall be determined by court rules ~~adopted by the Supreme Court.~~

691 Section 49. Subsection (1) of section 27.52, Florida
 692 Statutes, is amended to read:

693 27.52 Determination of indigent status.—

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

699 approval by the Supreme Court of Criminal Appeals.

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

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

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

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

714 4. All liabilities and debts.

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

718

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

725 (b) An applicant shall pay a \$50 application fee to the
726 clerk for each application for court-appointed counsel filed.

727 The applicant shall pay the fee within 7 days after submitting
 728 the application. If the applicant does not pay the fee prior to
 729 the disposition of the case, the clerk shall notify the court,
 730 and the court shall:

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

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

734 (c) Notwithstanding any provision of law, court rule, or
 735 administrative order, the clerk shall assign the first \$50 of
 736 any fees or costs paid by an indigent person as payment of the
 737 application fee. A person found to be indigent may not be
 738 refused counsel or other required due process services for
 739 failure to pay the fee.

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

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

753 2. If the person seeking appointment of a public defender
 754 is incarcerated, the public defender is responsible for

755 providing the application to the person and assisting him or her
 756 in its completion and is responsible for submitting the
 757 application to the clerk on the person's behalf. The public
 758 defender may enter into an agreement for jail employees,
 759 pretrial services employees, or employees of other criminal
 760 justice agencies to assist the public defender in performing
 761 functions assigned to the public defender under this
 762 subparagraph.

763 Section 50. Paragraph (a) of subsection (4) of section
 764 27.5303, Florida Statutes, is amended to read:

765 27.5303 Public defenders; criminal conflict and civil
 766 regional counsel; conflict of interest.—

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

774 Section 51. Paragraph (b) of subsection (5), subsection
 775 (9), and paragraph (f) of subsection (12) of section 27.5304,
 776 Florida Statutes, is amended to read:

777 27.5304 Private court-appointed counsel; compensation.—

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

780 (b) If a death sentence is imposed and affirmed on appeal
 781 to the Supreme Court of Criminal Appeals, the appointed attorney
 782 shall be allowed compensation, not to exceed \$1,000, for

783 attorney's fees and costs incurred in representing the defendant
 784 as to an application for executive clemency, with compensation
 785 to be paid out of general revenue from funds budgeted to the
 786 Department of Corrections.

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

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

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

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

797 (f) The Justice Administrative Commission shall provide to
 798 the Office of the State Courts Administrator data concerning the
 799 number of cases approved for compensation in excess of the
 800 limitation and the amount of these awards by circuit and by
 801 judge. The Office of the State Courts Administrator shall report
 802 the data quarterly to the President of the Senate, the Speaker
 803 of the House of Representatives, the Chief Justice of the
 804 Supreme Court of Criminal Appeals, and the chief judge of each
 805 circuit.

806 Section 52. Paragraph (a) of subsection (7) of section
 807 27.7081, Florida Statutes, is amended to read:

808 27.7081 Capital postconviction public records production.—

809 (7) (a) Within 180 days after a capital collateral regional
 810 counsel or private counsel is appointed to represent a defendant

811 sentenced to death, or within 30 days after issuance of the
 812 Florida Supreme Court of Criminal Appeals' ~~Court's~~ mandate
 813 affirming a death sentence, whichever is later, the regional
 814 counsel, private counsel, or other counsel who is a member of
 815 The Florida Bar and is authorized by such counsel representing a
 816 defendant may send a written demand for additional public
 817 records to each person or agency submitting public records under
 818 subsection (3) and to each person or agency identified as having
 819 information pertinent to the case under subsection (5). Should
 820 the written demand include requests for records associated with
 821 particular named individuals, the written demand shall also
 822 include a brief statement describing each named person's role in
 823 the case and relationship to the defendant. Race, sex, and date
 824 of birth shall also be included in the demand if the public
 825 defender, private counsel, or capital collateral regional
 826 counsel has such information. Each person or agency notified
 827 under this subsection shall, within 60 days after receipt of the
 828 written demand, deliver to the records repository or, if the
 829 records are confidential or exempt, to the clerk of the court in
 830 the county in which the capital case was tried any additional
 831 public records in the possession of the person or agency which
 832 pertain to the case and shall certify that to the best of his or
 833 her knowledge and belief all additional public records have been
 834 delivered or, if no additional public records are found, shall
 835 recertify that the public records previously delivered are
 836 complete.

837 Section 53. Subsection (2) of section 27.709, Florida
 838 Statutes, is amended to read:

839 27.709 Commission on Capital Cases.—

840 (2) (a) The commission shall review the administration of
 841 justice in capital collateral cases, receive relevant public
 842 input, review the operation of the capital collateral regional
 843 counsel and private counsel appointed pursuant to ss. 27.710 and
 844 27.711, and advise and make recommendations to the Governor,
 845 Legislature, and Supreme Court of Criminal Appeals.

846 (b) As part of its duties, the commission shall compile
 847 and analyze case-tracking reports produced by the Supreme Court
 848 of Criminal Appeals. In analyzing these reports, the commission
 849 shall develop statistics to identify trends and changes in case
 850 management and case processing, identify and evaluate
 851 unproductive points of delay, and generally evaluate the way
 852 cases are progressing. The commission shall report these
 853 findings to the Legislature by January 1 of each year.

854 (c) In addition, the commission shall receive complaints
 855 regarding the practice of any office of regional counsel and
 856 private counsel appointed pursuant to ss. 27.710 and 27.711 and
 857 shall refer any complaint to The Florida Bar, the State Supreme
 858 Court of Civil Appeals, or the Commission on Ethics, as
 859 appropriate.

860 Section 54. Section 27.7091, Florida Statutes, is amended
 861 to read:

862 27.7091 Legislative recommendations to Supreme Court of
 863 Criminal Appeals; postconviction proceedings; pro bono service
 864 credit.—In the interest of promoting justice and integrity with
 865 respect to capital collateral representation, the Legislature
 866 recommends that the Supreme Court of Criminal Appeals:

867 (1) Adopt by rule the provisions of s. 924.055, which
 868 limit the time for postconviction proceedings in capital cases.

869 (2) Award pro bono service credit for time spent by an
 870 attorney in providing legal representation to an individual
 871 sentenced to death in this state, regardless of whether the
 872 attorney receives compensation for such representation.

873 Section 55. Subsection (1) of section 27.710, Florida
 874 Statutes, is amended to read:

875 27.710 Registry of attorneys applying to represent persons
 876 in postconviction capital collateral proceedings; certification
 877 of minimum requirements; appointment by trial court.—

878 (1) The executive director of the Commission on Capital
 879 Cases shall compile and maintain a statewide registry of
 880 attorneys in private practice who have certified that they meet
 881 the minimum requirements of s. 27.704(2), who are available for
 882 appointment by the court under this section to represent persons
 883 convicted and sentenced to death in this state in postconviction
 884 collateral proceedings, and who have attended within the last
 885 year a continuing legal education program of at least 10 hours'
 886 duration devoted specifically to the defense of capital cases,
 887 if available. Continuing legal education programs meeting the
 888 requirements of this rule offered by The Florida Bar or another
 889 recognized provider and approved for continuing legal education
 890 credit by The Florida Bar shall satisfy this requirement. The
 891 failure to comply with this requirement may be cause for removal
 892 from the list until the requirement is fulfilled. To ensure that
 893 sufficient attorneys are available for appointment by the court,
 894 when the number of attorneys on the registry falls below 50, the

895 executive director shall notify the chief judge of each circuit
 896 by letter and request the chief judge to promptly submit the
 897 names of at least three private attorneys who regularly practice
 898 criminal law in that circuit and who appear to meet the minimum
 899 requirements to represent persons in postconviction capital
 900 collateral proceedings. The executive director shall send an
 901 application to each attorney identified by the chief judge so
 902 that the attorney may register for appointment as counsel in
 903 postconviction capital collateral proceedings. As necessary, the
 904 executive director may also advertise in legal publications and
 905 other appropriate media for qualified attorneys interested in
 906 registering for appointment as counsel in postconviction capital
 907 collateral proceedings. Not later than September 1 of each year,
 908 and as necessary thereafter, the executive director shall
 909 provide to the Chief Justice of the Supreme Court of Criminal
 910 Appeals, the chief judge and state attorney in each judicial
 911 circuit, and the Attorney General a current copy of its registry
 912 of attorneys who are available for appointment as counsel in
 913 postconviction capital collateral proceedings. The registry must
 914 be indexed by judicial circuit and must contain the requisite
 915 information submitted by the applicants in accordance with this
 916 section.

917 Section 56. Paragraph (c) of subsection (1) and paragraphs
 918 (d), (e), and (f) of subsection (4) of section 27.711, Florida
 919 Statutes, are amended to read:

920 27.711 Terms and conditions of appointment of attorneys as
 921 counsel in postconviction capital collateral proceedings.—

922 (1) As used in s. 27.710 and this section, the term:

923 (c) "Postconviction capital collateral proceedings" means
924 one series of collateral litigation of an affirmed conviction
925 and sentence of death, including the proceedings in the trial
926 court that imposed the capital sentence, any appellate review of
927 the sentence by the Supreme Court of Criminal Appeals, any
928 certiorari review of the sentence by the United States Supreme
929 Court, and any authorized federal habeas corpus litigation with
930 respect to the sentence. The term does not include repetitive or
931 successive collateral challenges to a conviction and sentence of
932 death which is affirmed by the Supreme Court of Criminal Appeals
933 and undisturbed by any collateral litigation.

934 (4) Upon approval by the trial court, an attorney
935 appointed to represent a capital defendant under s. 27.710 is
936 entitled to payment of the following fees by the Chief Financial
937 Officer:

938 (d) The attorney is entitled to \$100 per hour, up to a
939 maximum of \$20,000, after timely filing in the Supreme Court of
940 Criminal Appeals the capital defendant's brief or briefs that
941 address the trial court's final order granting or denying the
942 capital defendant's motion for postconviction relief and the
943 state petition for writ of habeas corpus.

944 (e) The attorney is entitled to \$100 per hour, up to a
945 maximum of \$10,000, after the trial court issues an order,
946 pursuant to a remand from the Supreme Court of Criminal Appeals,
947 which directs the trial court to hold further proceedings on the
948 capital defendant's motion for postconviction relief.

949 (f) The attorney is entitled to \$100 per hour, up to a
950 maximum of \$4,000, after the appeal of the trial court's denial

951 of the capital defendant's motion for postconviction relief and
 952 the capital defendant's state petition for writ of habeas corpus
 953 become final in the Supreme Court of Criminal Appeals.

954
 955 The hours billed by a contracting attorney under this subsection
 956 may include time devoted to representation of the defendant by
 957 another attorney who is qualified under s. 27.710 and who has
 958 been designated by the contracting attorney to assist him or
 959 her.

960 Section 57. Section 28.22205, Florida Statutes, is amended
 961 to read:

962 28.22205 Electronic filing process.—Each clerk of court
 963 shall implement an electronic filing process. The purpose of the
 964 electronic filing process is to reduce judicial costs in the
 965 office of the clerk and the judiciary, increase timeliness in
 966 the processing of cases, and provide the judiciary with case-
 967 related information to allow for improved judicial case
 968 management. The Legislature requests that, no later than July 1,
 969 2009, the Supreme Court of Civil Appeals set statewide standards
 970 for electronic filing to be used by the clerks of court to
 971 implement electronic filing. The standards should specify the
 972 required information for the duties of the clerks of court and
 973 the judiciary for case management. The clerks of court shall
 974 begin implementation no later than October 1, 2009. The Florida
 975 Clerks of Court Operations Corporation shall report to the
 976 President of the Senate and the Speaker of the House of
 977 Representatives by March 1, 2010, on the status of implementing
 978 electronic filing. The report shall include the detailed status

979 of each clerk office's implementation of an electronic filing
 980 process, and for those clerks who have not fully implemented
 981 electronic filing by March 1, 2010, a description of the
 982 additional steps needed and a projected timeline for full
 983 implementation. Revenues provided to counties and the clerk of
 984 court under s. 28.24(12)(e) for information technology may also
 985 be used to implement electronic filing processes.

986 Section 58. Subsection (2) of section 28.241, Florida
 987 Statutes, is amended to read:

988 28.241 Filing fees for trial and appellate proceedings.—

989 (2) Upon the institution of any appellate proceeding from
 990 any lower court to the circuit court of any such county,
 991 including appeals filed by a county or municipality as provided
 992 in s. 34.041(5), or from the circuit court to an appellate court
 993 of the state, the clerk shall charge and collect from the party
 994 or parties instituting such appellate proceedings a filing fee
 995 not to exceed \$280 for filing a notice of appeal from the county
 996 court to the circuit court and, in addition to the filing fee
 997 required under s. 25.241 or s. 35.22, \$100 for filing a notice
 998 of appeal from the circuit court to the district court of appeal
 999 or to either ~~the~~ Supreme Court. If the party is determined to be
 1000 indigent, the clerk shall defer payment of the fee. The clerk
 1001 shall remit the first \$80 to the Department of Revenue for
 1002 deposit into the General Revenue Fund.

1003 Section 59. Paragraph (b) of subsection (1), paragraph (d)
 1004 of subsection (2), and paragraph (b) of subsection (5) of
 1005 section 28.35, Florida Statutes, is amended to read:

1006 28.35 Florida Clerks of Court Operations Corporation.—

1007 (1)
 1008 (b) The executive council shall be composed of eight
 1009 clerks of the court elected by the clerks of the courts for a
 1010 term of 2 years, with two clerks from counties with a population
 1011 of fewer than 100,000, two clerks from counties with a
 1012 population of at least 100,000 but fewer than 500,000, two
 1013 clerks from counties with a population of at least 500,000 but
 1014 fewer than 1 million, and two clerks from counties with a
 1015 population of more than 1 million. The executive council shall
 1016 also include, as ex officio members, a designee of the President
 1017 of the Senate and a designee of the Speaker of the House of
 1018 Representatives. The Chief Justice of the Supreme Court of Civil
 1019 Appeals shall designate one additional member to represent the
 1020 state courts system.

1021 (2) The duties of the corporation shall include the
 1022 following:

1023 (d) Developing and certifying a uniform system of
 1024 performance measures and applicable performance standards for
 1025 the functions specified in paragraph (3)(a) and the service unit
 1026 costs required in s. 28.36 and measures for clerk performance in
 1027 meeting the performance standards. These measures and standards
 1028 shall be designed to facilitate an objective determination of
 1029 the performance of each clerk in accordance with minimum
 1030 standards for fiscal management, operational efficiency, and
 1031 effective collection of fines, fees, service charges, and court
 1032 costs. The corporation shall develop the performance measures
 1033 and performance standards in consultation with the Legislature
 1034 and each ~~the~~ Supreme Court. The Legislature may modify the clerk

1035 performance measures and performance standards in legislation
 1036 implementing the General Appropriations Act or other law. When
 1037 the corporation finds a clerk has not met the performance
 1038 standards, the corporation shall identify the nature of each
 1039 deficiency and any corrective action recommended and taken by
 1040 the affected clerk of the court. The corporation shall notify
 1041 the Legislature and each ~~the~~ Supreme Court of any clerk not
 1042 meeting performance standards and provide a copy of any
 1043 corrective action plans.

1044 (5)

1045 (b) Certified public accountants conducting audits of
 1046 counties pursuant to s. 218.39 shall report, as part of the
 1047 audit, whether or not the clerks of the courts have complied
 1048 with the requirements of this section and s. 28.36. In addition,
 1049 each clerk of court shall forward a copy of the portion of the
 1050 financial audit relating to the court-related duties of the
 1051 clerk of court to each ~~the~~ Supreme Court. The Auditor General
 1052 shall develop a compliance supplement for the audit of
 1053 compliance with the budgets and applicable performance standards
 1054 certified by the corporation.

1055 Section 60. Subsections (1), (4), (5), (7), and (8) of
 1056 section 28.36, Florida Statutes, are amended to read:

1057 28.36 Budget procedure.—There is established a budget
 1058 procedure for preparing budget requests for funding for the
 1059 court-related functions of the clerks of the court.

1060 (1) Each clerk of court shall prepare a budget request for
 1061 the last quarter of the county fiscal year and the first three
 1062 quarters of the next county fiscal year. The proposed budget

1063 shall be prepared, summarized, and submitted by the clerk in
 1064 each county to the Florida Clerks of Court Operations
 1065 Corporation in the manner and form prescribed by the corporation
 1066 to meet the requirements of law. Each clerk shall forward a copy
 1067 of his or her budget request to the Supreme Courts ~~Court~~. The
 1068 budget requests must be provided to the corporation by October 1
 1069 of each year.

1070 (4) The budget request must identify the service units to
 1071 be provided within each core service. The service units shall be
 1072 developed by the corporation, in consultation with the Supreme
 1073 Courts ~~Court~~, the Chief Financial Officer, and the
 1074 appropriations committees of the Senate and the House of
 1075 Representatives.

1076 (5) The budget request must propose a unit cost for each
 1077 service unit. The corporation shall provide a copy of each
 1078 clerk's budget request to the Supreme Courts ~~Court~~.

1079 (7) The corporation shall complete its review and
 1080 adjustments to the clerks' budget requests and make its
 1081 recommendations to the Legislature and the Supreme Courts ~~Court~~
 1082 by December 1 each year.

1083 (8) The Chief Financial Officer shall review the proposed
 1084 unit costs associated with each clerk of court's budget request
 1085 and make recommendations to the Legislature. The Chief Financial
 1086 Officer may conduct any audit of the corporation or a clerk of
 1087 court as authorized by law. The Chief Justice of the Supreme
 1088 Courts ~~Court~~ may request an audit of the corporation or any
 1089 clerk of court by the Chief Financial Officer.

1090 Section 61. Subsection (1) of section 29.001, Florida
 1091 Statutes, is amended to read:

1092 29.001 State courts system elements and definitions.—

1093 (1) For the purpose of implementing s. 14, Art. V of the
 1094 State Constitution, the state courts system is defined to
 1095 include the enumerated elements of each ~~the~~ Supreme Court,
 1096 district courts of appeal, circuit courts, county courts, and
 1097 certain supports thereto. The offices of public defenders and
 1098 state attorneys are defined to include the enumerated elements
 1099 of the 20 state attorneys' offices and the enumerated elements
 1100 of the 20 public defenders' offices and five offices of criminal
 1101 conflict and civil regional counsel. Court-appointed counsel are
 1102 defined to include the enumerated elements for counsel appointed
 1103 to ensure due process in criminal and civil proceedings in
 1104 accordance with state and federal constitutional guarantees.
 1105 Funding for the state courts system, the state attorneys'
 1106 offices, the public defenders' offices, the offices of criminal
 1107 conflict and civil regional counsel, and other court-appointed
 1108 counsel shall be provided from state revenues appropriated by
 1109 general law.

1110 Section 62. Subsection (4) of section 29.004, Florida
 1111 Statutes, is amended to read:

1112 29.004 State courts system.—For purposes of implementing
 1113 s. 14, Art. V of the State Constitution, the elements of the
 1114 state courts system to be provided from state revenues
 1115 appropriated by general law are as follows:

1116 (4) Construction or lease of facilities, maintenance,
 1117 utilities, and security for the district courts of appeal and

1118 each ~~the~~ Supreme Court.

1119 Section 63. Paragraph (a) of subsection (1) of section
1120 30.15, Florida Statutes, is amended to read:

1121 30.15 Powers, duties, and obligations.—

1122 (1) Sheriffs, in their respective counties, in person or
1123 by deputy, shall:

1124 (a) Execute all process of either ~~the~~ Supreme Court,
1125 circuit courts, county courts, and boards of county
1126 commissioners of this state, to be executed in their counties.

1127 Section 64. Subsection (3) of section 34.01, Florida
1128 Statutes, is amended to read:

1129 34.01 Jurisdiction of county court.—

1130 (3) Judges of county courts shall also be committing trial
1131 court judges. Judges of county courts shall be coroners unless
1132 otherwise provided by law or by court rule ~~of the Supreme Court~~.

1133 Section 65. Subsection (1) of section 34.181, Florida
1134 Statutes, is amended to read:

1135 34.181 Branch courts.—

1136 (1) Any municipality or county may apply to the chief
1137 judge of the circuit in which the municipality or county is
1138 situated for the county court to sit in a location suitable to
1139 the municipality or county and convenient in time and place to
1140 its citizens and police officers, and upon such application said
1141 chief judge shall direct the court to sit in the location unless
1142 he or she shall determine the request is not justified. If the
1143 chief judge does not authorize the county court to sit in the
1144 location requested, the county or municipality may apply to the
1145 Supreme Court of Civil Appeals for an order directing the county

1146 court to sit in such location.

1147 Section 66. Section 35.07, Florida Statutes, is amended to
1148 read:

1149 35.07 Power to make rules and regulations.—Subject to the
1150 administrative powers ~~power~~ of the Supreme Courts a ~~Supreme~~
1151 ~~Court to make rules of practice and procedure,~~ the district
1152 courts of appeal may make such regulations as necessary for the
1153 internal government of the court.

1154 Section 67. Section 35.28, Florida Statutes, is amended to
1155 read:

1156 35.28 District courts of appeal libraries.—The library of
1157 each of the district courts of appeal and its custodian shall be
1158 provided for by court rule ~~of the Supreme Court~~. Payment for
1159 books, equipment, supplies, and quarters as provided for in such
1160 rules shall be paid from funds appropriated for the district
1161 courts, on requisition drawn as provided by law.

1162 Section 68. Section 38.07, Florida Statutes, is amended to
1163 read:

1164 38.07 Effect of orders entered prior to disqualification;
1165 petition for reconsideration.—When orders have been entered in
1166 any cause by a judge prior to the entry of any order of
1167 disqualification under s. 38.02 or s. 38.05, any party to the
1168 cause may, within 30 days after the filing in the cause of the
1169 order of the chief judge of the circuit or the Chief Justice of
1170 either ~~the~~ Supreme Court, as provided for in s. 38.09, petition
1171 the judge so designated for a reconsideration of the orders
1172 entered by the disqualified judge prior to the date of the entry
1173 of the order of disqualification. Such a petition shall set

1174 forth with particularity the matters of law or fact to be relied
 1175 upon as grounds for the modification or vacation of the orders.
 1176 Such a petition shall be granted as a matter of right. Upon the
 1177 granting of the petition, notice of the time and place of the
 1178 hearing thereon, together with a copy of the petition, shall be
 1179 mailed by the attorney, or attorneys, of record for the
 1180 petitioners to the other attorney or attorneys of record, or to
 1181 the party or parties if they have no attorneys of record. This
 1182 notice shall be mailed at least 8 days prior to the date fixed
 1183 by the judge for the hearing. The judge before whom the cause is
 1184 then pending may, after the hearing, affirm, approve, confirm,
 1185 reenter, modify, or vacate the orders.

1186 Section 69. Subsection (1) of section 39.4075, Florida
 1187 Statutes, is amended to read:

1188 39.4075 Referral of a dependency case to mediation.—

1189 (1) At any stage in a dependency proceeding, any party may
 1190 request the court to refer the parties to mediation in
 1191 accordance with chapter 44 and rules and procedures developed by
 1192 the Supreme Court of Civil Appeals.

1193 Section 70. Paragraph (b) of subsection (3) of section
 1194 39.501, Florida Statutes, is amended to read:

1195 39.501 Petition for dependency.—

1196 (3)

1197 (b) The form of the petition and its contents shall be
 1198 determined by rules of juvenile procedure adopted by the Supreme
 1199 Court of Civil Appeals.

1200 Section 71. Subsection (1) of section 39.824, Florida
 1201 Statutes, is amended to read:

1202 39.824 Procedures and jurisdiction.—

1203 (1) The Supreme Court of Civil Appeals is requested to
 1204 adopt rules of juvenile procedure by October 1, 1989, to
 1205 implement this part. All procedures, including petitions,
 1206 pleadings, subpoenas, summonses, and hearings in cases for the
 1207 appointment of a guardian advocate shall be according to the
 1208 Florida Rules of Juvenile Procedure unless otherwise provided by
 1209 law.

1210 Section 72. Subsection (2) of section 39.8296, Florida
 1211 Statutes, is amended to read:

1212 39.8296 Statewide Guardian Ad Litem Office; legislative
 1213 findings and intent; creation; appointment of executive
 1214 director; duties of office.—

1215 (2) STATEWIDE GUARDIAN AD LITEM OFFICE.—There is created a
 1216 Statewide Guardian Ad Litem Office within the Justice
 1217 Administrative Commission. The Justice Administrative Commission
 1218 shall provide administrative support and service to the office
 1219 to the extent requested by the executive director within the
 1220 available resources of the commission. The Statewide Guardian Ad
 1221 Litem Office shall not be subject to control, supervision, or
 1222 direction by the Justice Administrative Commission in the
 1223 performance of its duties, but the employees of the office shall
 1224 be governed by the classification plan and salary and benefits
 1225 plan approved by the Justice Administrative Commission.

1226 (a) The head of the Statewide Guardian Ad Litem Office is
 1227 the executive director, who shall be appointed by the Governor
 1228 from a list of a minimum of three eligible applicants submitted
 1229 by a Guardian Ad Litem Qualifications Committee. The Guardian Ad

1230 Litem Qualifications Committee shall be composed of five
 1231 persons, two persons appointed by the Governor, two persons
 1232 appointed by the Chief Justice of the Supreme Court of Civil
 1233 Appeals, and one person appointed by the Statewide Guardian Ad
 1234 Litem Association. The committee shall provide for statewide
 1235 advertisement and the receiving of applications for the position
 1236 of executive director. The Governor shall appoint an executive
 1237 director from among the recommendations, or the Governor may
 1238 reject the nominations and request the submission of new
 1239 nominees. The executive director must have knowledge in
 1240 dependency law and knowledge of social service delivery systems
 1241 available to meet the needs of children who are abused,
 1242 neglected, or abandoned. The executive director shall serve on a
 1243 full-time basis and shall personally, or through representatives
 1244 of the office, carry out the purposes and functions of the
 1245 Statewide Guardian Ad Litem Office in accordance with state and
 1246 federal law. The executive director shall report to the
 1247 Governor. The executive director shall serve a 3-year term,
 1248 subject to removal for cause by the Governor. Any person
 1249 appointed to serve as the executive director may be permitted to
 1250 serve more than one term.

1251 (b) The Statewide Guardian Ad Litem Office shall, within
 1252 available resources, have oversight responsibilities for and
 1253 provide technical assistance to all guardian ad litem and
 1254 attorney ad litem programs located within the judicial circuits.

1255 1. The office shall identify the resources required to
 1256 implement methods of collecting, reporting, and tracking
 1257 reliable and consistent case data.

1258 2. The office shall review the current guardian ad litem
1259 programs in Florida and other states.

1260 3. The office, in consultation with local guardian ad
1261 litem offices, shall develop statewide performance measures and
1262 standards.

1263 4. The office shall develop a guardian ad litem training
1264 program. The office shall establish a curriculum committee to
1265 develop the training program specified in this subparagraph. The
1266 curriculum committee shall include, but not be limited to,
1267 dependency judges, directors of circuit guardian ad litem
1268 programs, active certified guardians ad litem, a mental health
1269 professional who specializes in the treatment of children, a
1270 member of a child advocacy group, a representative of the
1271 Florida Coalition Against Domestic Violence, and a social worker
1272 experienced in working with victims and perpetrators of child
1273 abuse.

1274 5. The office shall review the various methods of funding
1275 guardian ad litem programs, shall maximize the use of those
1276 funding sources to the extent possible, and shall review the
1277 kinds of services being provided by circuit guardian ad litem
1278 programs.

1279 6. The office shall determine the feasibility or
1280 desirability of new concepts of organization, administration,
1281 financing, or service delivery designed to preserve the civil
1282 and constitutional rights and fulfill other needs of dependent
1283 children.

1284 7. No later than October 1, 2004, the office shall submit
1285 to the Governor, the President of the Senate, the Speaker of the

1286 House of Representatives, and the Chief Justice of the Supreme
 1287 Court of Civil Appeals an interim report describing the progress
 1288 of the office in meeting the goals as described in this section.
 1289 No later than October 1, 2004, the office shall submit to the
 1290 Governor, the President of the Senate, the Speaker of the House
 1291 of Representatives, and the Chief Justice of the Supreme Court
 1292 of Civil Appeals a proposed plan including alternatives for
 1293 meeting the state's guardian ad litem and attorney ad litem
 1294 needs. This plan may include recommendations for less than the
 1295 entire state, may include a phase-in system, and shall include
 1296 estimates of the cost of each of the alternatives. Each year
 1297 thereafter, the office shall provide a status report and provide
 1298 further recommendations to address the need for guardian ad
 1299 litem services and related issues.

1300 Section 73. Section 40.001, Florida Statutes, is amended
 1301 to read:

1302 40.001 Chief judge; authority; duties.—The chief judge of
 1303 each judicial circuit is vested with overall authority and
 1304 responsibility for the management, operation, and oversight of
 1305 the jury system within his or her circuit. However, in
 1306 accordance with this chapter and chapter 905, the clerk of the
 1307 circuit court has specific responsibilities regarding the
 1308 processing of jurors, including, but not limited to,
 1309 qualifications, summons, selection lists, reporting, and
 1310 compensation of jurors. The clerk of the circuit court may
 1311 contract with the chief judge for the court's assistance in the
 1312 provision of services to process jurors. The chief judge may
 1313 also designate to the clerk of the circuit court additional

1314 duties consistent with established uniform standards of jury
 1315 management practices that the Supreme Court adopted by court
 1316 rule or issued through an ~~may adopt by rule or issue through~~
 1317 administrative order.

1318 Section 74. Section 40.225, Florida Statutes, is amended
 1319 to read:

1320 40.225 Drawing jury venire; alternative method.—

1321 (1) Whenever a majority of the judges authorized to
 1322 conduct jury trials in a county consents, the names of
 1323 prospective jurors and other data pertinent thereto may be fed
 1324 into a mechanical, electronic, or electrical device and drawn
 1325 therefrom as an alternative to other methods authorized by law
 1326 for obtaining jury venires, if such drawing is by lot and at
 1327 random and is approved by the Supreme Courts ~~Court~~ as
 1328 hereinafter provided.

1329 (2) When a majority of the trial judges authorizes the
 1330 alternative method of drawing a jury venire as provided in
 1331 subsection (1), the chief judge of the judicial circuit in which
 1332 the county is located shall make a certificate to that effect
 1333 and transmit the same to the Chief Justice of the Supreme Courts
 1334 ~~Court~~, together with a description of the equipment, methods,
 1335 and mode of operation to be used.

1336 (3) If the Supreme Courts find ~~The Chief Justice shall~~
 1337 ~~cause the certificate and data accompanying it to be presented~~
 1338 ~~to the justices of the Supreme Court. If the court finds that~~
 1339 the proposed method will produce venires selected by lot and at
 1340 random, is in compliance with all constitutional requirements of
 1341 jury selection, and is otherwise feasible and practicable, an

1342 order of approval of same shall be made and filed. Thereafter,
 1343 the alternative method so approved may be used in the county so
 1344 authorized.

1345 (4) The chief judge of the judicial circuit in which the
 1346 county is located shall supervise the use of such alternative
 1347 method whenever approval of same has been made by order of the
 1348 Supreme Courts ~~Court~~.

1349 (5) Nothing herein shall be construed as requiring uniform
 1350 equipment or methods throughout the state.

1351 Section 75. Subsection (3) of section 43.26, Florida
 1352 Statutes, is amended to read:

1353 43.26 Chief judge of circuit; selection; powers.—

1354 (3) The chief judge shall be responsible to the Chief
 1355 Justices of the Supreme Courts ~~Chief Justice of the Supreme~~
 1356 ~~Court~~ for such information as may be required by them ~~the Chief~~
 1357 ~~Justice~~, including, but not limited to, caseload, status of
 1358 dockets, and disposition of cases in the courts over which he or
 1359 she presides.

1360 Section 76. Section 43.30, Florida Statutes, is amended to
 1361 read:

1362 43.30 Divisions of court.—All courts except each ~~the~~
 1363 Supreme Court may sit in divisions as may be established by
 1364 local rule approved by the Supreme Court.

1365 Section 77. Subsections (1), (2) and (4) of section
 1366 44.102, Florida Statutes, are amended to read:

1367 44.102 Court-ordered mediation.—

1368 (1) Court-ordered mediation shall be conducted according
 1369 to rules of practice and procedure adopted by the Supreme Court

1370 of Civil Appeals.

1371 (2) A court, under rules adopted by the Supreme Court of
 1372 Civil Appeals:

1373 (a) Must, upon request of one party, refer to mediation
 1374 any filed civil action for monetary damages, provided the
 1375 requesting party is willing and able to pay the costs of the
 1376 mediation or the costs can be equitably divided between the
 1377 parties, unless:

1378 1. The action is a landlord and tenant dispute that does
 1379 not include a claim for personal injury.

1380 2. The action is filed for the purpose of collecting a
 1381 debt.

1382 3. The action is a claim of medical malpractice.

1383 4. The action is governed by the Florida Small Claims
 1384 Rules.

1385 5. The court determines that the action is proper for
 1386 referral to nonbinding arbitration under this chapter.

1387 6. The parties have agreed to binding arbitration.

1388 7. The parties have agreed to an expedited trial pursuant
 1389 to s. 45.075.

1390 8. The parties have agreed to voluntary trial resolution
 1391 pursuant to s. 44.104.

1392 (b) May refer to mediation all or any part of a filed
 1393 civil action for which mediation is not required under this
 1394 section.

1395 (c) In circuits in which a family mediation program has
 1396 been established and upon a court finding of a dispute, shall
 1397 refer to mediation all or part of custody, visitation, or other

1398 parental responsibility issues as defined in s. 61.13. Upon
 1399 motion or request of a party, a court shall not refer any case
 1400 to mediation if it finds there has been a history of domestic
 1401 violence that would compromise the mediation process.

1402 (d) In circuits in which a dependency or in need of
 1403 services mediation program has been established, may refer to
 1404 mediation all or any portion of a matter relating to dependency
 1405 or to a child in need of services or a family in need of
 1406 services.

1407 (4) The chief judge of each judicial circuit shall
 1408 maintain a list of mediators who have been certified by the
 1409 Supreme Court of Civil Appeals and who have registered for
 1410 appointment in that circuit.

1411 (a) Whenever possible, qualified individuals who have
 1412 volunteered their time to serve as mediators shall be appointed.
 1413 If a mediation program is funded pursuant to s. 44.108,
 1414 volunteer mediators shall be entitled to reimbursement pursuant
 1415 to s. 112.061 for all actual expenses necessitated by service as
 1416 a mediator.

1417 (b) Nonvolunteer mediators shall be compensated according
 1418 to rules adopted by the Supreme Court of Civil Appeals. If a
 1419 mediation program is funded pursuant to s. 44.108, a mediator
 1420 may be compensated by the county or by the parties.

1421 Section 78. Subsections (1), (2), (5), and (6) of section
 1422 44.103, Florida Statutes, are amended to read:

1423 44.103 Court-ordered, nonbinding arbitration.—

1424 (1) Court-ordered, nonbinding arbitration shall be
 1425 conducted according to the rules of practice and procedure

1426 adopted by the Supreme Court of Civil Appeals.

1427 (2) A court, pursuant to rules adopted by the Supreme
 1428 Court of Civil Appeals, may refer any contested civil action
 1429 filed in a circuit or county court to nonbinding arbitration.

1430 (5) The arbitration decision shall be presented to the
 1431 parties in writing. An arbitration decision shall be final if a
 1432 request for a trial de novo is not filed within the time
 1433 provided by rules promulgated by the Supreme Court of Civil
 1434 Appeals. The decision shall not be made known to the judge who
 1435 may preside over the case unless no request for trial de novo is
 1436 made as herein provided or unless otherwise provided by law. If
 1437 no request for trial de novo is made within the time provided,
 1438 the decision shall be referred to the presiding judge in the
 1439 case who shall enter such orders and judgments as are required
 1440 to carry out the terms of the decision, which orders shall be
 1441 enforceable by the contempt powers of the court, and for which
 1442 judgments execution shall issue on request of a party.

1443 (6) Upon motion made by either party within 30 days after
 1444 entry of judgment, the court may assess costs against the party
 1445 requesting a trial de novo, including arbitration costs, court
 1446 costs, reasonable attorney's fees, and other reasonable costs
 1447 such as investigation expenses and expenses for expert or other
 1448 testimony which were incurred after the arbitration hearing and
 1449 continuing through the trial of the case in accordance with the
 1450 guidelines for taxation of costs as adopted by the Supreme Court
 1451 of Civil Appeals. Such costs may be assessed if:

1452 (a) The plaintiff, having filed for a trial de novo,
 1453 obtains a judgment at trial which is at least 25 percent less

1454 than the arbitration award. In such instance, the costs and
 1455 attorney's fees pursuant to this section shall be set off
 1456 against the award. When the costs and attorney's fees pursuant
 1457 to this section total more than the amount of the judgment, the
 1458 court shall enter judgment for the defendant against the
 1459 plaintiff for the amount of the costs and attorney's fees, less
 1460 the amount of the award to the plaintiff. For purposes of a
 1461 determination under this paragraph, the term "judgment" means
 1462 the amount of the net judgment entered, plus all taxable costs
 1463 pursuant to the guidelines for taxation of costs as adopted by
 1464 the Supreme Court of Civil Appeals, plus any postarbitration
 1465 collateral source payments received or due as of the date of the
 1466 judgment, and plus any postarbitration settlement amounts by
 1467 which the verdict was reduced; or

1468 (b) The defendant, having filed for a trial de novo, has a
 1469 judgment entered against the defendant which is at least 25
 1470 percent more than the arbitration award. For purposes of a
 1471 determination under this paragraph, the term "judgment" means
 1472 the amount of the net judgment entered, plus any postarbitration
 1473 settlement amounts by which the verdict was reduced.

1474 Section 79. Subsection (13) of section 44.104, Florida
 1475 Statutes, is amended to read:

1476 44.104 Voluntary binding arbitration and voluntary trial
 1477 resolution.—

1478 (13) If no appeal is taken within the time provided by
 1479 rules promulgated by the Supreme Court of Civil Appeals, then
 1480 the decision shall be referred to the presiding judge in the
 1481 case, or if one has not been assigned, then to the chief judge

1482 of the circuit for assignment to a circuit judge, who shall
 1483 enter such orders and judgments as are required to carry out the
 1484 terms of the decision, which orders shall be enforceable by the
 1485 contempt powers of the court and for which judgments execution
 1486 shall issue on request of a party.

1487 Section 80. Section 44.106, Florida Statutes, is amended
 1488 to read:

1489 44.106 Standards and procedures for mediators and
 1490 arbitrators; fees.—The Supreme Court of Civil Appeals shall
 1491 establish minimum standards and procedures for qualifications,
 1492 certification, professional conduct, discipline, and training
 1493 for mediators and arbitrators who are appointed pursuant to this
 1494 chapter. The Supreme Court of Civil Appeals is authorized to set
 1495 fees to be charged to applicants for certification and renewal
 1496 of certification. The revenues generated from these fees shall
 1497 be used to offset the costs of administration of the
 1498 certification process. The Supreme Court of Civil Appeals may
 1499 appoint or employ such personnel as are necessary to assist the
 1500 court in exercising its powers and performing its duties under
 1501 this chapter.

1502 Section 81. Section 44.107, Florida Statutes, is amended
 1503 to read:

1504 44.107 Immunity for arbitrators, mediators, and mediator
 1505 trainees.—

1506 (1) Arbitrators serving under s. 44.103 or s. 44.104,
 1507 mediators serving under s. 44.102, and trainees fulfilling the
 1508 mentorship requirements for certification by the Supreme Court
 1509 of Civil Appeals as a mediator shall have judicial immunity in

1510 the same manner and to the same extent as a judge.

1511 (2) A person serving as a mediator in any noncourt-ordered

1512 mediation shall have immunity from liability arising from the

1513 performance of that person's duties while acting within the

1514 scope of the mediation function if such mediation is:

1515 (a) Required by statute or agency rule or order;

1516 (b) Conducted under ss. 44.401-44.406 by express agreement

1517 of the mediation parties; or

1518 (c) Facilitated by a mediator certified by the Supreme

1519 Court of Civil Appeals, unless the mediation parties expressly

1520 agree not to be bound by ss. 44.401-44.406.

1521

1522 The mediator does not have immunity if he or she acts in bad

1523 faith, with malicious purpose, or in a manner exhibiting wanton

1524 and willful disregard of human rights, safety, or property.

1525 (3) A person serving under s. 44.106 to assist the Supreme

1526 Court of Civil Appeals in performing its disciplinary function

1527 shall have absolute immunity from liability arising from the

1528 performance of that person's duties while acting within the

1529 scope of that person's appointed function.

1530 Section 82. Subsection (1) of section 44.108, Florida

1531 Statutes, is amended to read:

1532 44.108 Funding of mediation and arbitration.—

1533 (1) Mediation and arbitration should be accessible to all

1534 parties regardless of financial status. A filing fee of \$1 is

1535 levied on all proceedings in the circuit or county courts to

1536 fund mediation and arbitration services which are the

1537 responsibility of the Supreme Court of Civil Appeals pursuant to

1538 the provisions of s. 44.106. The clerk of the court shall
 1539 forward the moneys collected to the Department of Revenue for
 1540 deposit in the state courts' Mediation and Arbitration Trust
 1541 Fund.

1542 Section 83. Paragraph (c) of subsection (1) of section
 1543 44.402, Florida Statutes, is amended to read:

1544 44.402 Scope.—

1545 (1) Except as otherwise provided, ss. 44.401-44.406 apply
 1546 to any mediation:

1547 (c) Facilitated by a mediator certified by the Supreme
 1548 Court of Civil Appeals, unless the mediation parties expressly
 1549 agree not to be bound by ss. 44.401-44.406.

1550 Section 84. Subsection (1) of section 57.082, Florida
 1551 Statutes, is amended to read:

1552 57.082 Determination of civil indigent status.—

1553 (1) APPLICATION TO THE CLERK.—A person seeking appointment
 1554 of an attorney in a civil case eligible for court-appointed
 1555 counsel, or seeking relief from payment of filing fees and
 1556 prepayment of costs under s. 57.081, based upon an inability to
 1557 pay must apply to the clerk of the court for a determination of
 1558 civil indigent status using an application form developed by the
 1559 Florida Clerks of Court Operations Corporation with final
 1560 approval by the Supreme Court of Civil Appeals.

1561 (a) The application must include, at a minimum, the
 1562 following financial information:

1563 1. Net income, consisting of total salary and wages, minus
 1564 deductions required by law, including court-ordered support
 1565 payments.

1566 2. Other income, including, but not limited to, social
 1567 security benefits, union funds, veterans' benefits, workers'
 1568 compensation, other regular support from absent family members,
 1569 public or private employee pensions, unemployment compensation,
 1570 dividends, interest, rent, trusts, and gifts.

1571 3. Assets, including, but not limited to, cash, savings
 1572 accounts, bank accounts, stocks, bonds, certificates of deposit,
 1573 equity in real estate, and equity in a boat or a motor vehicle
 1574 or in other tangible property.

1575 4. All liabilities and debts.

1576
 1577 The application must include a signature by the applicant which
 1578 attests to the truthfulness of the information provided. The
 1579 application form developed by the corporation must include
 1580 notice that the applicant may seek court review of a clerk's
 1581 determination that the applicant is not indigent, as provided in
 1582 this section.

1583 (b) The clerk shall assist a person who appears before the
 1584 clerk and requests assistance in completing the application, and
 1585 the clerk shall notify the court if a person is unable to
 1586 complete the application after the clerk has provided
 1587 assistance.

1588 (c) The clerk shall accept an application that is signed
 1589 by the applicant and submitted on his or her behalf by a private
 1590 attorney who is representing the applicant in the applicable
 1591 matter.

1592 (d) A person who seeks appointment of an attorney in a
 1593 proceeding under chapter 39, at shelter hearings or during the

1594 adjudicatory process, during the judicial review process, upon
 1595 the filing of a petition to terminate parental rights, or upon
 1596 the filing of any appeal, or if the person seeks appointment of
 1597 an attorney in a reopened proceeding, for which an indigent
 1598 person is eligible for court-appointed representation must pay a
 1599 \$50 application fee to the clerk for each application filed. A
 1600 person is not required to pay more than one application fee per
 1601 case. However, an appeal or the reopening of a proceeding shall
 1602 be deemed to be a distinct case. The applicant must pay the fee
 1603 within 7 days after submitting the application. If the applicant
 1604 has not paid the fee within 7 days, the court shall enter an
 1605 order requiring payment, and the clerk shall pursue collection
 1606 under s. 28.246. The clerk shall transfer monthly all
 1607 application fees collected under this paragraph to the
 1608 Department of Revenue for deposit into the Indigent Civil
 1609 Defense Trust Fund, to be used as appropriated by the
 1610 Legislature. The clerk may retain 10 percent of application fees
 1611 collected monthly for administrative costs prior to remitting
 1612 the remainder to the Department of Revenue. If the person cannot
 1613 pay the application fee, the clerk shall enroll the person in a
 1614 payment plan pursuant to s. 28.246.

1615 Section 85. Section 57.101, Florida Statutes, is amended
 1616 to read:

1617 57.101 Costs in Supreme Court; certain not taxable.—The
 1618 costs of copies of the record of any paper on file in either ~~the~~
 1619 Supreme Court shall not be taxed as costs against the losing
 1620 party unless the copies have been ordered by the party or his or
 1621 her attorney.

1622 Section 86. Subsection (1) of section 59.081, Florida
 1623 Statutes, is amended to read:

1624 59.081 Time for invoking appellate jurisdiction of any
 1625 court.—

1626 (1) The time within which and the method by which the
 1627 jurisdiction of any court in this state possessed of power to
 1628 review the action of any other court, commission, officer or
 1629 bureau may be invoked by appeal, certiorari, petition for review
 1630 or other process by whatever name designated, and the manner of
 1631 computing such time shall be prescribed by court rule ~~of the~~
 1632 ~~Supreme Court.~~

1633 Section 87. Section 59.45, Florida Statutes, is amended to
 1634 read:

1635 59.45 Misconception of remedy; Supreme Court.—If an appeal
 1636 be improvidently taken where the remedy might have been more
 1637 properly sought by certiorari, this alone shall not be a ground
 1638 for dismissal; but the notice of appeal and the record thereon
 1639 shall be regarded and acted on as a petition for certiorari duly
 1640 presented to the appropriate Supreme Court.

1641 Section 88. Paragraph (a) of subsection (4) of section
 1642 61.125, Florida Statutes, is amended to read:

1643 61.125 Parenting coordination.—

1644 (4) QUALIFICATIONS OF A PARENTING COORDINATOR.—A parenting
 1645 coordinator is an impartial third person whose role is to assist
 1646 the parents in successfully creating or implementing a parenting
 1647 plan. Unless there is a written agreement between the parties,
 1648 the court may appoint only a qualified parenting coordinator.

1649 (a) To be qualified, a parenting coordinator must:

- 1650 1. Meet one of the following professional requirements:
- 1651 a. Be licensed as a mental health professional under
- 1652 chapter 490 or chapter 491.
- 1653 b. Be licensed as a physician under chapter 458, with
- 1654 certification by the American Board of Psychiatry and Neurology.
- 1655 c. Be certified by the Florida Supreme Court of Civil
- 1656 Appeals as a family law mediator, with at least a master's
- 1657 degree in a mental health field.
- 1658 d. Be a member in good standing of The Florida Bar.
- 1659 2. Complete all of the following:
- 1660 a. Three years of postlicensure or postcertification
- 1661 practice.
- 1662 b. A family mediation training program certified by the
- 1663 Florida Supreme Court of Civil Appeals.
- 1664 c. A minimum of 24 hours of parenting coordination
- 1665 training in parenting coordination concepts and ethics, family
- 1666 systems theory and application, family dynamics in separation
- 1667 and divorce, child and adolescent development, the parenting
- 1668 coordination process, parenting coordination techniques, and
- 1669 Florida family law and procedure, and a minimum of 4 hours of
- 1670 training in domestic violence and child abuse which is related
- 1671 to parenting coordination.
- 1672 Section 89. Subsection (1) of section 61.183, Florida
- 1673 Statutes, is amended to read:
- 1674 61.183 Mediation of certain contested issues.—
- 1675 (1) In any proceeding in which the issues of parental
- 1676 responsibility, primary residence, access to, visitation with,
- 1677 or support of a child are contested, the court may refer the

1678 parties to mediation in accordance with court rules ~~promulgated~~
 1679 ~~by the Supreme Court~~. In Title IV-D cases, any costs, including
 1680 filing fees, recording fees, mediation costs, service of process
 1681 fees, and other expenses incurred by the clerk of the circuit
 1682 court, shall be assessed only against the nonprevailing obligor
 1683 after the court makes a determination of the nonprevailing
 1684 obligor's ability to pay such costs and fees.

1685 Section 90. Section 75.08, Florida Statutes, is amended to
 1686 read:

1687 75.08 Appeal and review.—Any party to the action whether
 1688 plaintiff, defendant, intervenor or otherwise, dissatisfied with
 1689 the final judgment, may appeal to the Supreme Court of Civil
 1690 Appeals within the time and in the manner prescribed by the
 1691 Florida Rules of Appellate Procedure.

1692 Section 91. Subsection (4) of section 90.902, Florida
 1693 Statutes, is amended to read:

1694 90.902 Self-authentication.—Extrinsic evidence of
 1695 authenticity as a condition precedent to admissibility is not
 1696 required for:

1697 (4) A copy of an official public record, report, or entry,
 1698 or of a document authorized by law to be recorded or filed and
 1699 actually recorded or filed in a public office, including data
 1700 compilations in any form, certified as correct by the custodian
 1701 or other person authorized to make the certification by
 1702 certificate complying with subsection (1), subsection (2), or
 1703 subsection (3) or complying with any act of the Legislature or
 1704 court rule ~~adopted by the Supreme Court~~.

1705 Section 92. Paragraphs (c) and (e) of subsection (5) of
 1706 section 100.371, Florida Statutes, is amended to read:

1707 100.371 Initiatives; procedure for placement on ballot.—
 1708 (5)

1709 (c) All meetings of the Financial Impact Estimating
 1710 Conference shall be open to the public. The President of the
 1711 Senate and the Speaker of the House of Representatives, jointly,
 1712 shall be the sole judge for the interpretation, implementation,
 1713 and enforcement of this subsection.

1714 1. The Financial Impact Estimating Conference is
 1715 established to review, analyze, and estimate the financial
 1716 impact of amendments to or revisions of the State Constitution
 1717 proposed by initiative. The Financial Impact Estimating
 1718 Conference shall consist of four principals: one person from the
 1719 Executive Office of the Governor; the coordinator of the Office
 1720 of Economic and Demographic Research, or his or her designee;
 1721 one person from the professional staff of the Senate; and one
 1722 person from the professional staff of the House of
 1723 Representatives. Each principal shall have appropriate fiscal
 1724 expertise in the subject matter of the initiative. A Financial
 1725 Impact Estimating Conference may be appointed for each
 1726 initiative.

1727 2. Principals of the Financial Impact Estimating
 1728 Conference shall reach a consensus or majority concurrence on a
 1729 clear and unambiguous financial impact statement, no more than
 1730 75 words in length, and immediately submit the statement to the
 1731 Attorney General. Nothing in this subsection prohibits the
 1732 Financial Impact Estimating Conference from setting forth a

1733 range of potential impacts in the financial impact statement.
 1734 Any financial impact statement that a court finds not to be in
 1735 accordance with this section shall be remanded solely to the
 1736 Financial Impact Estimating Conference for redrafting. The
 1737 Financial Impact Estimating Conference shall redraft the
 1738 financial impact statement within 15 days.

1739 3. If the members of the Financial Impact Estimating
 1740 Conference are unable to agree on the statement required by this
 1741 subsection, or if the Supreme Court of Civil Appeals has
 1742 rejected the initial submission by the Financial Impact
 1743 Estimating Conference and no redraft has been approved by the
 1744 Supreme Court of Civil Appeals by 5 p.m. on the 75th day before
 1745 the election, the following statement shall appear on the ballot
 1746 pursuant to s. 101.161(1): "The financial impact of this
 1747 measure, if any, cannot be reasonably determined at this time."

1748 (e)1. Any financial impact statement that the Supreme
 1749 Court of Civil Appeals finds not to be in accordance with this
 1750 subsection shall be remanded solely to the Financial Impact
 1751 Estimating Conference for redrafting, provided the court's
 1752 advisory opinion is rendered at least 75 days before the
 1753 election at which the question of ratifying the amendment will
 1754 be presented. The Financial Impact Estimating Conference shall
 1755 prepare and adopt a revised financial impact statement no later
 1756 than 5 p.m. on the 15th day after the date of the court's
 1757 opinion.

1758 2. If, by 5 p.m. on the 75th day before the election, the
 1759 Supreme Court of Civil Appeals has not issued an advisory
 1760 opinion on the initial financial impact statement prepared by

1761 the Financial Impact Estimating Conference for an initiative
 1762 amendment that otherwise meets the legal requirements for ballot
 1763 placement, the financial impact statement shall be deemed
 1764 approved for placement on the ballot.

1765 3. In addition to the financial impact statement required
 1766 by this subsection, the Financial Impact Estimating Conference
 1767 shall draft an initiative financial information statement. The
 1768 initiative financial information statement should describe in
 1769 greater detail than the financial impact statement any projected
 1770 increase or decrease in revenues or costs that the state or
 1771 local governments would likely experience if the ballot measure
 1772 were approved. If appropriate, the initiative financial
 1773 information statement may include both estimated dollar amounts
 1774 and a description placing the estimated dollar amounts into
 1775 context. The initiative financial information statement must
 1776 include both a summary of not more than 500 words and additional
 1777 detailed information that includes the assumptions that were
 1778 made to develop the financial impacts, workpapers, and any other
 1779 information deemed relevant by the Financial Impact Estimating
 1780 Conference.

1781 4. The Department of State shall have printed, and shall
 1782 furnish to each supervisor of elections, a copy of the summary
 1783 from the initiative financial information statements. The
 1784 supervisors shall have the summary from the initiative financial
 1785 information statements available at each polling place and at
 1786 the main office of the supervisor of elections upon request.

1787 5. The Secretary of State and the Office of Economic and
 1788 Demographic Research shall make available on the Internet each

1789 initiative financial information statement in its entirety. In
 1790 addition, each supervisor of elections whose office has a
 1791 website shall post the summary from each initiative financial
 1792 information statement on the website. Each supervisor shall
 1793 include the Internet addresses for the information statements on
 1794 the Secretary of State's and the Office of Economic and
 1795 Demographic Research's websites in the publication or mailing
 1796 required by s. 101.20.

1797 Section 93. Subsection (7) of section 105.036, Florida
 1798 Statutes, is amended to read:

1799 105.036 Initiative for method of selection for circuit or
 1800 county court judges; procedures for placement on ballot.—

1801 (7) Within 10 days after each general election for which
 1802 an initiative to change the method of selection of circuit or
 1803 county court judges was placed on the ballot in any circuit or
 1804 county in the state, the Secretary of State must notify the
 1805 Chief Justice of the Supreme Court of Civil Appeals Florida of
 1806 the changed method for selection of judges for any circuit or
 1807 county where the initiative passed.

1808 Section 94. Paragraph (a) of subsection (8) of section
 1809 112.215, Florida Statutes, is amended to read:

1810 112.215 Government employees; deferred compensation
 1811 program.—

1812 (8) (a) There is created a Deferred Compensation Advisory
 1813 Council composed of seven members.

1814 1. One member shall be appointed by the Speaker of the
 1815 House of Representatives and the President of the Senate jointly
 1816 and shall be an employee of the legislative branch.

1817 2. One member shall be appointed by the Chief Justice of
 1818 the Supreme Court of Civil Appeals and shall be an employee of
 1819 the judicial branch.

1820 3. One member shall be appointed by the chair of the
 1821 Public Employees Relations Commission and shall be a nonexempt
 1822 public employee.

1823 4. The remaining four members shall be employed by the
 1824 executive branch and shall be appointed as follows:

1825 a. One member shall be appointed by the Chancellor of the
 1826 State University System and shall be an employee of the
 1827 university system.

1828 b. One member shall be appointed by the Chief Financial
 1829 Officer and shall be an employee of the Chief Financial Officer.

1830 c. One member shall be appointed by the Governor and shall
 1831 be an employee of the executive branch.

1832 d. One member shall be appointed by the Executive Director
 1833 of the State Board of Administration and shall be an employee of
 1834 the State Board of Administration.

1835 Section 95. Subsection (1) of section 112.321, Florida
 1836 Statutes, is amended to read:

1837 112.321 Membership, terms; travel expenses; staff.—

1838 (1) The commission shall be composed of nine members. Five
 1839 of these members shall be appointed by the Governor, no more
 1840 than three of whom shall be from the same political party,
 1841 subject to confirmation by the Senate. One member appointed by
 1842 the Governor shall be a former city or county official and may
 1843 be a former member of a local planning or zoning board which has
 1844 only advisory duties. Two members shall be appointed by the

1845 Speaker of the House of Representatives, and two members shall
 1846 be appointed by the President of the Senate. Neither the Speaker
 1847 of the House of Representatives nor the President of the Senate
 1848 shall appoint more than one member from the same political
 1849 party. Of the nine members of the Commission, no more than five
 1850 members shall be from the same political party at any one time.
 1851 No member may hold any public employment. An individual who
 1852 qualifies as a lobbyist pursuant to s. 11.045 or s. 112.3215 or
 1853 pursuant to any local government charter or ordinance may not
 1854 serve as a member of the commission, except that this
 1855 prohibition does not apply to an individual who is a member of
 1856 the commission on July 1, 2006, until the expiration of his or
 1857 her current term. A member of the commission may not lobby any
 1858 state or local governmental entity as provided in s. 11.045 or
 1859 s. 112.3215 or as provided by any local government charter or
 1860 ordinance, except that this prohibition does not apply to an
 1861 individual who is a member of the commission on July 1, 2006,
 1862 until the expiration of his or her current term. All members
 1863 shall serve 2-year terms. A member may not serve more than two
 1864 full terms in succession. Any member of the commission may be
 1865 removed for cause by majority vote of the Governor, the
 1866 President of the Senate, the Speaker of the House of
 1867 Representatives, and the Chief Justice of the Supreme Court of
 1868 Civil Appeals.

1869 Section 96. Paragraph (b) of subsection (8) and subsection
 1870 (10) of section 112.324, Florida Statutes, is amended to read:
 1871 112.324 Procedures on complaints of violations; public
 1872 records and meeting exemptions.—

1873 (8) If, in cases pertaining to complaints other than
 1874 complaints against impeachable officers or members of the
 1875 Legislature, upon completion of a full and final investigation
 1876 by the commission, the commission finds that there has been a
 1877 violation of this part or of s. 8, Art. II of the State
 1878 Constitution, it shall be the duty of the commission to report
 1879 its findings and recommend appropriate action to the proper
 1880 disciplinary official or body as follows, and such official or
 1881 body shall have the power to invoke the penalty provisions of
 1882 this part, including the power to order the appropriate
 1883 elections official to remove a candidate from the ballot for a
 1884 violation of s. 112.3145 or s. 8(a) and (i), Art. II of the
 1885 State Constitution:

1886 (b) The Supreme Court of Civil Appeals, in any case
 1887 concerning an employee of the judicial branch.

1888 (10) Notwithstanding the foregoing procedures of this
 1889 section, a sworn complaint against any member or employee of the
 1890 Commission on Ethics for violation of this part or of s. 8, Art.
 1891 II of the State Constitution shall be filed with the President
 1892 of the Senate and the Speaker of the House of Representatives.
 1893 Each presiding officer shall, after determining that there are
 1894 sufficient grounds for review, appoint three members of their
 1895 respective bodies to a special joint committee who shall
 1896 investigate the complaint. The members shall elect a chair from
 1897 among their number. If the special joint committee finds
 1898 insufficient evidence to establish probable cause to believe a
 1899 violation of this part or of s. 8, Art. II of the State
 1900 Constitution has occurred, it shall dismiss the complaint. If,

1901 upon completion of its preliminary investigation, the committee
 1902 finds sufficient evidence to establish probable cause to believe
 1903 a violation has occurred, the chair thereof shall transmit such
 1904 findings to the Governor who shall convene a meeting of the
 1905 Governor, the President of the Senate, the Speaker of the House
 1906 of Representatives, and the Chief Justice of the Supreme Court
 1907 of Civil Appeals to take such final action on the complaint as
 1908 they shall deem appropriate, consistent with the penalty
 1909 provisions of this part. Upon request of a majority of the
 1910 Governor, the President of the Senate, the Speaker of the House
 1911 of Representatives, and the Chief Justice of the Supreme Court
 1912 of Civil Appeals, the special joint committee shall submit a
 1913 recommendation as to what penalty, if any, should be imposed.

1914 Section 97. Paragraph (j) of subsection (4) of section
 1915 121.091, Florida Statutes, is amended to read:

1916 121.091 Benefits payable under the system.—Benefits may
 1917 not be paid under this section unless the member has terminated
 1918 employment as provided in s. 121.021(39)(a) or begun
 1919 participation in the Deferred Retirement Option Program as
 1920 provided in subsection (13), and a proper application has been
 1921 filed in the manner prescribed by the department. The department
 1922 may cancel an application for retirement benefits when the
 1923 member or beneficiary fails to timely provide the information
 1924 and documents required by this chapter and the department's
 1925 rules. The department shall adopt rules establishing procedures
 1926 for application for retirement benefits and for the cancellation
 1927 of such application when the required information or documents
 1928 are not received.

1929 (4) DISABILITY RETIREMENT BENEFIT.—
 1930 (j) Disability retirement of justice or judge by order of
 1931 Supreme Court.—
 1932 1. If a member is a justice of the Supreme Court, judge of
 1933 a district court of appeal, circuit judge, or judge of a county
 1934 court who has served for 6 years or more as an elected
 1935 constitutional judicial officer, including service as a judicial
 1936 officer in any court abolished pursuant to Art. V of the State
 1937 Constitution, and who is retired for disability by order of the
 1938 Supreme Court of Criminal Appeals upon recommendation of the
 1939 Judicial Qualifications Commission pursuant to the provisions of
 1940 Art. V of the State Constitution, the member's Option 1 monthly
 1941 benefit as provided in subparagraph (6)(a)1. shall not be less
 1942 than two-thirds of his or her monthly compensation as of the
 1943 member's disability retirement date. Such a member may
 1944 alternatively elect to receive a disability retirement benefit
 1945 under any other option as provided in paragraph (6)(a).
 1946 2. Should any justice or judge who is a member of the
 1947 Florida Retirement System be retired for disability by order of
 1948 the Supreme Court of Criminal Appeals upon recommendation of the
 1949 Judicial Qualifications Commission pursuant to the provisions of
 1950 Art. V of the State Constitution, then all contributions to his
 1951 or her account and all contributions made on his or her behalf
 1952 by the employer shall be transferred to and deposited in the
 1953 General Revenue Fund of the state, and there is hereby
 1954 appropriated annually out of the General Revenue Fund, to be
 1955 paid into the Florida Retirement System Fund, an amount
 1956 necessary to pay the benefits of all justices and judges retired

1957 from the Florida Retirement System pursuant to Art. V of the
 1958 State Constitution.

1959 Section 98. Paragraph (m) of subsection (2) of section
 1960 121.591, Florida Statutes, is amended to read:

1961 121.591 Benefits payable under the Public Employee
 1962 Optional Retirement Program of the Florida Retirement System.—
 1963 Benefits may not be paid under this section unless the member
 1964 has terminated employment as provided in s. 121.021(39)(a) or is
 1965 deceased and a proper application has been filed in the manner
 1966 prescribed by the state board or the department. The state board
 1967 or department, as appropriate, may cancel an application for
 1968 retirement benefits when the member or beneficiary fails to
 1969 timely provide the information and documents required by this
 1970 chapter and the rules of the state board and department. In
 1971 accordance with their respective responsibilities as provided
 1972 herein, the State Board of Administration and the Department of
 1973 Management Services shall adopt rules establishing procedures
 1974 for application for retirement benefits and for the cancellation
 1975 of such application when the required information or documents
 1976 are not received. The State Board of Administration and the
 1977 Department of Management Services, as appropriate, are
 1978 authorized to cash out a de minimis account of a participant who
 1979 has been terminated from Florida Retirement System covered
 1980 employment for a minimum of 6 calendar months. A de minimis
 1981 account is an account containing employer contributions and
 1982 accumulated earnings of not more than \$5,000 made under the
 1983 provisions of this chapter. Such cash-out must either be a
 1984 complete lump-sum liquidation of the account balance, subject to

1985 the provisions of the Internal Revenue Code, or a lump-sum
 1986 direct rollover distribution paid directly to the custodian of
 1987 an eligible retirement plan, as defined by the Internal Revenue
 1988 Code, on behalf of the participant. If any financial instrument
 1989 issued for the payment of retirement benefits under this section
 1990 is not presented for payment within 180 days after the last day
 1991 of the month in which it was originally issued, the third-party
 1992 administrator or other duly authorized agent of the State Board
 1993 of Administration shall cancel the instrument and credit the
 1994 amount of the instrument to the suspense account of the Public
 1995 Employee Optional Retirement Program Trust Fund authorized under
 1996 s. 121.4501(6). Any such amounts transferred to the suspense
 1997 account are payable upon a proper application, not to include
 1998 earnings thereon, as provided in this section, within 10 years
 1999 after the last day of the month in which the instrument was
 2000 originally issued, after which time such amounts and any
 2001 earnings thereon shall be forfeited. Any such forfeited amounts
 2002 are assets of the Public Employee Optional Retirement Program
 2003 Trust Fund and are not subject to the provisions of chapter 717.

2004 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided
 2005 under this subsection are payable in lieu of the benefits which
 2006 would otherwise be payable under the provisions of subsection
 2007 (1). Such benefits shall be funded entirely from employer
 2008 contributions made under s. 121.571, transferred participant
 2009 funds accumulated pursuant to paragraph (a), and interest and
 2010 earnings thereon. Pursuant thereto:

2011 (m) Disability retirement of justice or judge by order of
 2012 Supreme Court.—

2013 1. If a participant is a justice of the Supreme Court,
 2014 judge of a district court of appeal, circuit judge, or judge of
 2015 a county court who has served for 6 years or more as an elected
 2016 constitutional judicial officer, including service as a judicial
 2017 officer in any court abolished pursuant to Art. V of the State
 2018 Constitution, and who is retired for disability by order of the
 2019 Supreme Court of Criminal Appeals upon recommendation of the
 2020 Judicial Qualifications Commission pursuant to the provisions of
 2021 Art. V of the State Constitution, the participant's Option 1
 2022 monthly disability benefit amount as provided in s.
 2023 121.091(6)(a)1. shall be two-thirds of his or her monthly
 2024 compensation as of the participant's disability retirement date.
 2025 Such a participant may alternatively elect to receive an
 2026 actuarially adjusted disability retirement benefit under any
 2027 other option as provided in s. 121.091(6)(a), or to receive the
 2028 normal benefit payable under the Public Employee Optional
 2029 Retirement Program as set forth in subsection (1).

2030 2. If any justice or judge who is a participant of the
 2031 Public Employee Optional Retirement Program of the Florida
 2032 Retirement System is retired for disability by order of the
 2033 Supreme Court of Criminal Appeals upon recommendation of the
 2034 Judicial Qualifications Commission pursuant to the provisions of
 2035 Art. V of the State Constitution and elects to receive a monthly
 2036 disability benefit under the provisions of this paragraph:

2037 a. Any present value amount that was transferred to his or
 2038 her program account and all employer contributions made to such
 2039 account on his or her behalf, plus interest and earnings
 2040 thereon, shall be transferred to and deposited in the disability

2041 account of the Florida Retirement System Trust Fund; and
 2042 b. The monthly benefits payable under this paragraph for
 2043 any affected justice or judge retired from the Florida
 2044 Retirement System pursuant to Art. V of the State Constitution
 2045 shall be paid from the disability account of the Florida
 2046 Retirement System Trust Fund.

2047 Section 99. Subsection (4) of section 215.91, Florida
 2048 Statutes, is amended to read:

2049 215.91 Florida Financial Management Information System;
 2050 board; council.—

2051 (4) The council shall provide ongoing counsel to the board
 2052 and act to resolve problems among or between the functional
 2053 owner subsystems. The board, through the coordinating council,
 2054 shall direct and manage the development, implementation, and
 2055 operation of the information subsystems that together are the
 2056 Florida Financial Management Information System. The
 2057 coordinating council shall approve the information subsystems'
 2058 designs prior to the development, implementation, and operation
 2059 of the subsystems and shall approve subsequent proposed design
 2060 modifications to the information subsystems subject to the
 2061 guidelines issued by the council. The coordinating council shall
 2062 ensure that the information subsystems' operations support the
 2063 exchange of unified and coordinated data between information
 2064 subsystems. The coordinating council shall establish the common
 2065 data codes for financial management, and it shall require and
 2066 ensure the use of common data codes by the information
 2067 subsystems that together constitute the Florida Financial
 2068 Management Information System. The Chief Financial Officer shall

2069 adopt a chart of accounts consistent with the common financial
 2070 management data codes established by the coordinating council.
 2071 The board, through the coordinating council, shall establish the
 2072 financial management policies and procedures for the executive
 2073 branch of state government. The coordinating council shall
 2074 notify in writing the chairs of the legislative fiscal
 2075 committees and the Office of the State Court Administrator ~~Chief~~
 2076 ~~Justice of the Supreme Court~~ regarding the adoption of, or
 2077 modification to, a proposed financial management policy or
 2078 procedure. The notice shall solicit comments from the chairs of
 2079 the legislative fiscal committees and the Office of the State
 2080 Court Administrator ~~Chief Justice of the Supreme Court~~ at least
 2081 14 consecutive days before the final action by the coordinating
 2082 council.

2083 Section 100. Paragraph (v) of subsection (1) of section
 2084 216.011, Florida Statutes, is amended to read:

2085 216.011 Definitions.—

2086 (1) For the purpose of fiscal affairs of the state,
 2087 appropriations acts, legislative budgets, and approved budgets,
 2088 each of the following terms has the meaning indicated:

2089 (v) "Judicial branch" means all officers, employees, and
 2090 offices of each ~~the~~ Supreme Court, district courts of appeal,
 2091 circuit courts, county courts, and the Judicial Qualifications
 2092 Commission.

2093 Section 101. Subsection (2) of section 216.0158, Florida
 2094 Statutes, is amended to read:

2095 216.0158 Assessment of facility needs.—

2096 (2) On or before September 15 of each year, each state

2097 agency, as defined in s. 216.011, shall submit to the Executive
 2098 Office of the Governor, and each district court of appeal and
 2099 the Marshal of the Supreme Court shall submit to the Office of
 2100 the State Court Administrator ~~Chief Justice of the Supreme~~
 2101 ~~Court~~, in a manner prescribed by the legislative budget
 2102 instructions, a short-term plan for facility needs covering the
 2103 next 5-year period. The short-term plan shall list the agency's
 2104 or judicial branch's facility needs in order of priority and
 2105 shall include preventive maintenance strategies, expected
 2106 replacement of existing facilities, expected improvements or
 2107 additions to facilities on a specific project-by-project basis,
 2108 estimated cost, and other information as prescribed by the
 2109 legislative budget instructions. The Chief Justice shall certify
 2110 the final approved plan for the judicial branch to the Executive
 2111 Office of the Governor which shall include the plan, without
 2112 modification, in the state comprehensive plan.

2113 Section 102. Subsection (5) of section 216.023, Florida
 2114 Statutes, is amended to read:

2115 216.023 Legislative budget requests to be furnished to
 2116 Legislature by agencies.—

2117 (5) As a part of the legislative budget request, the head
 2118 of each state agency and the Chief Justice of the Office of the
 2119 State Court Administrator ~~Supreme Court~~ for the judicial branch
 2120 shall include an inventory of all litigation in which the agency
 2121 is involved that may require additional appropriations to the
 2122 agency, that may significantly affect revenues received or
 2123 anticipated to be received by the state, or that may require
 2124 amendments to the law under which the agency operates. No later

2125 than March 1 following the submission of the legislative budget
 2126 request, the head of the state agency and the Office of the
 2127 State Court Administrator ~~Chief Justice of the Supreme Court~~
 2128 shall provide an update of any additions or changes to the
 2129 inventory. Such inventory shall include information specified
 2130 annually in the legislative budget instructions and, within the
 2131 discretion of the head of the state agency or the Office of the
 2132 State Court Administrator ~~Chief Justice of the Supreme Court~~,
 2133 may contain only information found in the pleadings.

2134 Section 103. Subsection (1) of section 216.043, Florida
 2135 Statutes, is amended to read:

2136 216.043 Budgets for fixed capital outlay.—

2137 (1) A legislative budget request, reflecting the
 2138 independent judgment of the head of the agency or of the Office
 2139 of the State Court Administrator ~~Chief Justice of the Supreme~~
 2140 ~~Court~~ with respect to the needs of the agency or of the judicial
 2141 branch for fixed capital outlay during the next fiscal year,
 2142 shall be submitted by each head of an agency and by the Chief
 2143 Justice and shall contain:

2144 (a) An estimate in itemized form showing the amounts
 2145 needed for fixed capital outlay expenditures, to include a
 2146 detailed statement of program needs, estimated construction
 2147 costs and square footage, site costs, operating capital
 2148 necessary to furnish and equip for operating a new or improved
 2149 facility, and the anticipated sources of funding during the next
 2150 fiscal year.

2151 (b) Proposed fixed capital outlay projects, including
 2152 proposed operational standards related to programs and

2153 utilization, an analysis of continuing operating costs, and such
 2154 other data as the Executive Office of the Governor deems
 2155 necessary for state agencies, or the Chief Justice deems
 2156 necessary for the judicial branch, to analyze the relationship
 2157 of agency needs and program requirements to construction
 2158 requirements. The plan shall also include the availability and
 2159 suitability of privately constructed and owned buildings and
 2160 facilities to meet the needs and program requirements of the
 2161 agency or of the judicial branch.

2162 (c) For any budget request for fixed capital outlay or
 2163 operating capital outlay which is to be funded by a proposed
 2164 state debt or obligation as defined in s. 216.0442, the
 2165 information set forth in s. 216.0442(2).

2166 Section 104. Subsection (2) of section 216.044, Florida
 2167 Statutes, is amended to read:

2168 216.044 Budget evaluation by Department of Management
 2169 Services.—

2170 (2) Concurrently with the submission of the fixed capital
 2171 outlay legislative budget request to the Executive Office of the
 2172 Governor or to the Office of the State Court Administrator ~~Chief~~
 2173 ~~Justice of the Supreme Court~~, the agency or judicial branch
 2174 shall submit a copy of the legislative budget request to the
 2175 Department of Management Services for evaluation.

2176 Section 105. Section 216.131, Florida Statutes, is amended
 2177 to read:

2178 216.131 Public hearings on legislative budgets.—The
 2179 Governor and the Office of the State Court Administrator ~~Chief~~
 2180 ~~Justice of the Supreme Court~~ shall each provide for at least one

2181 public hearing prior to submission of budget recommendations to
 2182 the Legislature on issues contained in agency legislative budget
 2183 requests or in the judicial branch budget request and issues
 2184 that may be included in budget recommendations to the
 2185 Legislature, which hearing shall be held at such time as the
 2186 Governor or the Chief Justice may fix. The Governor may require
 2187 the attendance or participation, or both, at his or her hearings
 2188 of the heads or responsible representatives of all state
 2189 agencies supported by any form of taxation or licenses, fees,
 2190 imposts, or exactions. The Governor and the Chief Justice may
 2191 provide these hearings simultaneously via electronic format,
 2192 such as teleconference, Internet, etc., provided that a means
 2193 for active participation and questions by the audience is
 2194 accommodated.

2195 Section 106. Paragraph (a) of subsection (2) of section
 2196 216.163, Florida Statutes, is amended to read:

2197 216.163 Governor's recommended budget; form and content;
 2198 declaration of collective bargaining impasses.—

2199 (2) The Governor's recommended budget shall also include:

2200 (a) The Governor's recommendations for operating each
 2201 state agency, and those of the Office of the State Court
 2202 ~~Administrator Chief Justice of the Supreme Court~~ for operating
 2203 the judicial branch, for the next fiscal year. These
 2204 recommendations shall be displayed by appropriation category
 2205 within each budget entity and shall also include the legislative
 2206 budget request of the corresponding agency. In order to present
 2207 a balanced budget as required by s. 216.162, the Governor's
 2208 recommendations for operating appropriations may include an

2209 alternative recommendation to that of the Chief Justice.
 2210 Section 107. Paragraph (b) of subsection (1) and
 2211 paragraphs (a) and (b) of subsection (2) of section 216.177,
 2212 Florida Statutes, are amended to read:
 2213 216.177 Appropriations acts, statement of intent,
 2214 violation, notice, review and objection procedures.—
 2215 (1) When an appropriations act is delivered to the
 2216 Governor after the Legislature has adjourned sine die, as soon
 2217 as practicable, but no later than the 10th day before the end of
 2218 the period allowed by law for veto consideration in any year in
 2219 which an appropriation is made, the chairs of the legislative
 2220 appropriations committees shall jointly transmit:
 2221 (b) The documents set forth in s. 216.0442(2)(a) and (c),
 2222
 2223 to the Executive Office of the Governor, the Chief Financial
 2224 Officer, the Auditor General, the director of the Office of
 2225 Program Policy Analysis and Government Accountability, the
 2226 Office of the State Court Administrator ~~Chief Justice of the~~
 2227 ~~Supreme Court~~, and each state agency. A request for additional
 2228 explanation and direction regarding the legislative intent of
 2229 the General Appropriations Act during the fiscal year may be
 2230 made to the chair and vice chair of the Legislative Budget
 2231 Commission or the President of the Senate and the Speaker of the
 2232 House of Representatives only by and through the Executive
 2233 Office of the Governor for state agencies, and by and through
 2234 the Office of the State Court Administrator ~~Chief Justice of the~~
 2235 ~~Supreme Court~~ for the judicial branch, as is deemed necessary.
 2236 However, the Chief Financial Officer may also request further

2237 clarification of legislative intent pursuant to the Chief
 2238 Financial Officer's responsibilities related to his or her
 2239 preaudit function of expenditures.

2240 (2) (a) Whenever notice of action to be taken by the
 2241 Executive Office of the Governor or the Office of the State
 2242 Court Administrator ~~Chief Justice of the Supreme Court~~ is
 2243 required by law, such notice shall be given to the chair and
 2244 vice chair of the Legislative Budget Commission in writing, and
 2245 shall be delivered at least 14 days prior to the action referred
 2246 to, unless a shorter period is approved in writing by the chair
 2247 and vice chair or a different period is specified by law. If the
 2248 action is solely for the release of funds appropriated by the
 2249 Legislature, the notice shall be delivered at least 3 days
 2250 before the effective date of the action. Action shall not be
 2251 taken on any budget item for which this chapter requires notice
 2252 to the Legislative Budget Commission or the appropriations
 2253 committees without such notice having been provided, even though
 2254 there may be good cause for considering such item.

2255 (b) If the chair and vice chair of the Legislative Budget
 2256 Commission or the President of the Senate and the Speaker of the
 2257 House of Representatives timely advise, in writing, the
 2258 Executive Office of the Governor or the Office of the State
 2259 Court Administrator ~~Chief Justice of the Supreme Court~~ that an
 2260 action or a proposed action, including any expenditure of funds
 2261 resulting from the settlement of litigation involving a state
 2262 agency or officer, whether subject to the notice and review
 2263 requirements of this chapter or not, exceeds the delegated
 2264 authority of the Executive Office of the Governor for the

2265 executive branch or the Office of the State Court Administrator
 2266 ~~Chief Justice~~ for the judicial branch, respectively, or is
 2267 contrary to legislative policy and intent, the Governor or the
 2268 Office of the State Court Administrator ~~Chief Justice of the~~
 2269 ~~Supreme Court~~ shall void such action and instruct the affected
 2270 state agency or entity of the judicial branch to change
 2271 immediately its spending action or spending proposal until the
 2272 Legislative Budget Commission or the Legislature addresses the
 2273 issue. The written documentation shall indicate the specific
 2274 reasons that an action or proposed action exceeds the delegated
 2275 authority or is contrary to legislative policy and intent.

2276 Section 108. Section 216.179, Florida Statutes, is amended
 2277 to read:

2278 216.179 Reinstatement of vetoed appropriations by
 2279 administrative means prohibited.—After the Governor has vetoed a
 2280 specific appropriation for an agency or the judicial branch,
 2281 neither the Governor, the Office of the State Court
 2282 Administrator ~~Chief Justice of the Supreme Court~~, nor a state
 2283 agency, in their various statutory and constitutional roles, may
 2284 authorize expenditures for or implementation in any manner of
 2285 the programs that were authorized by the vetoed appropriation.

2286 Section 109. Subsections (1), (6), (7), and (8), paragraph
 2287 (a) of subsection (10), paragraphs (a) and (b) of subsection
 2288 (11), and subsection (14) of section 216.181, Florida Statutes,
 2289 are amended to read:

2290 216.181 Approved budgets for operations and fixed capital
 2291 outlay.—

2292 (1) The General Appropriations Act and any other acts

2293 containing appropriations shall be considered the original
 2294 approved operating budgets for operational and fixed capital
 2295 expenditures. Amendments to the approved operating budgets for
 2296 operational and fixed capital outlay expenditures from state
 2297 agencies may be requested only through the Executive Office of
 2298 the Governor and approved by the Governor and the Legislative
 2299 Budget Commission as provided in this chapter. Amendments from
 2300 the judicial branch may be requested only through the Office of
 2301 the State Court Administrator ~~Chief Justice of the Supreme Court~~
 2302 and must be approved by the Chief Justice and the Legislative
 2303 Budget Commission as provided in this chapter. This includes
 2304 amendments which are necessary to implement the provisions of s.
 2305 216.212 or s. 216.221.

2306 (6) (a) A detailed plan allocating a lump-sum appropriation
 2307 to traditional appropriations categories shall be submitted by
 2308 the affected agency to the Executive Office of the Governor or
 2309 the Office of the State Court Administrator ~~Chief Justice of the~~
 2310 ~~Supreme Court~~. The Executive Office of the Governor and the
 2311 Office of the State Court Administrator ~~Chief Justice of the~~
 2312 ~~Supreme Court~~ shall submit such plan to the chair and vice chair
 2313 of the Legislative Budget Commission either before or concurrent
 2314 with the submission of any budget amendment that recommends the
 2315 transfer and release of the balance of a lump-sum appropriation.

2316 (b) The Executive Office of the Governor and the Office of
 2317 the State Court Administrator ~~Chief Justice of the Supreme Court~~
 2318 may amend, without approval of the Legislative Budget
 2319 Commission, state agency and judicial branch entity budgets,
 2320 respectively, to reflect the transferred funds and to provide

2321 the associated increased salary rate based on the approved plans
 2322 for lump-sum appropriations. Any action proposed pursuant to
 2323 this paragraph is subject to the procedures set forth in s.
 2324 216.177.

2325
 2326 The Executive Office of the Governor shall transmit to each
 2327 state agency and the Chief Financial Officer, and the Chief
 2328 Justice shall transmit to each judicial branch component and the
 2329 Chief Financial Officer, any approved amendments to the approved
 2330 operating budgets.

2331 (7) The Executive Office of the Governor may, for the
 2332 purpose of improved contract administration, authorize the
 2333 consolidation of two or more fixed capital outlay appropriations
 2334 for an agency, and the Office of the State Court Administrator
 2335 ~~Chief Justice of the Supreme Court~~ for the judicial branch,
 2336 except for projects authorized under chapter 1013, provided the
 2337 original scope and purpose of each project are not changed.

2338 (8) As part of the approved operating budget, the
 2339 Executive Office of the Governor shall furnish to each state
 2340 agency, and the Office of the State Court Administrator ~~Chief~~
 2341 ~~Justice of the Supreme Court~~ shall furnish to the entity of the
 2342 judicial branch, an approved annual salary rate for each budget
 2343 entity containing a salary appropriation. This rate shall be
 2344 based upon the actual salary rate and shall be consistent with
 2345 the General Appropriations Act or special appropriations acts.
 2346 The annual salary rate shall be:

2347 (a) Determined by the salary rate specified in the General
 2348 Appropriations Act and adjusted for reorganizations authorized

2349 | by law, for any other appropriations made by law, and, subject
 2350 | to s. 216.177, for distributions of lump-sum appropriations and
 2351 | administered funds and for actions that require authorization of
 2352 | salary rate from salary rate reserve and placement of salary
 2353 | rate in salary rate reserve.

2354 | (b) Controlled by department or agency; except for the
 2355 | Department of Education, which shall be controlled by division
 2356 | and for the judicial branch, which shall be controlled at the
 2357 | branch level.

2358 | (c) Assigned to the number of authorized positions.

2359 | (10)(a) The Legislative Budget Commission may authorize
 2360 | increases or decreases in the approved salary rate, except as
 2361 | authorized in paragraph (8)(a), for positions pursuant to the
 2362 | request of the agency filed with the Executive Office of the
 2363 | Governor or pursuant to the request of an entity of the judicial
 2364 | branch filed with the Office of the State Court Administrator
 2365 | ~~Chief Justice of the Supreme Court~~, if deemed necessary and in
 2366 | the best interest of the state and consistent with legislative
 2367 | policy and intent.

2368 | (11)(a) The Executive Office of the Governor and the
 2369 | Office of the State Court Administrator ~~Chief Justice of the~~
 2370 | ~~Supreme Court~~ may approve changes in the amounts appropriated
 2371 | from state trust funds in excess of those in the approved
 2372 | operating budget up to \$1 million only pursuant to the federal
 2373 | funds provisions of s. 216.212, when grants and donations are
 2374 | received after April 1, or when deemed necessary due to a set of
 2375 | conditions that were unforeseen at the time the General
 2376 | Appropriations Act was adopted and that are essential to correct

2377 in order to continue the operation of government.

2378 (b) Changes in the amounts appropriated from state trust
 2379 funds in excess of those in the approved operating budget which
 2380 are in excess of \$1 million may be approved only by the
 2381 Legislative Budget Commission pursuant to the request of a state
 2382 agency filed with the Executive Office of the Governor or
 2383 pursuant to the request of an entity of the judicial branch
 2384 filed with the Office of the State Court Administrator ~~Chief~~
 2385 ~~Justice of the Supreme Court.~~

2386
 2387 The provisions of this subsection are subject to the notice and
 2388 objection procedures set forth in s. 216.177.

2389 (14) The Executive Office of the Governor and the Office
 2390 of the State Court Administrator ~~Chief Justice of the Supreme~~
 2391 ~~Court~~ shall certify the amounts approved for operations and
 2392 fixed capital outlay, together with any relevant supplementary
 2393 materials or information, to the Chief Financial Officer; and
 2394 such certification shall be the Chief Financial Officer's guide
 2395 with reference to the expenditures of each state agency pursuant
 2396 to s. 216.192.

2397 Section 110. Subsection (2) of section 216.1815, Florida
 2398 Statutes, is amended to read:

2399 216.1815 Agency incentive and savings program.—

2400 (2) To be eligible to retain funds, an agency or the
 2401 Office of the State Court Administrator ~~Chief Justice of the~~
 2402 ~~Supreme Court~~ must submit a plan and an associated request to
 2403 amend its approved operating budget to the Legislative Budget
 2404 Commission specifying:

2405 (a) The modifications to approved programs resulting in
 2406 efficiencies and cost savings;

2407 (b) The amount and source of the funds and positions
 2408 saved;

2409 (c) The specific positions, rate, amounts, and sources of
 2410 funds the agency or the judicial branch wishes to include in its
 2411 incentive expenditures;

2412 (d) How the agency or the judicial branch will meet the
 2413 goals and objectives established in its long-range program plan;

2414 (e) How the agency or the judicial branch will meet
 2415 performance standards, including those in its long-range program
 2416 plan; and

2417 (f) Any other incentive expenditures which the agency or
 2418 the judicial branch believes will enhance its performance.

2419 Section 111. Section 216.1826, Florida Statutes, is
 2420 amended to read:

2421 216.1826 Activity-based planning and budgeting.—Agencies
 2422 are directed to work in consultation with the Executive Office
 2423 of the Governor and the appropriations and appropriate
 2424 substantive committees of the Legislature, and the Office of the
 2425 State Court Administrator ~~Chief Justice of the Supreme Court~~ is
 2426 directed to work with the appropriations and appropriate
 2427 substantive committees of the Legislature, to identify and reach
 2428 consensus on the appropriate services and activities for
 2429 activity-based budgeting. It is the intent of the Legislature
 2430 that all dollars within an agency or the judicial branch be
 2431 allocated to the appropriate activity for budgeting purposes.
 2432 Additionally, agencies or the judicial branch shall examine

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2433 approved performance measures and recommend any changes so that
 2434 outcomes are clearly delineated for each service or program, as
 2435 appropriate, and outputs are aligned with activities. Output
 2436 measures should be capable of being used to generate a unit cost
 2437 for each activity resulting in a true accounting of what the
 2438 state should spend on each activity it provides and what the
 2439 state should expect to accomplish with those funds.

2440 Section 112. Paragraph (b) of subsection (3) and paragraph
 2441 (a) of subsection (4) of section 216.1827, Florida Statutes, is
 2442 amended to read:

2443 216.1827 Requirements for performance measures and
 2444 standards.—

2445 (3)

2446 (b) The Office of the State Court Administrator ~~Chief~~
 2447 ~~Justice of the Supreme Court~~ may submit deletions or amendments
 2448 of the judicial branch's existing approved performance measures
 2449 and standards or may submit additional performance measures and
 2450 standards to the Legislature accompanied with justification for
 2451 the change and ensure that the revision, deletion, or addition
 2452 is consistent with legislative intent. Revisions or deletions
 2453 to, or additions of performance measures and standards submitted
 2454 by the Office of the State Court Administrator ~~Chief Justice of~~
 2455 ~~the Supreme Court~~ are subject to the review and objection
 2456 procedure set forth in s. 216.177.

2457 (4) (a) The Legislature may create, amend, and delete
 2458 performance measures and standards. The Legislature may confer
 2459 with the Executive Office of the Governor for state agencies and
 2460 the Office of the State Court Administrator ~~Chief Justice of the~~

2461 ~~Supreme Court~~ for the judicial branch prior to any such action.
 2462 Section 113. Subsection (1) of section 216.192, Florida
 2463 Statutes, is amended to read:
 2464 216.192 Release of appropriations; revision of budgets.—
 2465 (1) Unless otherwise provided in law, on July 1 of each
 2466 fiscal year, up to 25 percent of the original approved operating
 2467 budget of each agency and of the judicial branch may be released
 2468 until such time as annual plans for quarterly releases for all
 2469 appropriations have been developed, approved, and furnished to
 2470 the Chief Financial Officer by the Executive Office of the
 2471 Governor for state agencies and by the Office of the State Court
 2472 Administrator ~~Chief Justice of the Supreme Court~~ for the
 2473 judicial branch. The plans, including appropriate plans of
 2474 releases for fixed capital outlay projects that correspond with
 2475 each project schedule, shall attempt to maximize the use of
 2476 trust funds and shall be transmitted to the Chief Financial
 2477 Officer by August 1 of each fiscal year. Such releases shall at
 2478 no time exceed the total appropriations available to a state
 2479 agency or to the judicial branch, or the approved budget for
 2480 such agency or the judicial branch if less. The Chief Financial
 2481 Officer shall enter such releases in his or her records in
 2482 accordance with the release plans prescribed by the Executive
 2483 Office of the Governor and the Chief Justice, unless otherwise
 2484 amended as provided by law. The Executive Office of the Governor
 2485 and the Chief Justice shall transmit a copy of the approved
 2486 annual releases to the head of the state agency, the chair and
 2487 vice chair of the Legislative Budget Commission, and the Auditor
 2488 General. The Chief Financial Officer shall authorize all

2489 expenditures to be made from the appropriations on the basis of
 2490 such releases and in accordance with the approved budget, and
 2491 not otherwise. Expenditures shall be authorized only in
 2492 accordance with legislative authorizations. Nothing herein
 2493 precludes periodic reexamination and revision by the Executive
 2494 Office of the Governor or by the Chief Justice of the annual
 2495 plans for release of appropriations and the notifications of the
 2496 parties of all such revisions.

2497 Section 114. Section 216.195, Florida Statutes, is amended
 2498 to read:

2499 216.195 Impoundment of funds; restricted.—The Executive
 2500 Office of the Governor, the Office of the State Court
 2501 Administrator ~~Chief Justice of the Supreme Court~~, any member of
 2502 the Cabinet, or any state agency shall not impound any
 2503 appropriation except as necessary to avoid or eliminate a
 2504 deficit pursuant to the provisions of s. 216.221. As used in
 2505 this section, the term "impoundment" means the omission of any
 2506 appropriation or part of an appropriation in the approved
 2507 operating plan prepared pursuant to s. 216.181 or in the
 2508 schedule of releases prepared pursuant to s. 216.192 or the
 2509 failure of any state agency or the judicial branch to spend an
 2510 appropriation for the stated purposes authorized in the approved
 2511 operating budget. The Governor or either house of the
 2512 Legislature may seek judicial review of any action or proposed
 2513 action which violates this section.

2514 Section 115. Paragraph (b) of subsection (1) and
 2515 subsection (3) of section 216.212, Florida Statutes, is amended
 2516 to read:

2517 216.212 Budgets for federal funds; restrictions on
 2518 expenditure of federal funds.—

2519 (1) The Executive Office of the Governor and the office of
 2520 the Chief Financial Officer shall develop and implement
 2521 procedures for accelerating the drawdown of, and minimizing the
 2522 payment of interest on, federal funds. The Executive Office of
 2523 the Governor shall establish a clearinghouse for federal
 2524 programs and activities. The clearinghouse shall develop the
 2525 capacity to respond to federal grant opportunities and to
 2526 coordinate the use of federal funds in the state.

2527 (b) Every office or court of the judicial branch, when
 2528 making a request or preparing a budget to be submitted to the
 2529 Federal Government for funds, equipment, material, or services,
 2530 shall submit such request or budget to the Office of the State
 2531 Court Administrator ~~Chief Justice of the Supreme Court~~ for
 2532 approval before submitting it to the proper federal authority.
 2533 However, the Chief Justice may specifically authorize any court
 2534 to submit specific types of grant proposals directly to the
 2535 Federal Government.

2536 (3) Federal money appropriated by Congress or received
 2537 from court settlements to be used for state purposes, whether by
 2538 itself or in conjunction with moneys appropriated by the
 2539 Legislature, may not be expended unless appropriated by the
 2540 Legislature. However, the Executive Office of the Governor or
 2541 the Office of the State Court Administrator ~~Chief Justice of the~~
 2542 ~~Supreme Court~~ may, after consultation with the legislative
 2543 appropriations committees, approve the receipt and expenditure
 2544 of funds from federal sources by state agencies or by the

2545 | judicial branch. Any federal programs requiring state matching
 2546 | funds which funds were eliminated, or were requested and were
 2547 | not approved, by the Legislature may not be implemented during
 2548 | the interim. However, federal and other fund sources for the
 2549 | State University System which do not carry a continuing
 2550 | commitment on future appropriations are hereby appropriated for
 2551 | the purpose received.

2552 | Section 116. Paragraphs (a) and (b) of subsection (5) and
 2553 | subsections (7) and (9) of section 216.221, Florida Statutes,
 2554 | are amended to read:

2555 | 216.221 Appropriations as maximum appropriations;
 2556 | adjustment of budgets to avoid or eliminate deficits.—

2557 | (5) (a) If, in the opinion of the Governor, after
 2558 | consultation with the Revenue Estimating Conference, a deficit
 2559 | will occur in the General Revenue Fund, he or she shall so
 2560 | certify to the commission and to the Office of the State Court
 2561 | Administrator ~~Chief Justice of the Supreme Court~~. No more than
 2562 | 30 days after certifying that a deficit will occur in the
 2563 | General Revenue Fund, the Governor shall develop for the
 2564 | executive branch, and the Office of the State Court
 2565 | Administrator ~~Chief Justice of the Supreme Court~~ shall develop
 2566 | for the judicial branch, and provide to the commission and to
 2567 | the Legislature plans of action to eliminate the deficit.

2568 | (b) If, in the opinion of the President of the Senate and
 2569 | the Speaker of the House of Representatives, after consultation
 2570 | with the Revenue Estimating Conference, a deficit will occur in
 2571 | the General Revenue Fund and the Governor has not certified the
 2572 | deficit, the President of the Senate and the Speaker of the

2573 House of Representatives shall so certify. Within 30 days after
 2574 such certification, the Governor shall develop for the executive
 2575 branch and the Office of the State Court Administrator ~~Chief~~
 2576 ~~Justice of the Supreme Court~~ shall develop for the judicial
 2577 branch and provide to the commission and to the Legislature
 2578 plans of action to eliminate the deficit.

2579 (7) Deficits in the General Revenue Fund that do not meet
 2580 the amounts specified by subsection (6) shall be resolved by the
 2581 Governor for the executive branch and the Office of the State
 2582 Court Administrator ~~Chief Justice of the Supreme Court~~ for the
 2583 judicial branch. The Governor and Chief Justice shall implement
 2584 any directions provided in the General Appropriations Act
 2585 related to eliminating deficits and to reducing agency and
 2586 judicial branch budgets, including the use of those legislative
 2587 appropriations voluntarily placed in reserve. In addition, the
 2588 Governor and Chief Justice shall implement any directions in the
 2589 General Appropriations Act relating to the resolution of deficit
 2590 situations. When reducing state agency or judicial branch
 2591 budgets, the Governor or the Chief Justice, respectively, shall
 2592 use the guidelines prescribed in subsection (5). The Executive
 2593 Office of the Governor, and the Chief Justice for the judicial
 2594 branch, shall implement the deficit reduction plans through
 2595 amendments to the approved operating budgets in accordance with
 2596 s. 216.181.

2597 (9) If, in the opinion of the Chief Financial Officer,
 2598 after consultation with the Revenue Estimating Conference, a
 2599 deficit will occur, he or she shall report his or her opinion to
 2600 the Governor, the President of the Senate, and the Speaker of

2601 the House of Representatives in writing. In the event the
 2602 Governor does not certify a deficit, or the President of the
 2603 Senate and the Speaker of the House of Representatives do not
 2604 certify a deficit within 10 days after the Chief Financial
 2605 Officer's report, the Chief Financial Officer shall report his
 2606 or her findings and opinion to the commission and the Office of
 2607 the State Court Administrator ~~Chief Justice of the Supreme~~
 2608 ~~Court.~~

2609 Section 117. Paragraphs (c) and (d) of subsection (1) of
 2610 section 216.262, Florida Statutes, are amended to read:

2611 216.262 Authorized positions.—

2612 (1)

2613 (c)1. The Executive Office of the Governor, under such
 2614 procedures and qualifications as it deems appropriate, shall,
 2615 upon agency request, delegate to any state agency authority to
 2616 add and delete authorized positions or transfer authorized
 2617 positions from one budget entity to another budget entity within
 2618 the same division, and may approve additions and deletions of
 2619 authorized positions or transfers of authorized positions within
 2620 the state agency when such changes would enable the agency to
 2621 administer more effectively its authorized and approved
 2622 programs. The additions or deletions must be consistent with the
 2623 intent of the approved operating budget, must be consistent with
 2624 legislative policy and intent, and must not conflict with
 2625 specific spending policies specified in the General
 2626 Appropriations Act.

2627 2. The Office of the State Court Administrator ~~Chief~~
 2628 ~~Justice of the Supreme Court~~ shall have the authority to

2629 establish procedures for the judicial branch to add and delete
 2630 authorized positions or transfer authorized positions from one
 2631 budget entity to another budget entity, and to add and delete
 2632 authorized positions within the same budget entity, when such
 2633 changes are consistent with legislative policy and intent and do
 2634 not conflict with spending policies specified in the General
 2635 Appropriations Act.

2636 (d) An individual employed by a state agency or by the
 2637 judicial branch may not hold more than one employment during his
 2638 or her normal working hours with the state, such working hours
 2639 to be determined by the head of the state agency affected,
 2640 unless approved by the Department of Management Services, or
 2641 otherwise delegated to the agency head, or by the Office of the
 2642 State Court Administrator ~~Chief Justice of the Supreme Court~~,
 2643 respectively.

2644 Section 118. Subsections (2) and (4) of section 216.292,
 2645 Florida Statutes, are amended to read:

2646 216.292 Appropriations nontransferable; exceptions.—

2647 (2) The following transfers are authorized to be made by
 2648 the head of each department or the Office of the State Court
 2649 Administrator ~~Chief Justice of the Supreme Court~~ whenever it is
 2650 deemed necessary by reason of changed conditions:

2651 (a) The transfer of appropriations funded from identical
 2652 funding sources, except appropriations for fixed capital outlay,
 2653 and the transfer of amounts included within the total original
 2654 approved budget and plans of releases of appropriations as
 2655 furnished pursuant to ss. 216.181 and 216.192, as follows:

2656 1. Between categories of appropriations within a budget

2657 entity, if no category of appropriation is increased or
 2658 decreased by more than 5 percent of the original approved budget
 2659 or \$250,000, whichever is greater, by all action taken under
 2660 this subsection.

2661 2. Between budget entities within identical categories of
 2662 appropriations, if no category of appropriation is increased or
 2663 decreased by more than 5 percent of the original approved budget
 2664 or \$250,000, whichever is greater, by all action taken under
 2665 this subsection.

2666 3. Any agency exceeding salary rate established pursuant
 2667 to s. 216.181(8) on June 30th of any fiscal year shall not be
 2668 authorized to make transfers pursuant to subparagraphs 1. and 2.
 2669 in the subsequent fiscal year.

2670 4. Notice of proposed transfers under subparagraphs 1. and
 2671 2. shall be provided to the Executive Office of the Governor and
 2672 the chairs of the legislative appropriations committees at least
 2673 3 days prior to agency implementation in order to provide an
 2674 opportunity for review. The review shall be limited to ensuring
 2675 that the transfer is in compliance with the requirements of this
 2676 paragraph.

2677 (b) After providing notice at least 5 working days prior
 2678 to implementation:

2679 1. The transfer of funds within programs identified in the
 2680 General Appropriations Act from identical funding sources
 2681 between the following appropriation categories without
 2682 limitation so long as such a transfer does not result in an
 2683 increase, to the total recurring general revenue or trust fund
 2684 cost of the agency or entity of the judicial branch in the

2685 subsequent fiscal year: other personal services, expenses,
 2686 operating capital outlay, food products, state attorney and
 2687 public defender operations, data processing services, operating
 2688 and maintenance of patrol vehicles, overtime payments, salary
 2689 incentive payments, compensation to retired judges, law
 2690 libraries, and juror and witness payments.

2691 2. The transfer of funds and positions from identical
 2692 funding sources between salaries and benefits appropriation
 2693 categories within programs identified in the General
 2694 Appropriations Act. Such transfers must be consistent with
 2695 legislative policy and intent and may not adversely affect
 2696 achievement of approved performance outcomes or outputs in any
 2697 program.

2698 (c) The transfer of funds appropriated to accounts
 2699 established for disbursement purposes upon release of such
 2700 appropriation upon request of a department and approval by the
 2701 Chief Financial Officer. Such transfer may only be made to the
 2702 same appropriation category and the same funding source from
 2703 which the funds are transferred.

2704 (4) The following transfers are authorized with the
 2705 approval of the Legislative Budget Commission. Unless waived by
 2706 the chair and vice chair of the commission, notice of such
 2707 transfers must be provided 14 days before the commission
 2708 meeting:

2709 (a) The transfer of appropriations for operations from the
 2710 General Revenue Fund in excess of those provided in this section
 2711 but within a state agency or within the judicial branch, as
 2712 recommended by the Executive Office of the Governor or the

2713 Office of the State Court Administrator ~~Chief Justice of the~~
2714 ~~Supreme Court.~~

2715 (b) The transfer of appropriations for operations from
2716 trust funds in excess of those authorized in subsection (2) or
2717 subsection (3), as recommended by the Executive Office of the
2718 Governor or the Office of the State Court Administrator ~~Chief~~
2719 ~~Justice of the Supreme Court.~~

2720 (c) The transfer of the portion of an appropriation for a
2721 named fixed capital outlay project found to be in excess of that
2722 needed to complete the project to another project for which
2723 there has been an appropriation in the same fiscal year from the
2724 same fund and within the same department where a deficiency is
2725 found to exist, at the request of the Executive Office of the
2726 Governor for state agencies or the Office of the State Court
2727 Administrator ~~Chief Justice of the Supreme Court~~ for the
2728 judicial branch. The scope of a fixed capital outlay project may
2729 not be changed by any transfer of funds made pursuant to this
2730 subsection.

2731 (d) The transfers necessary to accomplish the purposes of
2732 reorganization within state agencies or the judicial branch
2733 authorized by the Legislature when the necessary adjustments of
2734 appropriations and positions have not been provided in the
2735 General Appropriations Act.

2736 Section 119. Paragraph (d) of subsection (1) and paragraph
2737 (c) of subsection (2) of section 216.301, Florida Statutes, is
2738 amended to read:

2739 216.301 Appropriations; undisbursed balances.—

2740 (1)

2741 (d) Each department and the judicial branch shall maintain
 2742 the integrity of the General Revenue Fund. Appropriations from
 2743 the General Revenue Fund contained in the original approved
 2744 budget may be transferred to the proper trust fund for
 2745 disbursement. Any reversion of appropriation balances from
 2746 programs which receive funding from the General Revenue Fund and
 2747 trust funds shall be transferred to the General Revenue Fund
 2748 within 15 days after such reversion, unless otherwise provided
 2749 by federal or state law, including the General Appropriations
 2750 Act. The Executive Office of the Governor or the Office of the
 2751 State Court Administrator ~~Chief Justice of the Supreme Court~~
 2752 shall determine the state agency or judicial branch programs
 2753 which are subject to this paragraph. This determination shall be
 2754 subject to the legislative consultation and objection process in
 2755 this chapter. The Education Enhancement Trust Fund shall not be
 2756 subject to the provisions of this section.

2757 (2)

2758 (c) The balance of any appropriation for fixed capital
 2759 outlay certified forward under paragraph (a) which is not
 2760 disbursed but expended, contracted, or committed to be expended
 2761 prior to the end of the second fiscal year of the appropriation,
 2762 or the third fiscal year if it is for an educational facility as
 2763 defined in chapter 1013 or for a construction project of a state
 2764 university, and any subsequent fiscal year, shall be certified
 2765 by the head of the affected state agency or the legislative or
 2766 judicial branch on or before August 1 of each year to the
 2767 Executive Office of the Governor, showing in detail the
 2768 commitment or to whom obligated and the amount of such

2769 commitment or obligation. On or before September 1 of each year,
 2770 the Executive Office of the Governor shall review and approve or
 2771 disapprove, consistent with legislative policy and intent, any
 2772 or all of the items and amounts certified by the head of the
 2773 affected state agency and shall approve all items and amounts
 2774 certified by the Office of the State Court Administrator ~~Chief~~
 2775 ~~Justice of the Supreme Court~~ and by the legislative branch and
 2776 shall furnish the Chief Financial Officer, the legislative
 2777 appropriations committees, and the Auditor General a detailed
 2778 listing of the items and amounts approved as legal encumbrances
 2779 against the undisbursed balances of such appropriations. If such
 2780 certification is not made and the balance of the appropriation
 2781 has reverted and the obligation is proven to be legal, due, and
 2782 unpaid, the obligation shall be presented to the Legislature for
 2783 its consideration.

2784 Section 120. Section 272.04, Florida Statutes, is amended
 2785 to read:

2786 272.04 Department to allocate space.—The Department of
 2787 Management Services shall have authority to allocate space to
 2788 house the various departments, agencies, boards, and commissions
 2789 in said buildings, excepting, however, the ~~new~~ Supreme Court
 2790 Building, for which authority shall be vested in the justices of
 2791 the Supreme Court.

2792 Section 121. Subsection (15) of section 287.059, Florida
 2793 Statutes, is amended to read:

2794 287.059 Private attorney services.—

2795 (15) The Attorney General's office may, by rule, adopt
 2796 standard fee schedules for court reporting services for each

2797 | judicial circuit in consultation with the Florida Court
 2798 | Reporters Association. Agencies, when contracting for court
 2799 | reporting services, must use the standard fee schedule for court
 2800 | reporting services established pursuant to this section,
 2801 | provided no state contract is applicable or unless the head of
 2802 | the agency or his or her designee waives use of the schedule and
 2803 | sets forth the reasons for deviating from the schedule in
 2804 | writing to the Attorney General. Such waiver must demonstrate
 2805 | necessity based upon criteria for deviation from the schedule
 2806 | which the Attorney General shall establish by rule. Any proposed
 2807 | fee schedule under this section shall be submitted to the
 2808 | Governor, the Speaker of the House of Representatives, the
 2809 | President of the Senate, and the Chief Justice of each ~~the~~
 2810 | Florida Supreme Court at least 60 days prior to publication of
 2811 | the notice to adopt the rule.

2812 | Section 122. Subsection (5) of section 288.9606, Florida
 2813 | Statutes, is amended to read:

2814 | 288.9606 Issue of revenue bonds.—

2815 | (5) In any suit, action, or proceeding involving the
 2816 | validity or enforceability of any bond issued under this act, or
 2817 | the security therefor, any such bond reciting in substance that
 2818 | it has been issued by the corporation in connection with any
 2819 | purpose of the act shall be conclusively deemed to have been
 2820 | issued for such purpose, and such purpose shall be conclusively
 2821 | deemed to have been carried out in accordance with the act. The
 2822 | complaint in any action to validate such bonds shall be filed
 2823 | only in the Circuit Court for Leon County. The notice required
 2824 | to be published by s. 75.06 shall be published only in Leon

2825 County, and the complaint and order of the circuit court shall
 2826 be served only on the State Attorney of the Second Judicial
 2827 Circuit and on the state attorney of each circuit in each county
 2828 where the public agencies which were initially a party to the
 2829 interlocal agreement are located. Notice of such proceedings
 2830 shall be published in the manner and the time required by s.
 2831 75.06, in Leon County and in each county where the public
 2832 agencies which were initially a party to the interlocal
 2833 agreement are located. Obligations of the corporation pursuant
 2834 to a loan agreement as described in this subsection may be
 2835 validated as provided in chapter 75. The validation of at least
 2836 the first bonds approved by the corporation shall be appealed to
 2837 the Florida Supreme Court of Civil Appeals.

2838 Section 123. Section 318.30, Florida Statutes, is amended
 2839 to read:

2840 318.30 Legislative intent.—It is the intent of the
 2841 Legislature that civil traffic infraction hearing officers be
 2842 appointed and used in those counties where the need arises for
 2843 their services. Any Civil Traffic Infraction Hearing Officer
 2844 Program established in a county under ss. 318.30-318.38 shall be
 2845 subject to the supervision of the Supreme Court of Civil
 2846 Appeals.

2847 Section 124. Section 318.34, Florida Statutes, is amended
 2848 to read:

2849 318.34 Qualifications.—Applicants for the position of
 2850 hearing officer of the civil traffic court shall be members in
 2851 good standing of The Florida Bar and shall have completed a 40-
 2852 hour education and training program which has been approved by

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2853 the Florida Supreme Court of Civil Appeals. Thereafter, hearing
 2854 officers shall complete an approved 4-hour continuing education
 2855 program annually.

2856 Section 125. Subsection (1) of section 350.128, Florida
 2857 Statutes, is amended to read:

2858 350.128 Judicial review.—

2859 (1) As authorized by s. 3(a)(2) ~~3(b)(2)~~, Art. V of the
 2860 State Constitution, the Supreme Court of Civil Appeals shall,
 2861 upon petition, review any action of the commission relating to
 2862 rates or service of utilities providing electric, gas, or
 2863 telephone service. The District Court of Appeal, First District,
 2864 shall, upon petition, review any other action of the commission.

2865 Section 126. Section 364.381, Florida Statutes, is amended
 2866 to read:

2867 364.381 Judicial review.—As authorized by s. 3(a)(2)
 2868 ~~3(b)(2)~~, Art. V of the State Constitution, the Supreme Court of
 2869 Civil Appeals shall review, upon petition, any action of the
 2870 commission relating to rates or service of telecommunications
 2871 companies. For purposes of judicial review, a telecommunications
 2872 company is a telephone company within the meaning of s. 3(b)(2),
 2873 Art. V of the State Constitution.

2874 Section 127. Section 366.10, Florida Statutes, is amended
 2875 to read:

2876 366.10 Judicial review.—As authorized by s. 3(a)(2)
 2877 ~~3(b)(2)~~, Art. V of the State Constitution, the Supreme Court of
 2878 Civil Appeals shall review, upon petition, any action of the
 2879 commission relating to rates or service of utilities providing
 2880 electric or gas service.

2881 Section 128. Paragraph (d) of subsection (2) of section
 2882 366.8260, Florida Statutes, is amended to read:
 2883 366.8260 Storm-recovery financing.—
 2884 (2) FINANCING ORDERS.—
 2885 (d) Within 30 days after the commission issues an order
 2886 pursuant to paragraph (b) or a decision denying a request for
 2887 reconsideration or, if the request for reconsideration is
 2888 granted, within 30 days after the commission issues its decision
 2889 on reconsideration, an adversely affected party may petition for
 2890 judicial review in the Florida Supreme Court of Civil Appeals.
 2891 The petition for review shall be served upon the executive
 2892 director of the commission personally or by service at the
 2893 office of the commission. Review on appeal shall be based solely
 2894 on the record before the commission and briefs to the court and
 2895 shall be limited to determining whether the order issued
 2896 pursuant to paragraph (b), or the order on reconsideration,
 2897 conforms to the constitution and laws of this state and the
 2898 United States and is within the authority of the commission
 2899 under this section. Inasmuch as delay in the determination of
 2900 the appeal of a financing order will delay the issuance of
 2901 storm-recovery bonds, thereby diminishing savings to customers
 2902 which might be achieved if such bonds were issued as
 2903 contemplated by a financing order, the Supreme Court of Civil
 2904 Appeals shall proceed to hear and determine the action as
 2905 expeditiously as practicable and give the action precedence over
 2906 other matters not accorded similar precedence by law.
 2907 Section 129. Section 368.112, Florida Statutes, is amended
 2908 to read:

2909 368.112 Judicial review.—As authorized by s. 3(a)(2)
 2910 ~~3(b)(2)~~, Art. V of the State Constitution, the Supreme Court of
 2911 Civil Appeals shall review, upon petition, any action of the
 2912 commission relating to rates or service of a natural gas
 2913 transmission company. For purposes of judicial review, a natural
 2914 gas transmission company is a utility providing gas service
 2915 within the meaning of s. 3(b)(2), Art. V of the State
 2916 Constitution.

2917 Section 130. Subsection (2) of section 379.332, Florida
 2918 Statutes, is amended to read:

2919 379.332 Prosecutions; state attorney to represent state.—

2920 (2) The state attorney shall represent the state in any
 2921 forfeiture proceeding under this chapter. The Department of
 2922 Legal Affairs shall represent the state in all appeals from
 2923 judgments of forfeiture to the appropriate Supreme Court. The
 2924 state may appeal any judgment denying forfeiture in whole or in
 2925 part that may be otherwise adverse to the state.

2926 Section 131. Paragraph (d) of subsection (3) of section
 2927 383.0115, Florida Statutes, is amended to read:

2928 383.0115 The Commission on Marriage and Family Support
 2929 Initiatives.—

2930 (3) SCOPE OF ACTIVITY.—The commission shall:

2931 (d) By December 31 of each year, beginning December 31,
 2932 2003, issue an annual report to the Governor, the President of
 2933 the Senate, the Speaker of the House of Representatives, and the
 2934 Chief Justice of the Supreme Court of Civil Appeals on progress
 2935 it is making on its responsibilities.

2936 Section 132. Paragraph (f) of subsection (4) and
 2937 subsections (5) and (6) of section 390.01114, Florida Statutes,
 2938 are amended to read:

2939 390.01114 Parental Notice of Abortion Act.—

2940 (4) PROCEDURE FOR JUDICIAL WAIVER OF NOTICE.—

2941 (f) An expedited appeal shall be available, as provided
 2942 ~~the Supreme Court provides~~ by court rule, to any minor to whom
 2943 the circuit court denies a waiver of notice. An order
 2944 authorizing a termination of pregnancy without notice is not
 2945 subject to appeal.

2946 (5) PROCEEDINGS.—The Supreme Court of Civil Appeals is
 2947 requested to adopt rules and forms for petitions to ensure that
 2948 proceedings under subsection (4) are handled expeditiously and
 2949 in a manner consistent with this act. The Supreme Court of Civil
 2950 Appeals is also requested to adopt rules to ensure that the
 2951 hearings protect the minor's confidentiality and the
 2952 confidentiality of the proceedings.

2953 (6) REPORT.—The Supreme Court of Civil Appeals, through
 2954 the Office of the State Courts Administrator, shall report by
 2955 February 1 of each year to the Governor, the President of the
 2956 Senate, and the Speaker of the House of Representatives on the
 2957 number of petitions filed under subsection (4) for the preceding
 2958 year, and the timing and manner of disposal of such petitions by
 2959 each circuit court.

2960 Section 133. Paragraph (e) of subsection (1) of section
 2961 397.333, Florida Statutes, is amended to read:

2962 397.333 Statewide Drug Policy Advisory Council.—

2963 (1)

2964 (e) The Chief Justice of the Supreme Court of Civil
 2965 Appeals shall appoint a member of the judiciary to the advisory
 2966 council.

2967 Section 134. Subsection (1) of section 397.484, Florida
 2968 Statutes, is amended to read:

2969 397.484 Lawyer assistance programs; persons entitled to
 2970 immunity.—The civil immunity provided for in this act shall be
 2971 liberally construed to accomplish the purposes of this act. The
 2972 persons entitled to immunity under this act include:

2973 (1) Florida Lawyers Assistance, Inc., and other lawyer
 2974 assistance programs approved by the Florida Supreme Court of
 2975 Civil Appeals or The Florida Bar which provide assistance to
 2976 attorneys who may be impaired because of abuse of alcohol or
 2977 other drugs or because of any other physical or mental infirmity
 2978 causing impairment.

2979 Section 135. Subsection (11) of section 400.0233, Florida
 2980 Statutes, is amended to read:

2981 400.0233 Presuit notice; investigation; notification of
 2982 violation of resident's rights or alleged negligence; claims
 2983 evaluation procedure; informal discovery; review; settlement
 2984 offer; mediation.—

2985 (11) Within 30 days after the claimant's receipt of the
 2986 defendant's response to the claim, the parties or their
 2987 designated representatives shall meet in mediation to discuss
 2988 the issues of liability and damages in accordance with the
 2989 mediation rules of practice and procedures adopted by court rule
 2990 ~~the Supreme Court~~. Upon stipulation of the parties, this 30-day
 2991 period may be extended and the statute of limitations is tolled

2992 during the mediation and any such extension. At the conclusion
 2993 of mediation, the claimant shall have 60 days or the remainder
 2994 of the period of the statute of limitations, whichever is
 2995 greater, within which to file suit.

2996 Section 136. Paragraph (b) of subsection (4) of section
 2997 402.56, Florida Statutes, is amended to read:

2998 402.56 Children's cabinet; organization; responsibilities;
 2999 annual report.—

3000 (4) MEMBERS.—The cabinet shall consist of 15 members
 3001 including the Governor and the following persons:

3002 (b) The President of the Senate, the Speaker of the House
 3003 of Representatives, the Chief Justice of the Supreme Court of
 3004 Civil Appeals, the Attorney General, and the Chief Financial
 3005 Officer, or their appointed designees, shall serve as ex officio
 3006 members of the cabinet.

3007 Section 137. Subsection (8) of section 403.1837, Florida
 3008 Statutes, is amended to read:

3009 403.1837 Florida Water Pollution Control Financing
 3010 Corporation.—

3011 (8) The corporation shall validate any bonds issued under
 3012 this section, except refunding bonds, which may be validated at
 3013 the option of the corporation, by proceedings under chapter 75.
 3014 The validation complaint must be filed in the Circuit Court for
 3015 Leon County. The notice required under s. 75.06 must be
 3016 published in Leon County, and the complaint and order of the
 3017 circuit court shall be served only on the State Attorney for the
 3018 Second Judicial Circuit. Sections 75.04(2) and 75.06(2) do not
 3019 apply to a validation complaint filed as authorized in this

3020 subsection. The validation of the first bonds issued under this
 3021 section may be appealed to the Supreme Court of Civil Appeals,
 3022 and the appeal shall be handled on an expedited basis.

3023 Section 138. Paragraph (d) of subsection (4) of section
 3024 403.519, Florida Statutes, is amended to read:

3025 403.519 Exclusive forum for determination of need.—

3026 (4) In making its determination on a proposed electrical
 3027 power plant using nuclear materials or synthesis gas produced by
 3028 integrated gasification combined cycle power plant as fuel, the
 3029 commission shall hold a hearing within 90 days after the filing
 3030 of the petition to determine need and shall issue an order
 3031 granting or denying the petition within 135 days after the date
 3032 of the filing of the petition. The commission shall be the sole
 3033 forum for the determination of this matter and the issues
 3034 addressed in the petition, which accordingly shall not be
 3035 reviewed in any other forum, or in the review of proceedings in
 3036 such other forum. In making its determination to either grant or
 3037 deny the petition, the commission shall consider the need for
 3038 electric system reliability and integrity, including fuel
 3039 diversity, the need for base-load generating capacity, the need
 3040 for adequate electricity at a reasonable cost, and whether
 3041 renewable energy sources and technologies, as well as
 3042 conservation measures, are utilized to the extent reasonably
 3043 available.

3044 (d) The commission's determination of need for a nuclear
 3045 or integrated gasification combined cycle power plant shall
 3046 create a presumption of public need and necessity and shall
 3047 serve as the commission's report required by s. 403.507(4)(a).

3048 An order entered pursuant to this section constitutes final
 3049 agency action. Any petition for reconsideration of a final order
 3050 on a petition for need determination shall be filed within 5
 3051 days after the date of such order. The commission's final order,
 3052 including any order on reconsideration, shall be reviewable on
 3053 appeal in the Florida Supreme Court of Civil Appeals. Inasmuch
 3054 as delay in the determination of need will delay siting of a
 3055 nuclear or integrated gasification combined cycle power plant or
 3056 diminish the opportunity for savings to customers under the
 3057 federal Energy Policy Act of 2005, the Supreme Court of Civil
 3058 Appeals shall proceed to hear and determine the action as
 3059 expeditiously as practicable and give the action precedence over
 3060 matters not accorded similar precedence by law.

3061 Section 139. Subsection (4) of section 421.17, Florida
 3062 Statutes, is amended to read:

3063 421.17 Validation of debentures and proceedings.—

3064 (4) In the event no appeal is taken within the time
 3065 prescribed by said chapter, or if taken, and the decree
 3066 validating said debentures is affirmed by the Supreme Court of
 3067 Civil Appeals, the decree of the circuit court validating and
 3068 confirming the issuance of the debentures of the housing
 3069 authority shall be forever conclusive as to the validity of said
 3070 debentures against the housing authority and against all
 3071 taxpayers and citizens of the city for which said housing
 3072 authority was created and of the county or counties in the whole
 3073 or part of which the housing authority is empowered to function;
 3074 and the validity of said debentures shall never be called in
 3075 question in any court in this state. Debentures of a housing

3076 authority, when issued under the provisions of said chapter,
 3077 shall have stamped or written thereon by the proper officers of
 3078 the housing authority issuing the same, the words: "Validated
 3079 and Confirmed by Decree of the Circuit Court," specifying the
 3080 date when such decree was rendered and the court in which it was
 3081 rendered, which shall be signed by the clerk of the circuit
 3082 court in which the decree was rendered, which entry shall be
 3083 original evidence of said decree in any court in this state.

3084 Section 140. Subsection (11) of section 429.293, Florida
 3085 Statutes, is amended to read:

3086 429.293 Presuit notice; investigation; notification of
 3087 violation of residents' rights or alleged negligence; claims
 3088 evaluation procedure; informal discovery; review; settlement
 3089 offer; mediation.-

3090 (11) Within 30 days after the claimant's receipt of
 3091 defendant's response to the claim, the parties or their
 3092 designated representatives shall meet in mediation to discuss
 3093 the issues of liability and damages in accordance with the
 3094 mediation rules of practice and procedures adopted by court rule
 3095 ~~the Supreme Court~~. Upon stipulation of the parties, this 30-day
 3096 period may be extended and the statute of limitations is tolled
 3097 during the mediation and any such extension. At the conclusion
 3098 of mediation, the claimant shall have 60 days or the remainder
 3099 of the period of the statute of limitations, whichever is
 3100 greater, within which to file suit.

3101 Section 141. Paragraph (a) of subsection (2) of section
 3102 429.87, Florida Statutes, is amended to read:

3103 429.87 Civil actions to enforce rights.-

3104 (2) To recover attorney's fees under this section, the
 3105 following conditions precedent must be met:

3106 (a) Within 120 days after the filing of a responsive
 3107 pleading or defensive motion to a complaint brought under this
 3108 section and before trial, the parties or their designated
 3109 representatives shall meet in mediation to discuss the issues of
 3110 liability and damages in accordance with this paragraph for the
 3111 purpose of an early resolution of the matter.

3112 1. Within 60 days after the filing of the responsive
 3113 pleading or defensive motion, the parties shall:

3114 a. Agree on a mediator. If the parties cannot agree on a
 3115 mediator, the defendant shall immediately notify the court,
 3116 which shall appoint a mediator within 10 days after such notice.

3117 b. Set a date for mediation.

3118 c. Prepare an order for the court that identifies the
 3119 mediator, the scheduled date of the mediation, and other terms
 3120 of the mediation. Absent any disagreement between the parties,
 3121 the court may issue the order for the mediation submitted by the
 3122 parties without a hearing.

3123 2. The mediation must be concluded within 120 days after
 3124 the filing of a responsive pleading or defensive motion. The
 3125 date may be extended only by agreement of all parties subject to
 3126 mediation under this subsection.

3127 3. The mediation shall be conducted in the following
 3128 manner:

3129 a. Each party shall ensure that all persons necessary for
 3130 complete settlement authority are present at the mediation.

3131 b. Each party shall mediate in good faith.

3132 4. All aspects of the mediation which are not specifically
 3133 established by this subsection must be conducted according to
 3134 the rules of practice and procedure adopted by court rule ~~the~~
 3135 ~~Supreme Court of this state.~~

3136 Section 142. Subsection (1) of section 440.106, Florida
 3137 Statutes, is amended to read:

3138 440.106 Civil remedies; administrative penalties.—

3139 (1) Whenever any circuit or special grievance committee
 3140 acting under the jurisdiction of the Supreme Court of Civil
 3141 Appeals finds probable cause to believe that an attorney has
 3142 violated s. 440.105, such committee may forward to the
 3143 appropriate state attorney a copy of the findings of probable
 3144 cause and a copy of the report being filed in the matter.

3145 Section 143. Paragraph (a) of subsection (5) of section
 3146 440.25, Florida Statutes, is amended to read:

3147 440.25 Procedures for mediation and hearings.—

3148 (5) (a) Procedures with respect to appeals from orders of
 3149 judges of compensation claims shall be governed by court rules
 3150 ~~adopted by the Supreme Court.~~ Such an order shall become final
 3151 30 days after mailing of copies of such order to the parties,
 3152 unless appealed pursuant to such rules.

3153 Section 144. Section 440.271, Florida Statutes, is amended
 3154 to read:

3155 440.271 Appeal of order of judge of compensation claims.—
 3156 Review of any order of a judge of compensation claims entered
 3157 pursuant to this chapter shall be by appeal to the District
 3158 Court of Appeal, First District. Appeals shall be filed in
 3159 accordance with rules of procedure prescribed by court rule ~~the~~

3160 ~~Supreme Court~~ for review of such orders. The department shall be
 3161 given notice of any proceedings pertaining to s. 440.25,
 3162 regarding indigency, or s. 440.49, regarding the Special
 3163 Disability Trust Fund, and shall have the right to intervene in
 3164 any proceedings.

3165 Section 145. Subsection (3) of section 440.29, Florida
 3166 Statutes, is amended to read:

3167 440.29 Procedure before the judge of compensation claims.—

3168 (3) The practice and procedure before the judges of
 3169 compensation claims shall be governed by rules adopted by the
 3170 Office of the Judges of Compensation Claims ~~Supreme Court~~,
 3171 except to the extent that such rules conflict with the
 3172 provisions of this chapter.

3173 Section 146. Subsection (2) of section 440.32, Florida
 3174 Statutes, is amended to read:

3175 440.32 Cost in proceedings brought without reasonable
 3176 ground.—

3177 (2) If the judge of compensation claims or any court
 3178 having jurisdiction of proceedings in respect to any claims or
 3179 defense under this section determines that the proceedings were
 3180 maintained or continued frivolously, the cost of the
 3181 proceedings, including reasonable attorney's fees, shall be
 3182 assessed against the offending attorney. If a penalty is
 3183 assessed under this subsection, a copy of the order assessing
 3184 the penalty must be forwarded to the appropriate grievance
 3185 committee acting under the jurisdiction of the Supreme Court of
 3186 Civil Appeals. Penalties, fees, and costs awarded under this
 3187 provision may not be recouped from the party.

3188 Section 147. Section 440.442, Florida Statutes, is amended
 3189 to read:

3190 440.442 Code of Judicial Conduct.—The Deputy Chief Judge
 3191 and judges of compensation claims shall observe and abide by the
 3192 Code of Judicial Conduct ~~as adopted by the Florida Supreme~~
 3193 ~~Court~~. Any material violation of a provision of the Code of
 3194 Judicial Conduct shall constitute either malfeasance or
 3195 misfeasance in office and shall be grounds for suspension and
 3196 removal of the Deputy Chief Judge or judge of compensation
 3197 claims by the Governor.

3198 Section 148. Subsection (2) of section 454.021, Florida
 3199 Statutes, is amended to read:

3200 454.021 Attorneys; admission to practice law; Supreme
 3201 Court of Civil Appeals to govern and regulate.—

3202 (2) The Supreme Court of Civil Appeals of Florida, being
 3203 the highest court of said state, is the proper court to govern
 3204 and regulate admissions of attorneys and counselors to practice
 3205 law in said state.

3206 Section 149. Section 454.31, Florida Statutes, is amended
 3207 to read:

3208 454.31 Practice while disbarred or suspended prohibited.—
 3209 Any person who has been knowingly disbarred and who has not been
 3210 lawfully reinstated or is knowingly under suspension from the
 3211 practice of law ~~by any circuit court of the state or by the~~
 3212 ~~Supreme Court of the state~~ who practices law in this state or
 3213 holds himself or herself out as an attorney at law or qualified
 3214 to practice law in this state commits a felony of the third
 3215 degree, punishable as provided in s. 775.082, s. 775.083, or s.

3216 775.084.

3217 Section 150. Section 454.32, Florida Statutes, is amended
3218 to read:

3219 454.32 Aiding or assisting disbarred or suspended attorney
3220 prohibited.—A person who knowingly aids or assists any person in
3221 carrying on the unauthorized practice of law, knowing that such
3222 person has been disbarred and has not been lawfully reinstated
3223 or is under suspension from the practice of law ~~by any circuit~~
3224 ~~court of the state or by the Supreme Court of the state~~, commits
3225 a felony of the third degree, punishable as provided in s.
3226 775.082, s. 775.083, or s. 775.084, and shall also be subject to
3227 disbarment.

3228 Section 151. Paragraph (d) of subsection (7) of section
3229 489.533, Florida Statutes, is amended to read:

3230 489.533 Disciplinary proceedings.—

3231 (7)

3232 (d) Mediation shall be conducted according to rules of
3233 practice and procedure for circuit court as adopted by court
3234 rule ~~the Supreme Court~~. The mediator shall be a certified
3235 circuit court mediator.

3236 Section 152. Subsection (4) of section 627.7015, Florida
3237 Statutes, is amended to read:

3238 627.7015 Alternative procedure for resolution of disputed
3239 property insurance claims.—

3240 (4) The department shall adopt by rule a property
3241 insurance mediation program to be administered by the department
3242 or its designee. The department may also adopt special rules
3243 which are applicable in cases of an emergency within the state.

3244 The rules shall be modeled after practices and procedures set
 3245 forth in mediation rules of procedure adopted by court rule ~~the~~
 3246 ~~Supreme Court~~. The rules shall provide for:

3247 (a) Reasonable requirement for processing and scheduling
 3248 of requests for mediation.

3249 (b) Qualifications of mediators as provided in s. 627.745
 3250 and in the Florida Rules of Certified and Court Appointed
 3251 Mediators, and for such other individuals as are qualified by
 3252 education, training, or experience as the department determines
 3253 to be appropriate.

3254 (c) Provisions governing who may attend mediation
 3255 conferences.

3256 (d) Selection of mediators.

3257 (e) Criteria for the conduct of mediation conferences.

3258 (f) Right to legal counsel.

3259 Section 153. Subsection (2) of section 723.038, Florida
 3260 Statutes, is amended to read:

3261 723.038 Dispute settlement; mediation.—

3262 (2) The division upon petition shall appoint a qualified
 3263 mediator to conduct mediation proceedings unless the parties
 3264 timely notify the division in writing that they have selected a
 3265 mediator. A person appointed by the division shall be a
 3266 qualified mediator from a list of circuit court mediators in
 3267 each judicial circuit who has met training and educational
 3268 requirements established by the Supreme Court. If such mediators
 3269 are not available, the division may select a mediator from the
 3270 list maintained by the Florida Growth Management Conflict
 3271 Resolution Consortium. The division shall promulgate rules of

3272 procedure to govern such proceedings in accordance with the
 3273 rules of practice and procedure adopted by court rule ~~the~~
 3274 ~~Supreme Court~~. The division shall also establish, by rule, the
 3275 fee to be charged by a mediator which shall not exceed the fee
 3276 authorized by the circuit court.

3277 Section 154. Subsection (2) of section 744.703, Florida
 3278 Statutes, is amended to read:

3279 744.703 Office of public guardian; appointment,
 3280 notification.—

3281 (2) The executive director shall appoint or contract with
 3282 a public guardian from the list of candidates described in
 3283 subsection (1). A public guardian must meet the qualifications
 3284 for a guardian as prescribed in s. 744.309(1)(a). Upon
 3285 appointment of the public guardian, the executive director shall
 3286 notify the chief judge of the judicial circuit ~~and the Chief~~
 3287 ~~Justice of the Supreme Court of Florida~~, in writing, of the
 3288 appointment.

3289 Section 155. Section 752.015, Florida Statutes, is amended
 3290 to read:

3291 752.015 Mediation of visitation disputes.—It shall be the
 3292 public policy of this state that families resolve differences
 3293 over grandparent visitation within the family. It shall be the
 3294 further public policy of this state that when families are
 3295 unable to resolve differences relating to grandparent visitation
 3296 that the family participate in any formal or informal mediation
 3297 services that may be available. When families are unable to
 3298 resolve differences relating to grandparent visitation and a
 3299 petition is filed pursuant to s. 752.01, the court shall, if

3300 such services are available in the circuit, refer the case to
 3301 family mediation in accordance with court rules ~~promulgated by~~
 3302 ~~the Supreme Court.~~

3303 Section 156. Paragraphs (f) and (g) of subsection (2) of
 3304 section 753.03, Florida Statutes, are amended to read:

3305 753.03 Standards for supervised visitation and supervised
 3306 exchange programs.—

3307 (2) The clearinghouse shall use an advisory board to
 3308 assist in developing the standards. The advisory board must
 3309 include:

3310 (f) A circuit court judge who presides over domestic
 3311 violence proceedings, appointed by the Chief Justice of the
 3312 Supreme Court of Civil Appeals.

3313 (g) A circuit court judge who presides over dependency
 3314 proceedings, appointed by the Chief Justice of the Supreme Court
 3315 of Civil Appeals.

3316 Section 157. Subsection (4) of section 766.107, Florida
 3317 Statutes, is amended to read:

3318 766.107 Court-ordered arbitration.—

3319 (4) The decision of the arbitration panel shall not be
 3320 binding. If all parties accept the decision of the arbitration
 3321 panel, that decision shall be deemed a settlement of the case
 3322 and it shall be dismissed with prejudice. After the arbitration
 3323 award is rendered, any party may demand a trial de novo in the
 3324 circuit court by filing with the clerk of the circuit court and
 3325 all parties such notice as is required by court rules ~~adopted by~~
 3326 ~~the Supreme Court.~~

3327 Section 158. Subsection (4) of section 766.206, Florida
 3328 Statutes, is amended to read:

3329 766.206 Presuit investigation of medical negligence claims
 3330 and defenses by court.—

3331 (4) If the court finds that an attorney for the claimant
 3332 mailed notice of intent to initiate litigation without
 3333 reasonable investigation, or filed a medical negligence claim
 3334 without first mailing such notice of intent which complies with
 3335 the reasonable investigation requirements, or if the court finds
 3336 that an attorney for a defendant mailed a response rejecting the
 3337 claim without reasonable investigation, the court shall submit
 3338 its finding in the matter to The Florida Bar for disciplinary
 3339 review of the attorney. Any attorney so reported three or more
 3340 times within a 5-year period shall be reported to a circuit
 3341 grievance committee acting under the jurisdiction of the Supreme
 3342 Court of Civil Appeals. If such committee finds probable cause
 3343 to believe that an attorney has violated this section, such
 3344 committee shall forward to the Supreme Court of Civil Appeals a
 3345 copy of its finding.

3346 Section 159. Subsection (1) of section 766.311, Florida
 3347 Statutes, is amended to read:

3348 766.311 Conclusiveness of determination or award; appeal.—

3349 (1) A determination of the administrative law judge as to
 3350 qualification of the claim for purposes of compensability under
 3351 s. 766.309 or an award by the administrative law judge pursuant
 3352 to s. 766.31 shall be conclusive and binding as to all questions
 3353 of fact. Review of an order of an administrative law judge shall
 3354 be by appeal to the District Court of Appeal. Appeals shall be

3355 filed in accordance with court rules of procedure prescribed by
 3356 ~~the Supreme Court~~ for review of such orders.

3357 Section 160. Subsection (6) of section 768.79, Florida
 3358 Statutes, is amended to read:

3359 768.79 Offer of judgment and demand for judgment.—

3360 (6) Upon motion made by the offeror within 30 days after
 3361 the entry of judgment or after voluntary or involuntary
 3362 dismissal, the court shall determine the following:

3363 (a) If a defendant serves an offer which is not accepted
 3364 by the plaintiff, and if the judgment obtained by the plaintiff
 3365 is at least 25 percent less than the amount of the offer, the
 3366 defendant shall be awarded reasonable costs, including
 3367 investigative expenses, and attorney's fees, calculated in
 3368 accordance with the guidelines promulgated by court rule ~~the~~
 3369 ~~Supreme Court~~, incurred from the date the offer was served, and
 3370 the court shall set off such costs in attorney's fees against
 3371 the award. When such costs and attorney's fees total more than
 3372 the amount of the judgment, the court shall enter judgment for
 3373 the defendant against the plaintiff for the amount of the costs
 3374 and fees, less the amount of the award to the plaintiff.

3375 (b) If a plaintiff serves an offer which is not accepted
 3376 by the defendant, and if the judgment obtained by the plaintiff
 3377 is at least 25 percent more than the amount of the offer, the
 3378 plaintiff shall be awarded reasonable costs, including
 3379 investigative expenses, and attorney's fees, calculated in
 3380 accordance with the guidelines promulgated by court rule ~~the~~
 3381 ~~Supreme Court~~, incurred from the date the offer was served.

3382

3383 For purposes of the determination required by paragraph (a), the
 3384 term "judgment obtained" means the amount of the net judgment
 3385 entered, plus any postoffer collateral source payments received
 3386 or due as of the date of the judgment, plus any postoffer
 3387 settlement amounts by which the verdict was reduced. For
 3388 purposes of the determination required by paragraph (b), the
 3389 term "judgment obtained" means the amount of the net judgment
 3390 entered, plus any postoffer settlement amounts by which the
 3391 verdict was reduced.

3392 Section 161. Section 849.42, Florida Statutes, is amended
 3393 to read:

3394 849.42 State attorney to represent state.—Upon the filing
 3395 of the sheriff's return with the clerk of the circuit court the
 3396 said clerk shall furnish the state attorney with a copy thereof
 3397 and the said state attorney shall represent the state in the
 3398 forfeiture proceedings. The Department of Legal Affairs shall
 3399 represent the state in all appeals from judgments of forfeiture
 3400 to the appropriate district court of appeal or direct to the
 3401 Supreme Court of Criminal Appeals when authorized by s. 3, Art.
 3402 V of the State Constitution. The state may appeal any judgment
 3403 denying forfeiture in whole or in part or that may be otherwise
 3404 adverse to the state.

3405 Section 162. Subsection (1) of section 877.02, Florida
 3406 Statutes, is amended to read:

3407 877.02 Solicitation of legal services or retainers
 3408 therefor; penalty.—

3409 (1) It shall be unlawful for any person or her or his
 3410 agent, employee or any person acting on her or his behalf, to

3411 solicit or procure through solicitation either directly or
 3412 indirectly legal business, or to solicit or procure through
 3413 solicitation a retainer, written or oral, or any agreement
 3414 authorizing an attorney to perform or render legal service, or
 3415 to make it a business to solicit or procure such business,
 3416 retainers or agreements; provided, however, that nothing herein
 3417 shall prohibit or be applicable to banks, trust companies,
 3418 lawyer reference services, legal aid associations, lay
 3419 collection agencies, railroad companies, insurance companies and
 3420 agencies, and real estate companies and agencies, in the conduct
 3421 of their lawful businesses, and in connection therewith and
 3422 incidental thereto forwarding legal matters to attorneys at law
 3423 when such forwarding is authorized by the customers or clients
 3424 of said businesses and is done pursuant to the rules regulating
 3425 the Florida Bar ~~canons of legal ethics as pronounced by the~~
 3426 ~~Supreme Court of Florida.~~

3427 Section 163. Section 905.33, Florida Statutes, is amended
 3428 to read:

3429 905.33 Petition to Supreme Court of Criminal Appeals by
 3430 Governor; order.—

3431 (1) Whenever the Governor, for good and sufficient reason,
 3432 deems it to be in the public interest to impanel a statewide
 3433 grand jury, she or he may petition in writing to the Supreme
 3434 Court of Criminal Appeals for an order impaneling a statewide
 3435 grand jury. The petition shall state the general crimes or
 3436 wrongs to be inquired into and shall state that said crimes or
 3437 wrongs are of a multicircuit nature. The Supreme Court of
 3438 Criminal Appeals may order the impaneling of a statewide grand

3439 jury, in accordance with the petition, for a term of 12 calendar
 3440 months. Upon petition by a majority of the statewide grand jury
 3441 or by the legal adviser to the statewide grand jury, the Supreme
 3442 Court of Criminal Appeals, by order, may extend the term of the
 3443 statewide grand jury for a period of up to 6 months.

3444 (2) The Chief Justice of the Supreme Court of Criminal
 3445 Appeals shall designate a judge of a circuit court to preside
 3446 over the statewide grand jury; such judge shall be referred to
 3447 herein as the presiding judge.

3448 Section 164. Subsection (2) of section 905.37, Florida
 3449 Statutes, is amended to read:

3450 905.37 List of prospective jurors; impanelment;
 3451 composition of jury; compensation.—

3452 (2) The State Courts Administrator, upon receipt of the
 3453 order of the Supreme Court of Criminal Appeals granting a
 3454 petition to impanel a statewide grand jury, shall certify and
 3455 submit to the presiding judge the lists submitted by the chief
 3456 judge of each judicial circuit. The Supreme Court of Criminal
 3457 Appeals shall provide in its order impaneling the statewide
 3458 grand jury whether the prospective jurors are to be drawn from
 3459 the jury lists, as selected, certified, and submitted pursuant
 3460 to this section, from a designated circuit or circuits or from a
 3461 statewide list containing the names of all persons who are named
 3462 in the certified jury lists submitted by the chief judge of each
 3463 judicial circuit. If the Supreme Court of Criminal Appeals
 3464 determines, based upon the facts set forth in the Governor's
 3465 petition, that the principal scope of the investigation to be
 3466 conducted by the statewide grand jury is limited to a particular

3467 region or section of the state, or if, in the interest of
 3468 convenience to the prospective grand jury witnesses, law
 3469 enforcement officers, or others, the investigation could more
 3470 appropriately operate within a particular region or section of
 3471 the state, then, in either such event, the Supreme Court of
 3472 Criminal Appeals may designate the judicial circuits within that
 3473 region of the state which shall be the base operating area for
 3474 the statewide grand jury, from which designated circuits the
 3475 prospective jurors of the statewide grand jury shall be
 3476 selected. The presiding judge shall, by lot and at random,
 3477 select and impanel the statewide grand jury from the jury lists
 3478 of the designated circuits certified and submitted through State
 3479 Courts Administrator, or of the composite statewide list, in
 3480 accordance with the order of the Supreme Court of Criminal
 3481 Appeals. In selecting and impaneling the statewide grand jury in
 3482 the manner prescribed herein, the presiding judge shall select
 3483 no fewer than one statewide grand juror from each congressional
 3484 district in the state. Each such prospective juror may be
 3485 excused by the presiding judge upon a showing that service on
 3486 the statewide grand jury will result in an unreasonable personal
 3487 or financial hardship by virtue of the location or projected
 3488 length of the grand jury investigation.

3489 Section 165. Subsection (2) of section 907.041, Florida
 3490 Statutes, is amended to read:

3491 907.041 Pretrial detention and release.—

3492 (2) RULES OF PROCEDURE.—Procedures for pretrial release
 3493 determinations shall be governed by court rules ~~adopted by the~~
 3494 ~~Supreme Court~~.

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3495 Section 166. Subsection (3) of section 918.19, Florida
 3496 Statutes, is amended to read:

3497 918.19 Closing argument.—As provided in the common law, in
 3498 criminal prosecutions after the closing of evidence:

3499 (3) The prosecuting attorney may reply in rebuttal.

3500

3501 ~~The method set forth in this section shall control unless the~~
 3502 ~~Supreme Court determines it is procedural and issues a~~
 3503 ~~substitute rule of criminal procedure.~~

3504 Section 167. Subsection (4) of section 921.141, Florida
 3505 Statutes, is amended to read:

3506 921.141 Sentence of death or life imprisonment for capital
 3507 felonies; further proceedings to determine sentence.—

3508 (4) REVIEW OF JUDGMENT AND SENTENCE.—The judgment of
 3509 conviction and sentence of death shall be subject to automatic
 3510 review by the Supreme Court of Criminal Appeals ~~of Florida~~ and
 3511 disposition rendered within 2 years after the filing of a notice
 3512 of appeal. Such review by the Supreme Court of Criminal Appeals
 3513 shall have priority over all other cases and shall be heard in
 3514 accordance with court rules ~~promulgated by the Supreme Court.~~

3515 Section 168. Subsection (5) of section 921.142, Florida
 3516 Statutes, is amended to read:

3517 921.142 Sentence of death or life imprisonment for capital
 3518 drug trafficking felonies; further proceedings to determine
 3519 sentence.—

3520 (5) REVIEW OF JUDGMENT AND SENTENCE.—The judgment of
 3521 conviction and sentence of death shall be subject to automatic
 3522 review and disposition rendered by the Supreme Court of Criminal

3523 Appeals of Florida within 2 years after the filing of a notice
 3524 of appeal. Such review by the Supreme Court of Criminal Appeals
 3525 shall have priority over all other cases and shall be heard in
 3526 accordance with rules promulgated by the Supreme Court.

3527 Section 169. Subsections (2) and (3) of section 922.105,
 3528 Florida Statutes, are amended to read:

3529 922.105 Execution of death sentence; prohibition against
 3530 reduction of death sentence as a result of determination that a
 3531 method of execution is unconstitutional.—

3532 (2) A person convicted and sentenced to death for a
 3533 capital crime at any time shall have one opportunity to elect
 3534 that his or her death sentence be executed by electrocution. The
 3535 election for death by electrocution is waived unless it is
 3536 personally made by the person in writing and delivered to the
 3537 warden of the correctional facility within 30 days after the
 3538 issuance of mandate pursuant to a decision by the Florida
 3539 Supreme Court of Criminal Appeals affirming the sentence of
 3540 death or, if mandate issued before the effective date of this
 3541 act, the election must be made and delivered to the warden
 3542 within 30 days after the effective date of this act. If a
 3543 warrant of execution is pending on the effective date of this
 3544 act, or if a warrant is issued within 30 days after the
 3545 effective date of this act, the person sentenced to death who is
 3546 the subject of the warrant shall have waived election of
 3547 electrocution as the method of execution unless a written
 3548 election signed by the person is submitted to the warden of the
 3549 correctional facility no later than 48 hours after a new date
 3550 for execution of the death sentence is set by the Governor under

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3551 s. 922.06.

3552 (3) If electrocution or lethal injection is held to be
 3553 unconstitutional by the Florida Supreme Court of Criminal
 3554 Appeals under the State Constitution, or held to be
 3555 unconstitutional by the United States Supreme Court under the
 3556 United States Constitution, or if the United States Supreme
 3557 Court declines to review any judgment holding a method of
 3558 execution to be unconstitutional under the United States
 3559 Constitution made by the Florida Supreme Court of Criminal
 3560 Appeals or the United States Court of Appeals that has
 3561 jurisdiction over Florida, all persons sentenced to death for a
 3562 capital crime shall be executed by any constitutional method of
 3563 execution.

3564 Section 170. Section 922.14, Florida Statutes, is amended
 3565 to read:

3566 922.14 Sentence of death unexecuted for unjustifiable
 3567 reasons.—If a death sentence is not executed because of
 3568 unjustified failure of the Governor to issue a warrant, or for
 3569 any other unjustifiable reason, on application of the Department
 3570 of Legal Affairs, the Supreme Court of Criminal Appeals shall
 3571 issue a warrant directing the sentence to be executed during a
 3572 week designated in the warrant.

3573 Section 171. Section 922.15, Florida Statutes, is amended
 3574 to read:

3575 922.15 Return of warrant of execution issued by Supreme
 3576 Court of Criminal Appeals.—After the sentence has been executed
 3577 pursuant to a warrant issued by the Supreme Court of Criminal
 3578 Appeals, the warden of the state prison shall send the warrant

3579 and a signed statement of the execution to the Secretary of
 3580 State. The warden shall file an attested copy of the warrant and
 3581 statement with the clerk of the court that imposed the sentence.
 3582 The warden shall send to the Governor an attested copy of the
 3583 warrant and statement.

3584 Section 172. Subsection (1) of section 924.055, Florida
 3585 Statutes, is amended to read:

3586 924.055 Postconviction review in capital cases;
 3587 legislative findings and intent.—

3588 (1) It is the intent of the Legislature to reduce delays
 3589 in capital cases and to ensure that all appeals and
 3590 postconviction actions in capital cases are resolved within 5
 3591 years after the date a sentence of death is imposed in the
 3592 circuit court. All capital postconviction actions must be filed
 3593 as early as possible after the imposition of a sentence of death
 3594 which may be during a direct appeal of the conviction and
 3595 sentence. A person sentenced to death or that person's capital
 3596 postconviction counsel must file any postconviction legal action
 3597 in compliance with the statutes of limitation established in s.
 3598 924.056 and elsewhere in this chapter. Except as expressly
 3599 allowed by s. 924.056(5), a person sentenced to death or that
 3600 person's capital postconviction counsel may not file more than
 3601 one postconviction action in a sentencing court and one appeal
 3602 therefrom to the Florida Supreme Court of Criminal Appeals,
 3603 unless authorized by law.

3604 Section 173. Paragraph (a) of subsection (3) and
 3605 subsection (4) of section 924.056, Florida Statutes, is amended
 3606 to read:

3607 924.056 Commencement of capital postconviction actions for
 3608 which sentence of death is imposed on or after January 14, 2000;
 3609 limitations on actions.-

3610 (3) (a) With respect to all capital postconviction actions
 3611 commenced after the effective date of this act, a capital
 3612 postconviction action is not commenced until the defendant or
 3613 the defendant's postconviction counsel files a fully pled
 3614 postconviction action in the sentencing court or, as provided in
 3615 subsection (4), the Florida Supreme Court of Criminal Appeals.
 3616 For the purposes of this subsection, a fully pled capital
 3617 postconviction action is one which complies with s. 924.058(2)
 3618 or any superseding court rule ~~adopted by the Florida Supreme~~
 3619 ~~Court~~. Except as provided by subsection (4) or subsection (5),
 3620 all capital postconviction actions shall be barred unless they
 3621 are commenced within 180 days after the filing of the
 3622 appellant's initial brief in the Florida Supreme Court of
 3623 Criminal Appeals on direct appeal of the defendant's capital
 3624 conviction and sentence. The fully pled postconviction action
 3625 must raise all cognizable claims that the defendant's judgment
 3626 or sentence was entered in violation of the Constitution or laws
 3627 of the United States or the Constitution or the laws of the
 3628 state, including any claim of ineffective assistance of trial
 3629 counsel, allegations of innocence, or that the state withheld
 3630 evidence favorable to the defendant. No claim may be considered
 3631 in such action which could have or should have been raised
 3632 before trial, at trial, or if preserved on direct appeal. For
 3633 the purposes of this subsection, a capital postconviction action
 3634 is not fully pled unless it satisfies the requirements of s.

3635 924.058(2) or any superseding rule of court.

3636 (4) All capital postconviction actions raising any claim
 3637 of ineffective assistance of direct appeal counsel are barred
 3638 unless they are commenced in conformity with this subsection.
 3639 The defendant or the defendant's capital postconviction counsel
 3640 shall file an action in the Florida Supreme Court of Criminal
 3641 Appeals raising any claim of ineffective assistance of direct
 3642 appeal counsel within 45 days after mandate issues affirming the
 3643 death sentence in the direct appeal.

3644 Section 174. Subsection (2) of section 924.057, Florida
 3645 Statutes, is amended to read:

3646 924.057 Limitation on postconviction cases in which the
 3647 death sentence was imposed before January 14, 2000.—This section
 3648 shall govern all capital postconviction actions in cases in
 3649 which the trial court imposed the sentence of death before the
 3650 effective date of this act.

3651 (2) Except as provided in s. 924.056(5), in every case in
 3652 which mandate has issued in the Florida Supreme Court of
 3653 Criminal Appeals concluding at least one capital postconviction
 3654 action in the state court system, a successive capital
 3655 postconviction action shall be barred on the effective date of
 3656 this act, unless the rules or law in effect immediately prior to
 3657 the effective date of this act permitted the successive
 3658 postconviction action, in which case the action shall be barred
 3659 on the date provided in subsection (4).

3660 Section 175. Subsection (1) of section 924.058, Florida
 3661 Statutes, is amended to read:

3662 924.058 Capital postconviction claims.—This section shall

3663 regulate the procedures in actions for capital postconviction
 3664 relief commencing after the effective date of this act unless
 3665 and until such procedures are revised by court rules ~~rule or~~
 3666 ~~rules adopted by the Florida Supreme Court~~ which specifically
 3667 reference this section.

3668 (1) The defendant or the defendant's capital
 3669 postconviction counsel shall not file more than one capital
 3670 postconviction action in the sentencing court, one appeal
 3671 therefrom in the Florida Supreme Court of Criminal Appeals, and
 3672 one original capital postconviction action alleging the
 3673 ineffectiveness of direct appeal counsel in the Florida Supreme
 3674 Court of Criminal Appeals, except as expressly allowed by s.
 3675 924.056(5).

3676 Section 176. Subsections (5), (6), and (7) of section
 3677 924.059, Florida Statutes, are amended to read:

3678 924.059 Time limitations and judicial review in capital
 3679 postconviction actions.—This section shall regulate the
 3680 procedures in actions for capital postconviction relief
 3681 commencing after the effective date of this act unless and until
 3682 such procedures are revised by court rules ~~rule or rules adopted~~
 3683 ~~by the Florida Supreme Court~~ which specifically reference this
 3684 section.

3685 (5) An appeal may be taken to the Supreme Court of
 3686 Criminal Appeals ~~Florida~~ within 15 days from the entry of a
 3687 final order on a capital postconviction action. No interlocutory
 3688 appeal shall be permitted. No motion for rehearing shall be
 3689 permitted. The clerk of the court shall promptly serve upon all
 3690 parties a copy of the final order.

3691 (6) If the sentencing court has denied the capital
 3692 postconviction action without an evidentiary hearing, the appeal
 3693 to the Florida Supreme Court of Criminal Appeals will be
 3694 expeditiously resolved in a summary fashion. On appeal, the case
 3695 shall be initially reviewed for a determination whether the
 3696 sentencing court correctly resolved the defendant's claims
 3697 without an evidentiary hearing. If the Florida Supreme Court of
 3698 Criminal Appeals determines an evidentiary hearing should have
 3699 been held, the decision to remand for an evidentiary hearing may
 3700 be made by an order without an opinion. Jurisdiction shall be
 3701 relinquished to the trial court for a specified period, which
 3702 must be scheduled within 30 days and must be concluded within 90
 3703 days, for the purpose of conducting an evidentiary hearing on
 3704 any issue identified by the Florida Supreme Court's order.
 3705 Thereafter, the record shall be supplemented with the hearing
 3706 transcript.

3707 (7) The Florida Supreme Court of Criminal Appeals shall
 3708 render its decision within 180 days after receipt of the record
 3709 on appeal. If a denial of an action for postconviction relief is
 3710 affirmed, the Governor may proceed to issue a warrant for
 3711 execution.

3712 Section 177. Subsection (3) of section 925.12, Florida
 3713 Statutes, is amended to read:

3714 925.12 DNA testing; defendants entering pleas.—

3715 (3) It is the intent of the Legislature that the Supreme
 3716 Court of Criminal Appeals adopt rules of procedure consistent
 3717 with this section for a court, prior to the acceptance of a
 3718 plea, to make an inquiry into the following matters:

3719 (a) Whether counsel for the defense has reviewed the
 3720 discovery disclosed by the state and whether such discovery
 3721 included a listing or description of physical items of evidence.

3722 (b) Whether the nature of the evidence against the
 3723 defendant disclosed through discovery has been reviewed with the
 3724 defendant.

3725 (c) Whether the defendant or counsel for the defendant is
 3726 aware of any physical evidence disclosed by the state for which
 3727 DNA testing may exonerate the defendant.

3728 (d) Whether the state is aware of any physical evidence
 3729 for which DNA testing may exonerate the defendant.

3730 Section 178. Subsection (8) of section 934.02, Florida
 3731 Statutes, is amended to read:

3732 934.02 Definitions.—As used in this chapter:

3733 (8) "Judge of competent jurisdiction" means justice of the
 3734 Supreme Court of Criminal Appeals, judge of a district court of
 3735 appeal, circuit judge, or judge of any court of record having
 3736 felony jurisdiction of the State of Florida, irrespective of the
 3737 geographic location or jurisdiction where the judge presides.

3738 Section 179. Paragraph (a) of subsection (1) of section
 3739 939.185, Florida Statutes, is amended to read:

3740 939.185 Assessment of additional court costs and
 3741 surcharges.—

3742 (1)(a) The board of county commissioners may adopt by
 3743 ordinance an additional court cost, not to exceed \$65, to be
 3744 imposed by the court when a person pleads guilty or nolo
 3745 contendere to, or is found guilty of, or adjudicated delinquent
 3746 for, any felony, misdemeanor, delinquent act, or criminal

3747 traffic offense under the laws of this state. Such additional
 3748 assessment shall be accounted for separately by the county in
 3749 which the offense occurred and be used only in the county
 3750 imposing this cost, to be allocated as follows:

3751 1. Twenty-five percent of the amount collected shall be
 3752 allocated to fund innovations, as determined by the chief judge
 3753 of the circuit, to supplement state funding for the elements of
 3754 the state courts system identified in s. 29.004 and county
 3755 funding for local requirements under s. 29.008(2)(a)2.

3756 2. Twenty-five percent of the amount collected shall be
 3757 allocated to assist counties in providing legal aid programs
 3758 required under s. 29.008(3)(a).

3759 3. Twenty-five percent of the amount collected shall be
 3760 allocated to fund personnel and legal materials for the public
 3761 as part of a law library.

3762 4. Twenty-five percent of the amount collected shall be
 3763 used as determined by the board of county commissioners to
 3764 support teen court programs, except as provided in s. 938.19(7),
 3765 juvenile assessment centers, and other juvenile alternative
 3766 programs.

3767
 3768 Each county receiving funds under this section shall report the
 3769 amount of funds collected pursuant to this section and an
 3770 itemized list of expenditures for all authorized programs and
 3771 activities. The report shall be submitted in a format developed
 3772 by the Office of the State Court Administrator ~~Supreme Court~~ to
 3773 the Governor, the Chief Financial Officer, the President of the
 3774 Senate, and the Speaker of the House of Representatives on a

3775 quarterly basis beginning with the quarter ending September 30,
 3776 2004. Quarterly reports shall be submitted no later than 30 days
 3777 after the end of the quarter. Any unspent funds at the close of
 3778 the county fiscal year allocated under subparagraphs 2., 3., and
 3779 4., shall be transferred for use pursuant to subparagraph 1.

3780 Section 180. Paragraph (a) of subsection (4) of section
 3781 944.096, Florida Statutes, is amended to read:

3782 944.096 Budget requests for residential facility
 3783 construction; estimates; appropriations; population in excess of
 3784 capacity.—

3785 (4) As used in this section, the term:

3786 (a) "Criminal Justice Estimating Conference" means the
 3787 designated professional staffs of the Governor's office, the
 3788 Legislature, and the Office of the State Court Administrator
 3789 ~~Supreme Court~~ who meet in regularly scheduled meetings chaired
 3790 by the state economist or the state economist's designee to
 3791 forecast inmate and caseload counts and other information needed
 3792 to support the state budgeting process.

3793 Section 181. Subsection (4) of section 984.15, Florida
 3794 Statutes, is amended to read:

3795 984.15 Petition for a child in need of services.—

3796 (4) The form of the petition and any additional contents
 3797 shall be determined by court rules of procedure ~~adopted by the~~
 3798 ~~Supreme Court~~.

3799 Section 182. Subsection (3) of section 984.151, Florida
 3800 Statutes, is amended to read:

3801 984.151 Truancy petition; prosecution; disposition.—

3802 (3) Original jurisdiction to hear a truancy petition shall

3803 be in the circuit court; however, the circuit court may use a
 3804 general or special master pursuant to ~~Supreme~~ court rules. Upon
 3805 the filing of the petition, the clerk shall issue a summons to
 3806 the parent, guardian, or legal custodian of the student,
 3807 directing that person and the student to appear for a hearing at
 3808 a time and place specified.

3809 Section 183. Subsection (1) of section 984.18, Florida
 3810 Statutes, is amended to read:

3811 984.18 Referral of child-in-need-of-services cases to
 3812 mediation.-

3813 (1) At any stage in a child-in-need-of-services
 3814 proceeding, the case staffing committee or any party may request
 3815 the court to refer the parties to mediation in accordance with
 3816 chapter 44 and court rules ~~and procedures developed by the~~
 3817 ~~Supreme Court.~~

3818 Section 184. Subsection (3) of section 985.16, Florida
 3819 Statutes, is amended to read:

3820 985.16 Community arbitration.-

3821 (3) COMMUNITY ARBITRATORS.-The chief judge of each
 3822 judicial circuit shall maintain a list of qualified persons who
 3823 have agreed to serve as community arbitrators for the purpose of
 3824 carrying out the provisions of this chapter. Community
 3825 arbitrators shall meet the qualification and training
 3826 requirements adopted in court rule ~~by the Supreme Court.~~
 3827 Whenever possible, qualified volunteers shall be used as
 3828 community arbitrators.

3829 (a) Each community arbitrator or member of a community
 3830 arbitration panel shall be selected by the chief judge of the

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3831 circuit, the senior circuit court judge assigned to juvenile
 3832 cases in the circuit, and the state attorney. A community
 3833 arbitrator or, in the case of a panel, the chief arbitrator
 3834 shall have such powers as are necessary to conduct the
 3835 proceedings in a fair and expeditious manner.

3836 (b) A community arbitrator or member of a community
 3837 arbitration panel shall be trained or experienced in juvenile
 3838 causes and shall be:

3839 1. Either a graduate of an accredited law school or of an
 3840 accredited school with a degree in behavioral social work or
 3841 trained in conflict resolution techniques; and

3842 2. A person of the temperament necessary to deal properly
 3843 with cases involving children and with the family crises likely
 3844 to be presented to him or her.

3845 Section 185. Subsection (5) of section 985.318, Florida
 3846 Statutes, is amended to read:

3847 985.318 Petition.—

3848 (5) The form of the petition and its contents shall be
 3849 determined by court rules of procedure ~~adopted by the Supreme~~
 3850 ~~Court.~~

3851 Section 186. Paragraph (a) of subsection (2) of section
 3852 985.66, Florida Statutes, is amended to read:

3853 985.66 Juvenile justice training academies; Juvenile
 3854 Justice Standards and Training Commission; Juvenile Justice
 3855 Training Trust Fund.—

3856 (2) JUVENILE JUSTICE STANDARDS AND TRAINING COMMISSION.—

3857 (a) There is created under the Department of Juvenile
 3858 Justice the Juvenile Justice Standards and Training Commission,

3859 hereinafter referred to as the commission. The 17-member
 3860 commission shall consist of the Attorney General or designee,
 3861 the Commissioner of Education or designee, a member of the
 3862 juvenile court judiciary to be appointed by the Chief Justice of
 3863 the Supreme Court of Civil Appeals, and 14 members to be
 3864 appointed by the Secretary of Juvenile Justice as follows:

3865 1. Seven members shall be juvenile justice professionals:
 3866 a superintendent or a direct care staff member from an
 3867 institution; a director from a contracted community-based
 3868 program; a superintendent and a direct care staff member from a
 3869 regional detention center or facility; a juvenile probation
 3870 officer supervisor and a juvenile probation officer; and a
 3871 director of a day treatment or conditional release program. No
 3872 fewer than three of these members shall be contract providers.

3873 2. Two members shall be representatives of local law
 3874 enforcement agencies.

3875 3. One member shall be an educator from the state's
 3876 university and community college program of criminology,
 3877 criminal justice administration, social work, psychology,
 3878 sociology, or other field of study pertinent to the training of
 3879 juvenile justice program staff.

3880 4. One member shall be a member of the public.

3881 5. One member shall be a state attorney, or assistant
 3882 state attorney, who has juvenile court experience.

3883 6. One member shall be a public defender, or assistant
 3884 public defender, who has juvenile court experience.

3885 7. One member shall be a representative of the business
 3886 community.

3887

3888 All appointed members shall be appointed to serve terms of 2
 3889 years.

3890 Section 187. This act shall take effect on the effective
 3891 date of House Joint Resolution _____, or a similar joint
 3892 resolution having substantially the same specific intent and
 3893 purpose, if that joint resolution is approved by the electors at
 3894 the general election to be held in November 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB CVJS 11-08 Judicial Nominating Commissions

SPONSOR(S): Civil Justice Subcommittee

TIED BILLS: None IDEN./SIM. BILLS: None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Civil Justice Subcommittee		Billmeier LMB	Bond YMB

SUMMARY ANALYSIS

Trial court judgeships that become vacant during a judge's term and all appellate judgeships are filled by a system of nomination and appointment in which the Governor appoints a justice or judge from a list of nominees from a judicial nominating commission. There are separate judicial nominating commissions for the Supreme Court, each district court of appeal, and each of the twenty judicial circuits. Current law provides that five of the nine members of each judicial nominating commission are appointed solely by the Governor, while the other four members are appointed by the Governor from a list of nominees provided by The Florida Bar. Members of the judicial nominating commissions serve 4 year staggered terms. This proposed committee bill provides that:

- Judicial nominating commissions consist of 7 members.
- All members of each judicial nominating commission are appointed by the Governor.
- Members of a judicial nominating commission are appointed to a term concurrent with the term of the Governor.
- The PCB takes effect upon becoming law, thus ending the terms of all current members.

This bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Trial court judgeships that become vacant during a judge's term and all appellate judgeships are filled by the Governor from a list of nominees provided by a judicial nominating commission. (JNC).¹ The Constitution requires JNCs but the number of members and composition of each JNC is provided for by statute.² When an appellate judgeship becomes vacant, candidates submit their applications to the JNC for that court. The commission sends a list of three to six nominees to the Governor and the Governor fills the vacancy by selecting from that list.³ Circuit and county court judges are determined by election⁴ but vacancies on the circuit or county courts that occur between elections are filled in the same manner as vacancies on the appellate bench.⁵

Article V, s. 11(d), Fla. Const., provides that JNCs must be created by general law for the Supreme Court, each district court of appeal, and each judicial circuit for all trial court within that circuit. Section 43.291, F.S., implements the constitutional provisions. Each JNC consists of nine members appointed by the Governor.⁶ Members serve 4 year terms.⁷ All JNC members must be residents of the territorial jurisdiction serviced by the JNC to which the member is appointed.⁸

The Governor may appoint five of the nine members of each JNC without input from the Florida Bar. Two of those five appointees must be members of The Florida Bar who are engaged in the practice of law.⁹

At least four members of each JNC are appointed by the Governor from a list of nominees provided by the Board of Governors of The Florida Bar. The Board of Governors must submit three nominees for each position. Each of the nominees must be a member of The Florida Bar who is engaged in the practice of law. The Governor must either select an appointee from the list of nominees or reject all of the nominees and request that the Board of Governors submit a new list of three different recommended nominees.¹⁰ In making appointments, the Governor is required to "seek to ensure" that the membership of each JNC reflects the "racial, ethnic, and gender diversity" of the population within the territorial jurisdiction of the JNC.¹¹

A justice or judge may not be a member of a JNC but a JNC member may hold public office other than judicial office. A member of a JNC is not eligible for appointment, during his or her term of office and for a period of 2 years thereafter, to any state judicial office for which that JNC has the authority to make nominations.¹²

¹ See art. V, s.11, Fla. Const.

² See art. V, s 11(d), Fla. Const.

³ See art. V, s. 11(a), Fla. Const.

⁴ Circuits and counties may, by local option, choose to select judges in the same manner as appellate judges are selected. See art. V, s. 10, Fla. Const. No circuit or county has opted to change from election to nomination by the judicial nominating commission and appointment by the governor.

⁵ See art. V, s. 11(b), Fla. Const.

⁶ Section 43.291(1), F.S.

⁷ Section 43.291(3), F.S.

⁸ Section 43.291(1)(a), (b), F.S.

⁹ Section 43.291(1)(b), F.S.

¹⁰Section 43.291(1)(a), F.S.

¹¹ Section 43.291(4), F.S.

¹² Section 43.291(2), F.S.

Effect of the Bill

This proposed committee bill provides that all members of each JNC will be appointed by the Governor. This proposed committee bill also reduces the number of members on each JNC from nine to seven. Four of the members of each JNC must be members in good standing of The Florida Bar who are actively engaged in the practice of law. The proposed committee bill provides that the Governor name the chair and vice chair of each commission and provides that the commissions may elect a temporary chair to serve in the absence of the appointed chair and vice chair.

This proposed committee bill provides that all members are appointed to a term concurrent with the term of the Governor. Terms of office may begin at any time after the inauguration of the Governor, but must end at midnight on the evening prior to the next inauguration following a general election. If a JNC member is unable to complete the term, the Governor may appoint a new member to serve the remainder of the term.

This proposed committee bill provides that terms of all current members of the JNCs are terminated. Current JNC members may be reappointed by the Governor.

This proposed committee bill does not change current law relating to restrictions on future appointments to the bench, consideration of racial, ethnic, and gender diversity, and the requirement that the Executive Office of the Governor provide administrative support to the JNCs.

The bill takes effect upon becoming a law.

B. SECTION DIRECTORY:

Section 1 repeals s. 43.291, F.S., relating to judicial nominating commissions.

Section 2 creates s. 43.292, F.S., relating to judicial nominating commissions.

Section 2 provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

n/a

1 A bill to be entitled
 2 An act relating to judicial nominating commissions;
 3 repealing s. 43.291, F.S.; repealing provisions relating
 4 to judicial nominating commissions; creating s. 43.292,
 5 F.S.; creating judicial commissions; specifying membership
 6 and composition of judicial nominating commissions;
 7 providing for appointment of members by the Governor;
 8 providing for terms; abolishing prior offices; requiring
 9 the Governor to consider racial, ethnic, gender and
 10 geographic diversity in making appointments; providing for
 11 suspension of a member of a judicial nominating
 12 commission; establishing quorum; providing for
 13 administrative support; providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Section 43.291, Florida Statutes, is repealed.

18 Section 2. Section 43.292, Florida Statutes, is created to
 19 read:

20 43.292 Judicial nominating commissions.—

21 (1) Each judicial nominating commission established
 22 pursuant to s. 11(d), Art. V of the State Constitution shall
 23 consist of seven members appointed by the Governor, each of whom
 24 is a resident of the territorial jurisdiction served by the
 25 commission to which the member is appointed. At least four
 26 members shall be members in good standing of The Florida Bar who
 27 are actively engaged in the practice of law. The Governor shall
 28 name the chair and vice chair of each judicial nominating

29 commission. The members of a commission may elect from their
 30 number a temporary chair should the appointed chair and vice-
 31 chair be unable to attend a meeting of the commission.

32 (2) A justice or judge may not be a member of a judicial
 33 nominating commission. A member of a judicial nominating
 34 commission may hold public office other than judicial office. A
 35 member of a judicial nominating commission is not eligible for
 36 appointment, during his or her term of office and for a period
 37 of 2 years thereafter, to any state judicial office for which
 38 that commission has the authority to make nominations. All acts
 39 of a judicial nominating commission must be made with a
 40 concurrence of a majority of its members.

41 (3) (a) All members shall be appointed for a term to end
 42 concurrent with the term to which the Governor was elected. The
 43 terms of all members shall be concurrent, and the terms may
 44 commence at any time following the inauguration of the Governor
 45 as a result of a general election. If a member is unable to
 46 complete his or her term, the Governor shall appoint another
 47 qualified individual to fill the remainder of the member's term.
 48 All terms shall end at midnight on the evening prior to the next
 49 inauguration of a Governor following a general election.

50 (b) The office of any member of any judicial nominating
 51 commission appointed pursuant to former s. 43.291 prior to the
 52 effective date of this act is abolished upon the effective date
 53 of this act and is replaced by those offices created pursuant to
 54 subsection (1). Any member of a judicial nominating commission
 55 who will not complete a 4-year term because of enactment of this
 56 section may be reappointed by the Governor.

57 (4) In making an appointment, the Governor shall seek to
58 ensure that, to the extent possible, the membership of the
59 commission reflects the racial, ethnic, and gender diversity, as
60 well as the geographic distribution, of the population within
61 the territorial jurisdiction of the court for which nominations
62 will be considered. The Governor shall also consider the
63 adequacy of representation of each county within the judicial
64 circuit.

65 (5) A member of a judicial nominating commission may be
66 suspended for cause by the Governor pursuant to uniform rules of
67 procedure established by the Executive Office of the Governor
68 consistent with s. 7 of Art. IV of the State Constitution.

69 (6) A quorum of the judicial nominating commission is
70 necessary to take any action or transact any business. For
71 purposes of this section, a quorum consists of a majority of
72 commission members currently appointed.

73 (7) The Executive Office of the Governor shall provide all
74 administrative support for each judicial nominating commission.

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