

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; deleting
33 obsolete provisions; creating s. 25.015, F.S.; providing
34 for jurisdiction, membership, and headquarters of the
35 Supreme Court of Civil Appeals; creating s. 25.025, F.S.;
36 providing for jurisdiction, membership, and headquarters
37 of the Supreme Court of Criminal Appeals; creating s.
38 25.265, F.S.; providing for the location of the Supreme
39 Court Building; repealing s. 25.032, F.S., relating to
40 collaboration by the Supreme Court with other courts of
41 last resort for development of uniform rules relating to
42 certification of questions of law, rules, and regulations;
43 repealing s. 25.051, F.S., relating to terms of the
44 Supreme Court; repealing s. 25.151, F.S., relating to the
45 practice of law by retired justices of the Supreme Court;
46 repealing s. 25.201, F.S., relating to the appointment of
47 a deputy clerk of the Supreme Court; repealing s. 25.211,
48 F.S., relating to the location of the Supreme Court
49 clerk's office; repealing s. 25.221, F.S., relating to the
50 custody of books, papers, records, files, and the seal of
51 the Supreme Court; repealing s. 25.231, F.S., relating to
52 the duties of the Supreme Court clerk; repealing s.
53 25.262, F.S., relating to the Supreme Court marshal's
54 power to execute the process of the court; repealing s.
55 25.281, F.S., relating to the compensation of the Supreme
56 Court marshal; repealing s. 25.291, F.S., relating to the

HB 7199

2011

57 deposit of fines for contempt of the Supreme Court;
 58 repealing s. 25.351, F.S., relating to the acquisition of
 59 books for the library of the Supreme Court; providing a
 60 contingent effective date.

61
 62 Be It Enacted by the Legislature of the State of Florida:

63
 64 Section 1. Subsection (16) is added to section 1.01,
 65 Florida Statutes, to read:

66 1.01 Definitions.—In construing these statutes and each
 67 and every word, phrase, or part hereof, where the context will
 68 permit:

69 (16) References to the "Supreme Court," referring to the
 70 Florida Supreme Court, mean the former Supreme Court of Florida,
 71 the Supreme Court of Civil Appeals, or the Supreme Court of
 72 Criminal Appeals, as appropriate.

73 Section 2. Section 10.001, Florida Statutes, is amended to
 74 read:

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

HB 7199

2011

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

87 11.513 Program evaluation and justification review.—

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

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

110 Section 4. Paragraph (a) of subsection (6) of section
111 11.90, Florida Statutes, is amended to read:

112 11.90 Legislative Budget Commission.—

HB 7199

2011

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

114 (a) Review and approve or disapprove budget amendments
 115 recommended by the Governor or the Office of the State Courts
 116 Administrator ~~Chief Justice of the Supreme Court~~ as provided in
 117 chapter 216.

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

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

124 11.9005 Government Efficiency Task Force.—

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

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

135 16.01 Residence, office, and duties of Attorney General.—
 136 The Attorney General:

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

HB 7199

2011

141 state.

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

144 16.061 Initiative petitions.—

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

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

157 16.101 Supreme court reporter.—The Attorney General shall
 158 be the reporter for each ~~the~~ supreme court.

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

161 17.13 To duplicate warrants lost or destroyed.—

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

HB 7199

2011

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

178 | Section 10. Paragraph (b) of subsection (1) of section
 179 | 20.055, Florida Statutes, is amended to read:

180 | 20.055 Agency inspectors general.—

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

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

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

192 | 25.015 Supreme Court of Civil Appeals.—

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

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

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

200 25.025 Supreme Court of Criminal Appeals.-

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

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

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

208 25.031 Supreme courts ~~Court~~ authorized to receive and
 209 answer certificates as to state law from federal appellate
 210 courts; collaborations with other courts.-

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

HB 7199

2011

224 written opinion, may answer.

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

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

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

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

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

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

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

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

245 25.075 Uniform case reporting system.—

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

HB 7199

2011

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

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

257 (3) The Auditor General shall audit the reports made to
 258 the supreme courts ~~Court~~ in accordance with the uniform system
 259 established by the appropriate supreme court.

260 Section 18. Section 25.151, Florida Statutes, is 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 they ~~the~~
 267 ~~same~~, by the concurrence of the Congress and of the Legislature
 268 of this state, ~~may~~ relate to matters of appropriate state
 269 authority and jurisdiction, are placed in the custody and under
 270 the control of the clerk of the supreme courts ~~Supreme Court of~~
 271 ~~this state~~, and are files, rolls, and records of the ~~said~~
 272 supreme courts. ~~Court;~~ and The supreme courts ~~said court~~ may
 273 lawfully have and exercise such judicial cognizance and power
 274 over them as they ~~it~~ may lawfully have and exercise over their
 275 ~~its~~ own files, rolls, and records.

276 (2) The files, rolls, and books of record of the former
 277 Supreme Court of Florida are placed in the custody and under the
 278 control of the clerk of the supreme courts, as are files, rolls,
 279 and records of the supreme courts. The courts may lawfully have

HB 7199

2011

280 and exercise such judicial cognizance and power over them as
 281 they may lawfully have and exercise over their own files, rolls,
 282 and records.

283 Section 20. Section 25.191, Florida Statutes, is amended
 284 to read:

285 25.191 Clerk of supreme courts ~~Court~~.—

286 (1) The supreme courts ~~Court~~ shall appoint a clerk ~~of the~~
 287 ~~Supreme Court~~, who shall hold office during the pleasure of the
 288 courts ~~court~~.

289 (2) The clerk of the supreme courts may appoint a deputy
 290 or deputies who, being duly sworn, may discharge all of the
 291 duties of the office of clerk during his or her absence. The
 292 clerk of the supreme courts is responsible for the acts of any
 293 deputy.

294 (3) All books, papers, records, files, and the seal of
 295 each supreme court shall be kept in the office of the clerk of
 296 the supreme courts and in the clerk's custody. The clerk of the
 297 supreme courts shall keep the books, papers, records, files, and
 298 the seal of each supreme court separate from those of the other.

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

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

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

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

303 Section 25. Section 25.241, Florida Statutes, is amended
 304 to read:

305 25.241 ~~Clerk of Supreme Court; compensation; assistants;~~
 306 Filing fees; duties of the clerk of the supreme courts, etc.—

307 ~~(1) The Clerk of the Supreme Court shall be paid an annual~~

HB 7199

2011

308 ~~salary to be determined in accordance with s. 25.382.~~

309 ~~(2) The Clerk of the Supreme Court is authorized to employ~~
 310 ~~such deputies and clerical assistants as may be necessary. Their~~
 311 ~~number and compensation shall be approved by the court. The~~
 312 ~~compensation of such employees shall be paid from the annual~~
 313 ~~appropriation for the Supreme Court.~~

314 (1)~~(3)~~(a) The clerk of the supreme courts ~~Court~~ is hereby
 315 required to collect, upon the filing of a certified copy of a
 316 notice of appeal or petition, \$300 for each case docketed, and
 317 for copying, certifying, or furnishing opinions, records,
 318 papers, or other instruments, except as otherwise herein
 319 provided, the same fees that are allowed clerks of the circuit
 320 court; however, no fee shall be less than \$1. ~~The State of~~
 321 ~~Florida or its agencies, when appearing as appellant or~~
 322 ~~petitioner, is exempt from the filing fees required in this~~
 323 ~~subsection.~~ From each attorney appearing pro hac vice, the clerk
 324 of the supreme courts ~~Court~~ shall collect an additional fee of
 325 \$100 ~~to be deposited into the General Revenue Fund.~~

326 (b) Upon the filing of a notice of cross-appeal, or a
 327 notice of joinder or motion to intervene as an appellant, cross-
 328 appellant, or petitioner, the clerk of the supreme courts ~~Court~~
 329 shall charge and collect a filing fee of \$295.

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

334 (2)~~(4)~~ The clerk of the supreme courts ~~Court~~ is hereby
 335 authorized, immediately after a case is disposed of, to supply

HB 7199

2011

336 the judge who tried the case and from whose order, judgment, or
 337 decree, appeal or other review is taken, and any court which
 338 reviewed it, a copy of all opinions, orders, or judgments filed
 339 in such case. Copies of opinions, orders, and decrees shall be
 340 furnished in all cases to each attorney of record; copies for
 341 publication in Florida reports shall be without charge; and
 342 copies furnished to the law book publishers shall be at one-half
 343 the regular statutory fee.

344 ~~(3)-(5)~~ The clerk of the supreme courts ~~Court~~ is hereby
 345 required to prepare a statement of all moneys ~~fees~~ collected
 346 each month and remit such statement, together with all moneys
 347 ~~fees~~ collected by him or her, to the Chief Financial Officer.
 348 The Chief Financial Officer shall deposit \$250 of each \$300
 349 filing fee and all other fees or moneys collected into the
 350 General Revenue Fund. The Chief Financial Officer shall deposit
 351 \$50 of each filing fee collected into the State Courts Revenue
 352 Trust Fund to fund court operations as authorized in the General
 353 Appropriations Act.

354 Section 26. Section 25.251, Florida Statutes, is amended
 355 to read:

356 25.251 Marshal of supreme courts ~~Court~~; appointment;
 357 training; process.—

358 (1) The Supreme Courts ~~Court~~ shall jointly appoint a
 359 marshal who shall hold office during the pleasure of the courts
 360 ~~court~~.

361 (2) The marshal and his or her assistants shall attend and
 362 successfully complete a minimum standards training program
 363 approved by the Criminal Justice Standards and Training

HB 7199

2011

364 Commission within the Department of Law Enforcement.

365 (3) The marshal shall have the power to execute the
 366 process of the supreme courts throughout the state, and in any
 367 county he or she may deputize the sheriff or a deputy sheriff
 368 for such purpose.

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

370 Section 28. Section 25.265, Florida Statutes, is created
 371 to read:

372 25.265 Supreme Court Building.—The Supreme Court Building
 373 shall be located at 2000 Drayton Drive, Tallahassee, Florida.

374 Section 29. Section 25.271, Florida Statutes, is amended
 375 to read:

376 25.271 Custody of Supreme Court Building and grounds.—

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

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

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

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

HB 7199

2011

392 Section 32. Section 25.341, Florida Statutes, is amended
 393 to read:

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

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

401 Section 34. Section 25.375, Florida Statutes, is amended
 402 to read:

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

417 Section 35. Section 25.382, Florida Statutes, is amended
 418 to read:

419 25.382 State courts system.—

HB 7199

2011

420 (1) As used in this section, "state courts system" means
 421 all officers, employees, and divisions of the Supreme Court of
 422 Civil Appeals, the Supreme Court of Criminal Appeals, district
 423 courts of appeal, circuit courts, and county courts.

424 (2) It is declared and determined that the officers,
 425 employees, committees, and divisions of the state courts system
 426 of the judicial branch are and shall continue to be officers,
 427 employees, committees, and divisions of the state courts system
 428 to perform such services as may be provided by the State
 429 Constitution, by law, by rules of practice and procedure adopted
 430 by either ~~the~~ supreme court, or by administrative order of
 431 either ~~the~~ chief justice, whichever is applicable.

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

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

445 Section 36. Section 25.383, Florida Statutes, is amended
 446 to read:

447 25.383 Standards for court reporters; procedures; rules of

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

461 Section 37. Section 25.384, Florida Statutes, is amended
 462 to read:

463 25.384 Court Education Trust Fund.—

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

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

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

HB 7199

2011

476 state, which will be of benefit to the judiciary of the state.

477 (3) The trust fund shall be funded with moneys generated
 478 from fees assessed pursuant to ss. 28.241(1) and 28.2401(3).

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

491 Section 38. Section 25.386, Florida Statutes, is amended
 492 to read:

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

HB 7199

2011

504 courts system. The Supreme Court of Civil Appeals may appoint or
 505 employ such personnel as are necessary to assist the court in
 506 administering this section.

507 Section 39. Paragraph (a) of subsection (3) of section
 508 26.55, Florida Statutes, is amended to read:

509 26.55 Conference of Circuit Judges of Florida; duties and
 510 reports.—

511 (3) (a) It is ~~declared to be~~ the responsibility of the
 512 conference to:

513 1. Consider and make recommendations concerning the
 514 betterment of the judicial system of the state and its various
 515 parts;

516 2. Consider and make recommendations concerning the
 517 improvement of rules and methods of procedure and practice in
 518 the several courts; and

519 3. Report to each ~~the~~ supreme court such findings and
 520 recommendations as the conference may have with reference
 521 thereto.

522 Section 40. Section 26.57, Florida Statutes, is amended to
 523 read:

524 26.57 Temporary designation of county court judge to
 525 preside over circuit court cases.—A county court judge may be
 526 designated on a temporary basis to preside over circuit court
 527 cases by the chief justice of either ~~the~~ supreme court upon
 528 recommendation of the chief judge of the circuit. He or she may
 529 be assigned to exercise all county and circuit court
 530 jurisdiction in the county, except appeals from the county
 531 court. In addition, he or she may be required to perform the

HB 7199

2011

532 duties of circuit judge in other counties of the circuit as time
 533 may permit and as the need arises, as determined by the chief
 534 judge of the circuit. A county court judge designated to preside
 535 over circuit court cases shall receive the same salary as a
 536 circuit court judge, to the extent that funds are specifically
 537 appropriated by law for such purposes.

538 Section 41. Section 27.05, Florida Statutes, is amended to
 539 read:

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

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

549 27.14 Assigning state attorneys to other circuits.—

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

HB 7199

2011

560 matters, specified in general in the executive order of the
561 Governor. Any exchange or assignment of any state attorney to a
562 particular circuit shall expire 12 months after the date of
563 issuance, unless an extension is approved by order of the
564 Supreme Court of Criminal Appeals upon application of the
565 Governor showing good and sufficient cause to extend such
566 exchange or assignment.

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

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

583 27.151 Confidentiality of specified executive orders;
584 criteria.—

585 (1) If the Governor provides in an executive order issued
586 pursuant to s. 27.14 or s. 27.15 that the order or a portion
587 thereof is confidential, the order or portion so designated, the

HB 7199

2011

588 application of the Governor to the Supreme Court of Criminal
 589 Appeals and all proceedings thereon, and the order of the
 590 Supreme Court of Criminal Appeals shall be confidential and
 591 exempt from ~~the provisions of~~ s. 119.07(1).

592 Section 44. Paragraph (d) of subsection (3) of section
 593 27.40, Florida Statutes, is amended to read:

594 27.40 Court-appointed counsel; circuit registries; minimum
 595 requirements; appointment by court.—

596 (3) In utilizing a registry:

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

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

609 27.405 Court-appointed counsel; Justice Administrative
 610 Commission tracking and reporting.—

611 (2) The commission shall prepare and issue on a quarterly
 612 basis a statewide report comparing actual year-to-date
 613 expenditures to budget amounts for each of the judicial
 614 circuits. The commission shall prepare and issue on an annual
 615 basis a statewide report comparing performance measures for each

HB 7199

2011

616 of the judicial circuits. The commission shall distribute copies
 617 of the quarterly and annual reports to the Governor, the chief
 618 justice of each ~~the~~ supreme court, the President of the Senate,
 619 and the Speaker of the House of Representatives.

620 Section 46. Paragraph (e) of subsection (1) and paragraph
 621 (a) of subsection (5) of section 27.51, Florida Statutes, are
 622 amended to read:

623 27.51 Duties of public defender.—

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

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

629 (5) (a) When direct appellate proceedings prosecuted by a
 630 public defender on behalf of an accused and challenging a
 631 judgment of conviction and sentence of death terminate in an
 632 affirmance of such conviction and sentence, whether by the
 633 ~~Florida~~ Supreme Court of Criminal Appeals or by the United
 634 States Supreme Court or by expiration of any deadline for filing
 635 such appeal in a state or federal court, the public defender
 636 shall notify the accused of his or her rights pursuant to Rule
 637 3.850, Florida Rules of Criminal Procedure, including any time
 638 limits pertinent thereto, and shall advise such person that
 639 representation in any collateral proceedings is the
 640 responsibility of the capital collateral regional counsel. The
 641 public defender shall then forward all original files on the
 642 matter to the capital collateral regional counsel, retaining
 643 such copies for his or her files as may be desired. However, the

HB 7199

2011

644 trial court shall retain the power to appoint the public
 645 defender or other attorney not employed by the capital
 646 collateral regional counsel to represent such person in
 647 proceedings for relief by executive clemency pursuant to ss.
 648 27.40 and 27.5303.

649 Section 47. Paragraph (e) of subsection (5) and subsection
 650 (9) of section 27.511, Florida Statutes, are amended to read:

651 27.511 Offices of criminal conflict and civil regional
 652 counsel; legislative intent; qualifications; appointment;
 653 duties.—

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

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

667 (9) When direct appellate proceedings prosecuted by the
 668 office of criminal conflict and civil regional counsel on behalf
 669 of an accused and challenging a judgment of conviction and
 670 sentence of death terminate in an affirmance of such conviction
 671 and sentence, whether by the Supreme Court of Criminal Appeals

HB 7199

2011

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

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

691 27.512 Order of no imprisonment.—

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

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

697 27.52 Determination of indigent status.—

698 (1) APPLICATION TO THE CLERK.—A person seeking appointment
 699 of a public defender under s. 27.51 based upon an inability to

HB 7199

2011

700 pay must apply to the clerk of the court for a determination of
701 indigent status using an application form developed by the
702 Florida Clerks of Court Operations Corporation with final
703 approval by the Supreme Court of Criminal Appeals.

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

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

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

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

718 4. All liabilities and debts.

719 5. If applicable, the amount of any bail paid for the
720 applicant's release from incarceration and the source of the
721 funds.

722

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

728 | this section.

729 | (b) An applicant shall pay a \$50 application fee to the
 730 | clerk for each application for court-appointed counsel filed.
 731 | The applicant shall pay the fee within 7 days after submitting
 732 | the application. If the applicant does not pay the fee prior to
 733 | the disposition of the case, the clerk shall notify the court,
 734 | and the court shall:

735 | 1. Assess the application fee as part of the sentence or
 736 | as a condition of probation; or

737 | 2. Assess the application fee pursuant to s. 938.29.

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

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

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

HB 7199

2011

756 assistance.

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

767 Section 50. Paragraph (a) of subsection (4) of section
768 27.5303, Florida Statutes, is amended to read:

769 27.5303 Public defenders; criminal conflict and civil
770 regional counsel; conflict of interest.—

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

778 Section 51. Paragraph (b) of subsection (5), subsection
779 (9), and paragraph (f) of subsection (12) of section 27.5304,
780 Florida Statutes, are amended to read:

781 27.5304 Private court-appointed counsel; compensation.—

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

HB 7199

2011

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

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

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

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

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

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

810 Section 52. Paragraph (a) of subsection (7) of section
 811 27.7081, Florida Statutes, is amended to read:

HB 7199

2011

812 27.7081 Capital postconviction public records production.—
 813 (7) (a) Within 180 days after a capital collateral regional
 814 counsel or private counsel is appointed to represent a defendant
 815 sentenced to death, or within 30 days after issuance of the
 816 ~~Florida Supreme Court of Criminal Appeals' Court's~~ Florida Supreme Court of Criminal Appeals' mandate
 817 affirming a death sentence, whichever is later, the regional
 818 counsel, private counsel, or other counsel who is a member of
 819 The Florida Bar and is authorized by such counsel representing a
 820 defendant may send a written demand for additional public
 821 records to each person or agency submitting public records under
 822 subsection (3) and to each person or agency identified as having
 823 information pertinent to the case under subsection (5). Should
 824 the written demand include requests for records associated with
 825 particular named individuals, the written demand shall also
 826 include a brief statement describing each named person's role in
 827 the case and relationship to the defendant. Race, sex, and date
 828 of birth shall also be included in the demand if the public
 829 defender, private counsel, or capital collateral regional
 830 counsel has such information. Each person or agency notified
 831 under this subsection shall, within 60 days after receipt of the
 832 written demand, deliver to the records repository or, if the
 833 records are confidential or exempt, to the clerk of the court in
 834 the county in which the capital case was tried any additional
 835 public records in the possession of the person or agency which
 836 pertain to the case and shall certify that to the best of his or
 837 her knowledge and belief all additional public records have been
 838 delivered or, if no additional public records are found, shall
 839 recertify that the public records previously delivered are

HB 7199

2011

840 complete.

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

843 27.709 Commission on Capital Cases.—

844 (2) (a) The commission shall review the administration of
845 justice in capital collateral cases, receive relevant public
846 input, review the operation of the capital collateral regional
847 counsel and private counsel appointed pursuant to ss. 27.710 and
848 27.711, and advise and make recommendations to the Governor,
849 Legislature, and Supreme Court of Criminal Appeals.

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

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

864 Section 54. Section 27.7091, Florida Statutes, is amended
865 to read:

866 27.7091 Legislative recommendations to Supreme Court of
867 Criminal Appeals; postconviction proceedings; pro bono service

HB 7199

2011

868 credit.—In the interest of promoting justice and integrity with
 869 respect to capital collateral representation, the Legislature
 870 recommends that the Supreme Court of Criminal Appeals:

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

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

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

879 27.710 Registry of attorneys applying to represent persons
 880 in postconviction capital collateral proceedings; certification
 881 of minimum requirements; appointment by trial court.—

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

HB 7199

2011

896 from the list until the requirement is fulfilled. To ensure that
897 sufficient attorneys are available for appointment by the court,
898 when the number of attorneys on the registry falls below 50, the
899 executive director shall notify the chief judge of each circuit
900 by letter and request the chief judge to promptly submit the
901 names of at least three private attorneys who regularly practice
902 criminal law in that circuit and who appear to meet the minimum
903 requirements to represent persons in postconviction capital
904 collateral proceedings. The executive director shall send an
905 application to each attorney identified by the chief judge so
906 that the attorney may register for appointment as counsel in
907 postconviction capital collateral proceedings. As necessary, the
908 executive director may also advertise in legal publications and
909 other appropriate media for qualified attorneys interested in
910 registering for appointment as counsel in postconviction capital
911 collateral proceedings. Not later than September 1 of each year,
912 and as necessary thereafter, the executive director shall
913 provide to the Chief Justice of the Supreme Court of Criminal
914 Appeals, the chief judge and state attorney in each judicial
915 circuit, and the Attorney General a current copy of its registry
916 of attorneys who are available for appointment as counsel in
917 postconviction capital collateral proceedings. The registry must
918 be indexed by judicial circuit and must contain the requisite
919 information submitted by the applicants in accordance with this
920 section.

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

HB 7199

2011

924 27.711 Terms and conditions of appointment of attorneys as
 925 counsel in postconviction capital collateral proceedings.—

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

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

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

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

948 (e) The attorney is entitled to \$100 per hour, up to a
 949 maximum of \$10,000, after the trial court issues an order,
 950 pursuant to a remand from the Supreme Court of Criminal Appeals,
 951 which directs the trial court to hold further proceedings on the

HB 7199

2011

952 capital defendant's motion for postconviction relief.

953 (f) The attorney is entitled to \$100 per hour, up to a
 954 maximum of \$4,000, after the appeal of the trial court's denial
 955 of the capital defendant's motion for postconviction relief and
 956 the capital defendant's state petition for writ of habeas corpus
 957 become final in the Supreme Court of Criminal Appeals.

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

964 Section 57. Section 28.22205, Florida Statutes, is amended
 965 to read:

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

HB 7199

2011

980 ~~President of the Senate and the Speaker of the House of~~
 981 ~~Representatives by March 1, 2010, on the status of implementing~~
 982 ~~electronic filing. The report shall include the detailed status~~
 983 ~~of each clerk office's implementation of an electronic filing~~
 984 ~~process, and for those clerks who have not fully implemented~~
 985 ~~electronic filing by March 1, 2010, a description of the~~
 986 ~~additional steps needed and a projected timeline for full~~
 987 ~~implementation.~~ Revenues provided to counties and the clerk of
 988 court under s. 28.24(12)(e) for information technology may also
 989 be used to implement electronic filing processes.

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

992 28.241 Filing fees for trial and appellate proceedings.—

993 (2) Upon the institution of any appellate proceeding from
 994 any lower court to the circuit court of any such county,
 995 including appeals filed by a county or municipality as provided
 996 in s. 34.041(5), or from the circuit court to an appellate court
 997 of the state, the clerk shall charge and collect from the party
 998 or parties instituting such appellate proceedings a filing fee
 999 not to exceed \$280 for filing a notice of appeal from the county
 1000 court to the circuit court and, in addition to the filing fee
 1001 required under s. 25.241 or s. 35.22, \$100 for filing a notice
 1002 of appeal from the circuit court to the district court of appeal
 1003 or to either ~~the~~ supreme court. If the party is determined to be
 1004 indigent, the clerk shall defer payment of the fee. The clerk
 1005 shall remit the first \$80 to the Department of Revenue for
 1006 deposit into the General Revenue Fund.

HB 7199

2011

1007 Section 59. Paragraph (b) of subsection (1), paragraph (d)
 1008 of subsection (2), and paragraph (b) of subsection (5) of
 1009 section 28.35, Florida Statutes, are amended to read:

1010 28.35 Florida Clerks of Court Operations Corporation.—

1011 (1)

1012 (b) The executive council shall be composed of eight
 1013 clerks of the court elected by the clerks of the courts for a
 1014 term of 2 years, with two clerks from counties with a population
 1015 of fewer than 100,000, two clerks from counties with a
 1016 population of at least 100,000 but fewer than 500,000, two
 1017 clerks from counties with a population of at least 500,000 but
 1018 fewer than 1 million, and two clerks from counties with a
 1019 population of more than 1 million. The executive council shall
 1020 also include, as ex officio members, a designee of the President
 1021 of the Senate and a designee of the Speaker of the House of
 1022 Representatives. The Chief Justice of the Supreme Court of Civil
 1023 Appeals shall designate one additional member to represent the
 1024 state courts system.

1025 (2) The duties of the corporation shall include the
 1026 following:

1027 (d) Developing and certifying a uniform system of
 1028 performance measures and applicable performance standards for
 1029 the functions specified in paragraph (3) (a) and the service unit
 1030 costs required in s. 28.36 and measures for clerk performance in
 1031 meeting the performance standards. These measures and standards
 1032 shall be designed to facilitate an objective determination of
 1033 the performance of each clerk in accordance with minimum
 1034 standards for fiscal management, operational efficiency, and

HB 7199

2011

1035 effective collection of fines, fees, service charges, and court
 1036 costs. The corporation shall develop the performance measures
 1037 and performance standards in consultation with the Legislature
 1038 and each ~~the~~ supreme court. The Legislature may modify the clerk
 1039 performance measures and performance standards in legislation
 1040 implementing the General Appropriations Act or other law. When
 1041 the corporation finds a clerk has not met the performance
 1042 standards, the corporation shall identify the nature of each
 1043 deficiency and any corrective action recommended and taken by
 1044 the affected clerk of the court. The corporation shall notify
 1045 the Legislature and each ~~the~~ supreme court of any clerk not
 1046 meeting performance standards and provide a copy of any
 1047 corrective action plans.

1048 (5)

1049 (b) Certified public accountants conducting audits of
 1050 counties pursuant to s. 218.39 shall report, as part of the
 1051 audit, whether or not the clerks of the courts have complied
 1052 with the requirements of this section and s. 28.36. In addition,
 1053 each clerk of court shall forward a copy of the portion of the
 1054 financial audit relating to the court-related duties of the
 1055 clerk of court to each ~~the~~ supreme court. The Auditor General
 1056 shall develop a compliance supplement for the audit of
 1057 compliance with the budgets and applicable performance standards
 1058 certified by the corporation.

1059 Section 60. Subsections (1), (4), (5), (7), and (8) of
 1060 section 28.36, Florida Statutes, are amended to read:

1061 28.36 Budget procedure.—There is established a budget
 1062 procedure for preparing budget requests for funding for the

HB 7199

2011

1063 court-related functions of the clerks of the court.

1064 (1) Each clerk of court shall prepare a budget request for
 1065 the last quarter of the county fiscal year and the first three
 1066 quarters of the next county fiscal year. The proposed budget
 1067 shall be prepared, summarized, and submitted by the clerk in
 1068 each county to the Florida Clerks of Court Operations
 1069 Corporation in the manner and form prescribed by the corporation
 1070 to meet the requirements of law. Each clerk shall forward a copy
 1071 of his or her budget request to the supreme courts ~~Court~~. The
 1072 budget requests must be provided to the corporation by October 1
 1073 of each year.

1074 (4) The budget request must identify the service units to
 1075 be provided within each core service. The service units shall be
 1076 developed by the corporation, in consultation with the supreme
 1077 courts ~~Court~~, the Chief Financial Officer, and the
 1078 appropriations committees of the Senate and the House of
 1079 Representatives.

1080 (5) The budget request must propose a unit cost for each
 1081 service unit. The corporation shall provide a copy of each
 1082 clerk's budget request to the supreme courts ~~Court~~.

1083 (7) The corporation shall complete its review and
 1084 adjustments to the clerks' budget requests and make its
 1085 recommendations to the Legislature and the supreme courts ~~Court~~
 1086 by December 1 each year.

1087 (8) The Chief Financial Officer shall review the proposed
 1088 unit costs associated with each clerk of court's budget request
 1089 and make recommendations to the Legislature. The Chief Financial
 1090 Officer may conduct any audit of the corporation or a clerk of

HB 7199

2011

1091 court as authorized by law. The chief justice of either of the
 1092 supreme courts ~~court~~ may request an audit of the corporation or
 1093 any clerk of court by the Chief Financial Officer.

1094 Section 61. Subsection (1) of section 29.001, Florida
 1095 Statutes, is amended to read:

1096 29.001 State courts system elements and definitions.—

1097 (1) For the purpose of implementing s. 14, Art. V of the
 1098 State Constitution, the state courts system is defined to
 1099 include the enumerated elements of the supreme courts ~~court~~,
 1100 district courts of appeal, circuit courts, county courts, and
 1101 certain supports thereto. The offices of public defenders and
 1102 state attorneys are defined to include the enumerated elements
 1103 of the 20 state attorneys' offices and the enumerated elements
 1104 of the 20 public defenders' offices and five offices of criminal
 1105 conflict and civil regional counsel. Court-appointed counsel are
 1106 defined to include the enumerated elements for counsel appointed
 1107 to ensure due process in criminal and civil proceedings in
 1108 accordance with state and federal constitutional guarantees.
 1109 Funding for the state courts system, the state attorneys'
 1110 offices, the public defenders' offices, the offices of criminal
 1111 conflict and civil regional counsel, and other court-appointed
 1112 counsel shall be provided from state revenues appropriated by
 1113 general law.

1114 Section 62. Subsection (4) of section 29.004, Florida
 1115 Statutes, is amended to read:

1116 29.004 State courts system.—For purposes of implementing
 1117 s. 14, Art. V of the State Constitution, the elements of the
 1118 state courts system to be provided from state revenues

HB 7199

2011

1119 appropriated by general law are as follows:

1120 (4) Construction or lease of facilities, maintenance,
 1121 utilities, and security for the district courts of appeal and
 1122 each ~~the~~ supreme court.

1123 Section 63. Paragraph (a) of subsection (1) of section
 1124 30.15, Florida Statutes, is amended to read:

1125 30.15 Powers, duties, and obligations.—

1126 (1) Sheriffs, in their respective counties, in person or
 1127 by deputy, shall:

1128 (a) Execute all process of either ~~the~~ supreme court and of
 1129 the ~~the~~ circuit courts, county courts, and boards of county
 1130 commissioners of this state, to be executed in their counties.

1131 Section 64. Subsection (3) of section 34.01, Florida
 1132 Statutes, is amended to read:

1133 34.01 Jurisdiction of county court.—

1134 (3) Judges of county courts shall also be committing trial
 1135 court judges. Judges of county courts shall be coroners unless
 1136 otherwise provided by law or by court rule ~~of the Supreme Court~~.

1137 Section 65. Subsection (1) of section 34.181, Florida
 1138 Statutes, is amended to read:

1139 34.181 Branch courts.—

1140 (1) Any municipality or county may apply to the chief
 1141 judge of the circuit in which the municipality or county is
 1142 situated for the county court to sit in a location suitable to
 1143 the municipality or county and convenient in time and place to
 1144 its citizens and police officers, and upon such application the
 1145 ~~said~~ chief judge shall direct the court to sit in the location
 1146 unless he or she shall determine the request is not justified.

HB 7199

2011

1147 If the chief judge does not authorize the county court to sit in
 1148 the location requested, the county or municipality may apply to
 1149 the Supreme Court of Civil Appeals for an order directing the
 1150 county court to sit in such location.

1151 Section 66. Section 35.07, Florida Statutes, is amended to
 1152 read:

1153 35.07 Power to make rules and regulations.—Subject to the
 1154 administrative powers ~~power~~ of the supreme courts, a ~~Supreme~~
 1155 ~~Court to make rules of practice and procedure~~, the district
 1156 court ~~courts~~ of appeal may make such regulations as necessary
 1157 for its ~~the~~ internal government ~~of the court~~.

1158 Section 67. Section 35.28, Florida Statutes, is amended to
 1159 read:

1160 35.28 District courts of appeal libraries.—The library of
 1161 each of the district courts of appeal and its custodian shall be
 1162 provided for by court rule ~~of the Supreme Court~~. Payment for
 1163 books, equipment, supplies, and quarters as provided for in such
 1164 rules shall be paid from funds appropriated for the district
 1165 courts, on requisition drawn as provided by law.

1166 Section 68. Section 38.07, Florida Statutes, is amended to
 1167 read:

1168 38.07 Effect of orders entered prior to disqualification;
 1169 petition for reconsideration.—When orders have been entered in
 1170 any cause by a judge prior to the entry of any order of
 1171 disqualification under s. 38.02 or s. 38.05, any party to the
 1172 cause may, within 30 days after the filing in the cause of the
 1173 order of the chief judge of the circuit or the chief justice of
 1174 either ~~the~~ supreme court, as provided for in s. 38.09, petition

HB 7199

2011

1175 the judge so designated for a reconsideration of the orders
 1176 entered by the disqualified judge prior to the date of the entry
 1177 of the order of disqualification. Such a petition shall set
 1178 forth with particularity the matters of law or fact to be relied
 1179 upon as grounds for the modification or vacation of the orders.
 1180 Such a petition shall be granted as a matter of right. Upon the
 1181 granting of the petition, notice of the time and place of the
 1182 hearing thereon, together with a copy of the petition, shall be
 1183 mailed by the attorney, or attorneys, of record for the
 1184 petitioners to the other attorney or attorneys of record, or to
 1185 the party or parties if they have no attorneys of record. This
 1186 notice shall be mailed at least 8 days prior to the date fixed
 1187 by the judge for the hearing. The judge before whom the cause is
 1188 then pending may, after the hearing, affirm, approve, confirm,
 1189 reenter, modify, or vacate the orders.

1190 Section 69. Subsection (1) of section 39.4075, Florida
 1191 Statutes, is amended to read:

1192 39.4075 Referral of a dependency case to mediation.—

1193 (1) At any stage in a dependency proceeding, any party may
 1194 request the court to refer the parties to mediation in
 1195 accordance with chapter 44 and rules and procedures developed by
 1196 the Supreme Court of Civil Appeals.

1197 Section 70. Paragraph (b) of subsection (3) of section
 1198 39.501, Florida Statutes, is amended to read:

1199 39.501 Petition for dependency.—

1200 (3)

1201 (b) The form of the petition and its contents shall be
 1202 determined by rules of juvenile procedure adopted by the Supreme

HB 7199

2011

1203 Court of Civil Appeals.

1204 Section 71. Subsection (1) of section 39.824, Florida
1205 Statutes, is amended to read:

1206 39.824 Procedures and jurisdiction.—

1207 (1) The Supreme Court of Civil Appeals is requested to
1208 adopt rules of juvenile procedure ~~by October 1, 1989,~~ to
1209 implement this part. All procedures, including petitions,
1210 pleadings, subpoenas, summonses, and hearings in cases for the
1211 appointment of a guardian advocate shall be according to the
1212 Florida Rules of Juvenile Procedure unless otherwise provided by
1213 law.

1214 Section 72. Subsection (2) of section 39.8296, Florida
1215 Statutes, is amended to read:

1216 39.8296 Statewide Guardian Ad Litem Office; legislative
1217 findings and intent; creation; appointment of executive
1218 director; duties of office.—

1219 (2) STATEWIDE GUARDIAN AD LITEM OFFICE.—There is created a
1220 Statewide Guardian Ad Litem Office within the Justice
1221 Administrative Commission. The Justice Administrative Commission
1222 shall provide administrative support and service to the office
1223 to the extent requested by the executive director within the
1224 available resources of the commission. The Statewide Guardian Ad
1225 Litem Office shall not be subject to control, supervision, or
1226 direction by the Justice Administrative Commission in the
1227 performance of its duties, but the employees of the office shall
1228 be governed by the classification plan and salary and benefits
1229 plan approved by the Justice Administrative Commission.

1230 (a) The head of the Statewide Guardian Ad Litem Office is

HB 7199

2011

1231 the executive director, who shall be appointed by the Governor
1232 from a list of a minimum of three eligible applicants submitted
1233 by a Guardian Ad Litem Qualifications Committee. The Guardian Ad
1234 Litem Qualifications Committee shall be composed of five
1235 persons, two persons appointed by the Governor, two persons
1236 appointed by the Chief Justice of the Supreme Court of Civil
1237 Appeals, and one person appointed by the Statewide Guardian Ad
1238 Litem Association. The committee shall provide for statewide
1239 advertisement and the receiving of applications for the position
1240 of executive director. The Governor shall appoint an executive
1241 director from among the recommendations, or the Governor may
1242 reject the nominations and request the submission of new
1243 nominees. The executive director must have knowledge in
1244 dependency law and knowledge of social service delivery systems
1245 available to meet the needs of children who are abused,
1246 neglected, or abandoned. The executive director shall serve on a
1247 full-time basis and shall personally, or through representatives
1248 of the office, carry out the purposes and functions of the
1249 Statewide Guardian Ad Litem Office in accordance with state and
1250 federal law. The executive director shall report to the
1251 Governor. The executive director shall serve a 3-year term,
1252 subject to removal for cause by the Governor. Any person
1253 appointed to serve as the executive director may be permitted to
1254 serve more than one term.

1255 (b) The Statewide Guardian Ad Litem Office shall, within
1256 available resources, have oversight responsibilities for and
1257 provide technical assistance to all guardian ad litem and
1258 attorney ad litem programs located within the judicial circuits.

HB 7199

2011

- 1259 | 1. The office shall identify the resources required to
 1260 | implement methods of collecting, reporting, and tracking
 1261 | reliable and consistent case data.
- 1262 | 2. The office shall review the current guardian ad litem
 1263 | programs in Florida and other states.
- 1264 | 3. The office, in consultation with local guardian ad
 1265 | litem offices, shall develop statewide performance measures and
 1266 | standards.
- 1267 | 4. The office shall develop a guardian ad litem training
 1268 | program. The office shall establish a curriculum committee to
 1269 | develop the training program specified in this subparagraph. The
 1270 | curriculum committee shall include, but not be limited to,
 1271 | dependency judges, directors of circuit guardian ad litem
 1272 | programs, active certified guardians ad litem, a mental health
 1273 | professional who specializes in the treatment of children, a
 1274 | member of a child advocacy group, a representative of the
 1275 | Florida Coalition Against Domestic Violence, and a social worker
 1276 | experienced in working with victims and perpetrators of child
 1277 | abuse.
- 1278 | 5. The office shall review the various methods of funding
 1279 | guardian ad litem programs, shall maximize the use of those
 1280 | funding sources to the extent possible, and shall review the
 1281 | kinds of services being provided by circuit guardian ad litem
 1282 | programs.
- 1283 | 6. The office shall determine the feasibility or
 1284 | desirability of new concepts of organization, administration,
 1285 | financing, or service delivery designed to preserve the civil
 1286 | and constitutional rights and fulfill other needs of dependent

HB 7199

2011

1287 children.

1288 7. ~~No later than October 1, 2004,~~ The office shall submit
 1289 to the Governor, the President of the Senate, the Speaker of the
 1290 House of Representatives, and the Chief Justice of the Supreme
 1291 Court of Civil Appeals an annual report ~~an interim report~~
 1292 describing the progress of the office in meeting the goals ~~as~~
 1293 described in this section. ~~no later than October 1, 2004, the~~
 1294 ~~office shall submit to the Governor, the President of the~~
 1295 ~~Senate, the Speaker of the House of Representatives, and the~~
 1296 ~~Chief Justice of the Supreme Court a proposed plan including~~
 1297 ~~alternatives for meeting the state's guardian ad litem and~~
 1298 ~~attorney ad litem needs. This plan may include recommendations~~
 1299 ~~for less than the entire state, may include a phase-in system,~~
 1300 ~~and shall include estimates of the cost of each of the~~
 1301 ~~alternatives. each year thereafter, the office shall provide a~~
 1302 ~~status report~~ and provide further recommendations to address the
 1303 need for guardian ad litem services and related issues.

1304 Section 73. Section 40.001, Florida Statutes, is amended
 1305 to read:

1306 40.001 Chief judge; authority; duties.—The chief judge of
 1307 each judicial circuit is vested with overall authority and
 1308 responsibility for the management, operation, and oversight of
 1309 the jury system within his or her circuit. However, in
 1310 accordance with this chapter and chapter 905, the clerk of the
 1311 circuit court has specific responsibilities regarding the
 1312 processing of jurors, including, but not limited to,
 1313 qualifications, summons, selection lists, reporting, and
 1314 compensation of jurors. The clerk of the circuit court may

HB 7199

2011

1315 contract with the chief judge for the court's assistance in the
 1316 provision of services to process jurors. The chief judge may
 1317 also designate to the clerk of the circuit court additional
 1318 duties consistent with established uniform standards of jury
 1319 management practices adopted by court rule or administrative
 1320 order ~~that the Supreme Court may adopt by rule or issue through~~
 1321 ~~administrative order.~~

1322 Section 74. Section 40.225, Florida Statutes, is amended
 1323 to read:

1324 40.225 Drawing jury venire; alternative method.—

1325 (1) Whenever a majority of the judges authorized to
 1326 conduct jury trials in a county consents, the names of
 1327 prospective jurors and other data pertinent thereto may be fed
 1328 into a mechanical, electronic, or electrical device and drawn
 1329 therefrom as an alternative to other methods authorized by law
 1330 for obtaining jury venires, if such drawing is by lot and at
 1331 random and is approved by the supreme courts ~~Court~~ as
 1332 ~~hereinafter~~ provided in this section.

1333 (2) When a majority of the trial judges authorizes the
 1334 alternative method of drawing a jury venire as provided in
 1335 subsection (1), the chief judge of the judicial circuit in which
 1336 the county is located shall make a certificate to that effect
 1337 and transmit the same to the Office of the State Courts
 1338 Administrator ~~Chief Justice of the Supreme Court~~, together with
 1339 a description of the equipment, methods, and mode of operation
 1340 to be used.

1341 (3) If the supreme courts find ~~The Chief Justice shall~~
 1342 ~~cause the certificate and data accompanying it to be presented~~

HB 7199

2011

1343 ~~to the justices of the Supreme Court. If the court finds that~~
 1344 the proposed method will produce venires selected by lot and at
 1345 random, is in compliance with all constitutional requirements of
 1346 jury selection, and is otherwise feasible and practicable, an
 1347 order of approval of same shall be made and filed. Thereafter,
 1348 the alternative method so approved may be used in the county so
 1349 authorized.

1350 (4) The chief judge of the judicial circuit in which the
 1351 county is located shall supervise the use of such alternative
 1352 method whenever approval of same has been made by order of the
 1353 supreme courts ~~Court~~.

1354 (5) This section does not require ~~Nothing herein shall be~~
 1355 ~~construed as requiring~~ uniform equipment or methods throughout
 1356 the state.

1357 Section 75. Subsection (3) of section 43.26, Florida
 1358 Statutes, is amended to read:

1359 43.26 Chief judge of circuit; selection; powers.—

1360 (3) The chief judge shall be responsible to the chief
 1361 justices of the supreme courts ~~Chief Justice of the Supreme~~
 1362 ~~Court~~ for such information as may be required by them ~~the Chief~~
 1363 ~~Justice~~, including, but not limited to, caseload, status of
 1364 dockets, and disposition of cases in the courts over which the
 1365 chief judge ~~he or she~~ presides.

1366 Section 76. Section 43.30, Florida Statutes, is amended to
 1367 read:

1368 43.30 Divisions of court.—All courts except each ~~the~~
 1369 supreme court may sit in divisions as may be established by
 1370 local rule ~~approved by the Supreme Court~~.

HB 7199

2011

1371 Section 77. Subsections (1), (2), and (4) of section
 1372 44.102, Florida Statutes, are amended to read:

1373 44.102 Court-ordered mediation.—

1374 (1) Court-ordered mediation shall be conducted according
 1375 to rules of practice and procedure adopted by the Supreme Court
 1376 of Civil Appeals.

1377 (2) A court, under rules adopted by the Supreme Court of
 1378 Civil Appeals:

1379 (a) Must, upon request of one party, refer to mediation
 1380 any filed civil action for monetary damages, provided the
 1381 requesting party is willing and able to pay the costs of the
 1382 mediation or the costs can be equitably divided between the
 1383 parties, unless:

1384 1. The action is a landlord and tenant dispute that does
 1385 not include a claim for personal injury.

1386 2. The action is filed for the purpose of collecting a
 1387 debt.

1388 3. The action is a claim of medical malpractice.

1389 4. The action is governed by the Florida Small Claims
 1390 Rules.

1391 5. The court determines that the action is proper for
 1392 referral to nonbinding arbitration under this chapter.

1393 6. The parties have agreed to binding arbitration.

1394 7. The parties have agreed to an expedited trial pursuant
 1395 to s. 45.075.

1396 8. The parties have agreed to voluntary trial resolution
 1397 pursuant to s. 44.104.

1398 (b) May refer to mediation all or any part of a filed

HB 7199

2011

1399 civil action for which mediation is not required under this
1400 section.

1401 (c) In circuits in which a family mediation program has
1402 been established and upon a court finding of a dispute, shall
1403 refer to mediation all or part of custody, visitation, or other
1404 parental responsibility issues as defined in s. 61.13. Upon
1405 motion or request of a party, a court shall not refer any case
1406 to mediation if it finds there has been a history of domestic
1407 violence that would compromise the mediation process.

1408 (d) In circuits in which a dependency or in need of
1409 services mediation program has been established, may refer to
1410 mediation all or any portion of a matter relating to dependency
1411 or to a child in need of services or a family in need of
1412 services.

1413 (4) The chief judge of each judicial circuit shall
1414 maintain a list of mediators who have been certified by the
1415 Supreme Court of Civil Appeals and who have registered for
1416 appointment in that circuit.

1417 (a) Whenever possible, qualified individuals who have
1418 volunteered their time to serve as mediators shall be appointed.
1419 If a mediation program is funded pursuant to s. 44.108,
1420 volunteer mediators shall be entitled to reimbursement pursuant
1421 to s. 112.061 for all actual expenses necessitated by service as
1422 a mediator.

1423 (b) Nonvolunteer mediators shall be compensated according
1424 to rules adopted by the Supreme Court of Civil Appeals. If a
1425 mediation program is funded pursuant to s. 44.108, a mediator
1426 may be compensated by the county or by the parties.

HB 7199

2011

1427 Section 78. Subsections (1), (2), (5), and (6) of section
1428 44.103, Florida Statutes, are amended to read:

1429 44.103 Court-ordered, nonbinding arbitration.—

1430 (1) Court-ordered, nonbinding arbitration shall be
1431 conducted according to the rules of practice and procedure
1432 adopted by the Supreme Court of Civil Appeals.

1433 (2) A court, pursuant to rules adopted by the Supreme
1434 Court of Civil Appeals, may refer any contested civil action
1435 filed in a circuit or county court to nonbinding arbitration.

1436 (5) The arbitration decision shall be presented to the
1437 parties in writing. An arbitration decision shall be final if a
1438 request for a trial de novo is not filed within the time
1439 provided by rules promulgated by the Supreme Court of Civil
1440 Appeals. The decision shall not be made known to the judge who
1441 may preside over the case unless no request for trial de novo is
1442 made as herein provided or unless otherwise provided by law. If
1443 no request for trial de novo is made within the time provided,
1444 the decision shall be referred to the presiding judge in the
1445 case who shall enter such orders and judgments as are required
1446 to carry out the terms of the decision, which orders shall be
1447 enforceable by the contempt powers of the court, and for which
1448 judgments execution shall issue on request of a party.

1449 (6) Upon motion made by either party within 30 days after
1450 entry of judgment, the court may assess costs against the party
1451 requesting a trial de novo, including arbitration costs, court
1452 costs, reasonable attorney's fees, and other reasonable costs
1453 such as investigation expenses and expenses for expert or other
1454 testimony which were incurred after the arbitration hearing and

HB 7199

2011

1455 continuing through the trial of the case in accordance with the
1456 guidelines for taxation of costs as adopted by the Supreme Court
1457 of Civil Appeals. Such costs may be assessed if:

1458 (a) The plaintiff, having filed for a trial de novo,
1459 obtains a judgment at trial which is at least 25 percent less
1460 than the arbitration award. In such instance, the costs and
1461 attorney's fees pursuant to this section shall be set off
1462 against the award. When the costs and attorney's fees pursuant
1463 to this section total more than the amount of the judgment, the
1464 court shall enter judgment for the defendant against the
1465 plaintiff for the amount of the costs and attorney's fees, less
1466 the amount of the award to the plaintiff. For purposes of a
1467 determination under this paragraph, the term "judgment" means
1468 the amount of the net judgment entered, plus all taxable costs
1469 pursuant to the guidelines for taxation of costs as adopted by
1470 the Supreme Court of Civil Appeals, plus any postarbitration
1471 collateral source payments received or due as of the date of the
1472 judgment, and plus any postarbitration settlement amounts by
1473 which the verdict was reduced; or

1474 (b) The defendant, having filed for a trial de novo, has a
1475 judgment entered against the defendant which is at least 25
1476 percent more than the arbitration award. For purposes of a
1477 determination under this paragraph, the term "judgment" means
1478 the amount of the net judgment entered, plus any postarbitration
1479 settlement amounts by which the verdict was reduced.

1480 Section 79. Subsection (13) of section 44.104, Florida
1481 Statutes, is amended to read:

1482 44.104 Voluntary binding arbitration and voluntary trial

HB 7199

2011

1483 resolution.—

1484 (13) If no appeal is taken within the time provided by
 1485 rules promulgated by the Supreme Court of Civil Appeals, then
 1486 the decision shall be referred to the presiding judge in the
 1487 case, or if one has not been assigned, then to the chief judge
 1488 of the circuit for assignment to a circuit judge, who shall
 1489 enter such orders and judgments as are required to carry out the
 1490 terms of the decision, which orders shall be enforceable by the
 1491 contempt powers of the court and for which judgments execution
 1492 shall issue on request of a party.

1493 Section 80. Section 44.106, Florida Statutes, is amended
 1494 to read:

1495 44.106 Standards and procedures for mediators and
 1496 arbitrators; fees.—The Supreme Court of Civil Appeals shall
 1497 establish minimum standards and procedures for qualifications,
 1498 certification, professional conduct, discipline, and training
 1499 for mediators and arbitrators who are appointed pursuant to this
 1500 chapter. The Supreme Court of Civil Appeals is authorized to set
 1501 fees to be charged to applicants for certification and renewal
 1502 of certification. The revenues generated from these fees shall
 1503 be used to offset the costs of administration of the
 1504 certification process. The Supreme Court of Civil Appeals may
 1505 appoint or employ such personnel as are necessary to assist the
 1506 court in exercising its powers and performing its duties under
 1507 this chapter.

1508 Section 81. Subsection (1), paragraph (c) of subsection
 1509 (2), and subsection (3) of section 44.107, Florida Statutes, are
 1510 amended to read:

HB 7199

2011

1511 44.107 Immunity for arbitrators, mediators, and mediator
 1512 trainees.—

1513 (1) Arbitrators serving under s. 44.103 or s. 44.104,
 1514 mediators serving under s. 44.102, and trainees fulfilling the
 1515 mentorship requirements for certification by the Supreme Court
 1516 of Civil Appeals as a mediator shall have judicial immunity in
 1517 the same manner and to the same extent as a judge.

1518 (2) A person serving as a mediator in any noncourt-ordered
 1519 mediation shall have immunity from liability arising from the
 1520 performance of that person's duties while acting within the
 1521 scope of the mediation function if such mediation is:

1522 (c) Facilitated by a mediator certified by the Supreme
 1523 Court of Civil Appeals, unless the mediation parties expressly
 1524 agree not to be bound by ss. 44.401-44.406.

1525
 1526 The mediator does not have immunity if he or she acts in bad
 1527 faith, with malicious purpose, or in a manner exhibiting wanton
 1528 and willful disregard of human rights, safety, or property.

1529 (3) A person serving under s. 44.106 to assist the Supreme
 1530 Court of Civil Appeals in performing its disciplinary function
 1531 shall have absolute immunity from liability arising from the
 1532 performance of that person's duties while acting within the
 1533 scope of that person's appointed function.

1534 Section 82. Subsection (1) of section 44.108, Florida
 1535 Statutes, is amended to read:

1536 44.108 Funding of mediation and arbitration.—

1537 (1) Mediation and arbitration should be accessible to all
 1538 parties regardless of financial status. A filing fee of \$1 is

HB 7199

2011

1539 levied on all proceedings in the circuit or county courts to
 1540 fund mediation and arbitration services which are the
 1541 responsibility of the Supreme Court of Civil Appeals pursuant to
 1542 ~~the provisions of~~ s. 44.106. The clerk of the court shall
 1543 forward the moneys collected to the Department of Revenue for
 1544 deposit in the state courts' Mediation and Arbitration Trust
 1545 Fund.

1546 Section 83. Paragraph (c) of subsection (1) of section
 1547 44.402, Florida Statutes, is amended to read:

1548 44.402 Scope.—

1549 (1) Except as otherwise provided, ss. 44.401-44.406 apply
 1550 to any mediation:

1551 (c) Facilitated by a mediator certified by the Supreme
 1552 Court of Civil Appeals, unless the mediation parties expressly
 1553 agree not to be bound by ss. 44.401-44.406.

1554 Section 84. Subsection (1) of section 57.082, Florida
 1555 Statutes, is amended to read:

1556 57.082 Determination of civil indigent status.—

1557 (1) APPLICATION TO THE CLERK.—A person seeking appointment
 1558 of an attorney in a civil case eligible for court-appointed
 1559 counsel, or seeking relief from payment of filing fees and
 1560 prepayment of costs under s. 57.081, based upon an inability to
 1561 pay must apply to the clerk of the court for a determination of
 1562 civil indigent status using an application form developed by the
 1563 Florida Clerks of Court Operations Corporation with final
 1564 approval by the Supreme Court of Civil Appeals.

1565 (a) The application must include, at a minimum, the
 1566 following financial information:

HB 7199

2011

1567 1. Net income, consisting of total salary and wages, minus
 1568 deductions required by law, including court-ordered support
 1569 payments.

1570 2. Other income, including, but not limited to, social
 1571 security benefits, union funds, veterans' benefits, workers'
 1572 compensation, other regular support from absent family members,
 1573 public or private employee pensions, unemployment compensation,
 1574 dividends, interest, rent, trusts, and gifts.

1575 3. Assets, including, but not limited to, cash, savings
 1576 accounts, bank accounts, stocks, bonds, certificates of deposit,
 1577 equity in real estate, and equity in a boat or a motor vehicle
 1578 or in other tangible property.

1579 4. All liabilities and debts.

1580

1581 The application must include a signature by the applicant which
 1582 attests to the truthfulness of the information provided. The
 1583 application form developed by the corporation must include
 1584 notice that the applicant may seek court review of a clerk's
 1585 determination that the applicant is not indigent, as provided in
 1586 this section.

1587 (b) The clerk shall assist a person who appears before the
 1588 clerk and requests assistance in completing the application, and
 1589 the clerk shall notify the court if a person is unable to
 1590 complete the application after the clerk has provided
 1591 assistance.

1592 (c) The clerk shall accept an application that is signed
 1593 by the applicant and submitted on his or her behalf by a private
 1594 attorney who is representing the applicant in the applicable

HB 7199

2011

1595 matter.

1596 (d) A person who seeks appointment of an attorney in a

1597 proceeding under chapter 39, at shelter hearings or during the

1598 adjudicatory process, during the judicial review process, upon

1599 the filing of a petition to terminate parental rights, or upon

1600 the filing of any appeal, or if the person seeks appointment of

1601 an attorney in a reopened proceeding, for which an indigent

1602 person is eligible for court-appointed representation must pay a

1603 \$50 application fee to the clerk for each application filed. A

1604 person is not required to pay more than one application fee per

1605 case. However, an appeal or the reopening of a proceeding shall

1606 be deemed to be a distinct case. The applicant must pay the fee

1607 within 7 days after submitting the application. If the applicant

1608 has not paid the fee within 7 days, the court shall enter an

1609 order requiring payment, and the clerk shall pursue collection

1610 under s. 28.246. The clerk shall transfer monthly all

1611 application fees collected under this paragraph to the

1612 Department of Revenue for deposit into the Indigent Civil

1613 Defense Trust Fund, to be used as appropriated by the

1614 Legislature. The clerk may retain 10 percent of application fees

1615 collected monthly for administrative costs prior to remitting

1616 the remainder to the Department of Revenue. If the person cannot

1617 pay the application fee, the clerk shall enroll the person in a

1618 payment plan pursuant to s. 28.246.

1619 Section 85. Section 57.101, Florida Statutes, is amended

1620 to read:

1621 57.101 Costs in supreme courts ~~court~~; certain not

1622 taxable.—The costs of copies of the record of any paper on file

HB 7199

2011

1623 in either ~~the~~ supreme court may ~~shall~~ not be taxed as costs
 1624 against the losing party unless the copies have been ordered by
 1625 the party or his or her attorney.

1626 Section 86. Subsection (1) of section 59.081, Florida
 1627 Statutes, is amended to read:

1628 59.081 Time for invoking appellate jurisdiction of any
 1629 court.—

1630 (1) The time within which and the method by which the
 1631 jurisdiction of any court in this state possessed of power to
 1632 review the action of any other court, commission, officer or
 1633 bureau may be invoked by appeal, certiorari, petition for
 1634 review, or other process by whatever name designated, and the
 1635 manner of computing such time shall be prescribed by court rule
 1636 ~~of the Supreme Court.~~

1637 Section 87. Section 59.45, Florida Statutes, is amended to
 1638 read:

1639 59.45 Misconception of remedy; supreme courts ~~court~~.—If an
 1640 appeal be improvidently taken where the remedy might have been
 1641 more properly sought by certiorari, this alone shall not be a
 1642 ground for dismissal; but the notice of appeal and the record
 1643 thereon shall be regarded and acted on as a petition for
 1644 certiorari duly presented to the appropriate supreme court.

1645 Section 88. Paragraph (a) of subsection (4) of section
 1646 61.125, Florida Statutes, is amended to read:

1647 61.125 Parenting coordination.—

1648 (4) QUALIFICATIONS OF A PARENTING COORDINATOR.—A parenting
 1649 coordinator is an impartial third person whose role is to assist
 1650 the parents in successfully creating or implementing a parenting

HB 7199

2011

1651 plan. Unless there is a written agreement between the parties,
 1652 the court may appoint only a qualified parenting coordinator.

1653 (a) To be qualified, a parenting coordinator must:

1654 1. Meet one of the following professional requirements:

1655 a. Be licensed as a mental health professional under
 1656 chapter 490 or chapter 491.

1657 b. Be licensed as a physician under chapter 458, with
 1658 certification by the American Board of Psychiatry and Neurology.

1659 c. Be certified by the ~~Florida~~ Supreme Court of Civil
 1660 Appeals as a family law mediator, with at least a master's
 1661 degree in a mental health field.

1662 d. Be a member in good standing of The Florida Bar.

1663 2. Complete all of the following:

1664 a. Three years of postlicensure or postcertification
 1665 practice.

1666 b. A family mediation training program certified by the
 1667 ~~Florida~~ Supreme Court of Civil Appeals.

1668 c. A minimum of 24 hours of parenting coordination
 1669 training in parenting coordination concepts and ethics, family
 1670 systems theory and application, family dynamics in separation
 1671 and divorce, child and adolescent development, the parenting
 1672 coordination process, parenting coordination techniques, and
 1673 Florida family law and procedure, and a minimum of 4 hours of
 1674 training in domestic violence and child abuse which is related
 1675 to parenting coordination.

1676 Section 89. Subsection (1) of section 61.183, Florida
 1677 Statutes, is amended to read:

1678 61.183 Mediation of certain contested issues.—

HB 7199

2011

1679 (1) In any proceeding in which the issues of parental
 1680 responsibility, primary residence, access to, visitation with,
 1681 or support of a child are contested, the court may refer the
 1682 parties to mediation in accordance with court rules ~~promulgated~~
 1683 ~~by the Supreme Court~~. In Title IV-D cases, any costs, including
 1684 filing fees, recording fees, mediation costs, service of process
 1685 fees, and other expenses incurred by the clerk of the circuit
 1686 court, shall be assessed only against the nonprevailing obligor
 1687 after the court makes a determination of the nonprevailing
 1688 obligor's ability to pay such costs and fees.

1689 Section 90. Section 75.08, Florida Statutes, is amended to
 1690 read:

1691 75.08 Appeal and review.—Any party to the action whether
 1692 plaintiff, defendant, intervenor or otherwise, dissatisfied with
 1693 the final judgment, may appeal to the Supreme Court of Civil
 1694 Appeals within the time and in the manner prescribed by the
 1695 Florida Rules of Appellate Procedure.

1696 Section 91. Subsection (4) of section 90.902, Florida
 1697 Statutes, is amended to read:

1698 90.902 Self-authentication.—Extrinsic evidence of
 1699 authenticity as a condition precedent to admissibility is not
 1700 required for:

1701 (4) A copy of an official public record, report, or entry,
 1702 or of a document authorized by law to be recorded or filed and
 1703 actually recorded or filed in a public office, including data
 1704 compilations in any form, certified as correct by the custodian
 1705 or other person authorized to make the certification by
 1706 certificate complying with subsection (1), subsection (2), or

HB 7199

2011

1707 subsection (3) or complying with any act of the Legislature or
 1708 court rule ~~adopted by the Supreme Court.~~

1709 Section 92. Paragraphs (c) and (e) of subsection (5) of
 1710 section 100.371, Florida Statutes, are amended to read:

1711 100.371 Initiatives; procedure for placement on ballot.—

1712 (5)

1713 (c) All meetings of the Financial Impact Estimating
 1714 Conference shall be open to the public. The President of the
 1715 Senate and the Speaker of the House of Representatives, jointly,
 1716 shall be the sole judge for the interpretation, implementation,
 1717 and enforcement of this subsection.

1718 1. The Financial Impact Estimating Conference is
 1719 established to review, analyze, and estimate the financial
 1720 impact of amendments to or revisions of the State Constitution
 1721 proposed by initiative. The Financial Impact Estimating
 1722 Conference shall consist of four principals: one person from the
 1723 Executive Office of the Governor; the coordinator of the Office
 1724 of Economic and Demographic Research, or his or her designee;
 1725 one person from the professional staff of the Senate; and one
 1726 person from the professional staff of the House of
 1727 Representatives. Each principal shall have appropriate fiscal
 1728 expertise in the subject matter of the initiative. A Financial
 1729 Impact Estimating Conference may be appointed for each
 1730 initiative.

1731 2. Principals of the Financial Impact Estimating
 1732 Conference shall reach a consensus or majority concurrence on a
 1733 clear and unambiguous financial impact statement, no more than
 1734 75 words in length, and immediately submit the statement to the

HB 7199

2011

1735 Attorney General. Nothing in this subsection prohibits the
1736 Financial Impact Estimating Conference from setting forth a
1737 range of potential impacts in the financial impact statement.
1738 Any financial impact statement that a court finds not to be in
1739 accordance with this section shall be remanded solely to the
1740 Financial Impact Estimating Conference for redrafting. The
1741 Financial Impact Estimating Conference shall redraft the
1742 financial impact statement within 15 days.

1743 3. If the members of the Financial Impact Estimating
1744 Conference are unable to agree on the statement required by this
1745 subsection, or if the Supreme Court of Civil Appeals has
1746 rejected the initial submission by the Financial Impact
1747 Estimating Conference and no redraft has been approved by the
1748 Supreme Court of Civil Appeals by 5 p.m. on the 75th day before
1749 the election, the following statement shall appear on the ballot
1750 pursuant to s. 101.161(1): "The financial impact of this
1751 measure, if any, cannot be reasonably determined at this time."

1752 (e)1. Any financial impact statement that the Supreme
1753 Court of Civil Appeals finds not to be in accordance with this
1754 subsection shall be remanded solely to the Financial Impact
1755 Estimating Conference for redrafting, provided the court's
1756 advisory opinion is rendered at least 75 days before the
1757 election at which the question of ratifying the amendment will
1758 be presented. The Financial Impact Estimating Conference shall
1759 prepare and adopt a revised financial impact statement no later
1760 than 5 p.m. on the 15th day after the date of the court's
1761 opinion.

1762 2. If, by 5 p.m. on the 75th day before the election, the

HB 7199

2011

1763 Supreme Court of Civil Appeals has not issued an advisory
1764 opinion on the initial financial impact statement prepared by
1765 the Financial Impact Estimating Conference for an initiative
1766 amendment that otherwise meets the legal requirements for ballot
1767 placement, the financial impact statement shall be deemed
1768 approved for placement on the ballot.

1769 3. In addition to the financial impact statement required
1770 by this subsection, the Financial Impact Estimating Conference
1771 shall draft an initiative financial information statement. The
1772 initiative financial information statement should describe in
1773 greater detail than the financial impact statement any projected
1774 increase or decrease in revenues or costs that the state or
1775 local governments would likely experience if the ballot measure
1776 were approved. If appropriate, the initiative financial
1777 information statement may include both estimated dollar amounts
1778 and a description placing the estimated dollar amounts into
1779 context. The initiative financial information statement must
1780 include both a summary of not more than 500 words and additional
1781 detailed information that includes the assumptions that were
1782 made to develop the financial impacts, workpapers, and any other
1783 information deemed relevant by the Financial Impact Estimating
1784 Conference.

1785 4. The Department of State shall have printed, and shall
1786 furnish to each supervisor of elections, a copy of the summary
1787 from the initiative financial information statements. The
1788 supervisors shall have the summary from the initiative financial
1789 information statements available at each polling place and at
1790 the main office of the supervisor of elections upon request.

HB 7199

2011

1791 5. The Secretary of State and the Office of Economic and
 1792 Demographic Research shall make available on the Internet each
 1793 initiative financial information statement in its entirety. In
 1794 addition, each supervisor of elections whose office has a
 1795 website shall post the summary from each initiative financial
 1796 information statement on the website. Each supervisor shall
 1797 include the Internet addresses for the information statements on
 1798 the Secretary of State's and the Office of Economic and
 1799 Demographic Research's websites in the publication or mailing
 1800 required by s. 101.20.

1801 Section 93. Subsection (7) of section 105.036, Florida
 1802 Statutes, is amended to read:

1803 105.036 Initiative for method of selection for circuit or
 1804 county court judges; procedures for placement on ballot.—

1805 (7) Within 10 days after each general election for which
 1806 an initiative to change the method of selection of circuit or
 1807 county court judges was placed on the ballot in any circuit or
 1808 county in the state, the Secretary of State must notify the
 1809 Chief Justice of the Supreme Court of Civil Appeals ~~Florida~~ of
 1810 the changed method for selection of judges for any circuit or
 1811 county where the initiative passed.

1812 Section 94. Paragraph (a) of subsection (8) of section
 1813 112.215, Florida Statutes, is amended to read:

1814 112.215 Government employees; deferred compensation
 1815 program.—

1816 (8) (a) There is created a Deferred Compensation Advisory
 1817 Council composed of seven members.

1818 1. One member shall be appointed by the Speaker of the

HB 7199

2011

1819 House of Representatives and the President of the Senate jointly
 1820 and shall be an employee of the legislative branch.

1821 2. One member shall be appointed by the Chief Justice of
 1822 the Supreme Court of Civil Appeals and shall be an employee of
 1823 the judicial branch.

1824 3. One member shall be appointed by the chair of the
 1825 Public Employees Relations Commission and shall be a nonexempt
 1826 public employee.

1827 4. The remaining four members shall be employed by the
 1828 executive branch and shall be appointed as follows:

1829 a. One member shall be appointed by the Chancellor of the
 1830 State University System and shall be an employee of the
 1831 university system.

1832 b. One member shall be appointed by the Chief Financial
 1833 Officer and shall be an employee of the Chief Financial Officer.

1834 c. One member shall be appointed by the Governor and shall
 1835 be an employee of the executive branch.

1836 d. One member shall be appointed by the Executive Director
 1837 of the State Board of Administration and shall be an employee of
 1838 the State Board of Administration.

1839 Section 95. Subsection (1) of section 112.321, Florida
 1840 Statutes, is amended to read:

1841 112.321 Membership, terms; travel expenses; staff.—

1842 (1) The commission shall be composed of nine members. Five
 1843 of these members shall be appointed by the Governor, no more
 1844 than three of whom shall be from the same political party,
 1845 subject to confirmation by the Senate. One member appointed by
 1846 the Governor shall be a former city or county official and may

HB 7199

2011

1847 | be a former member of a local planning or zoning board which has
1848 | only advisory duties. Two members shall be appointed by the
1849 | Speaker of the House of Representatives, and two members shall
1850 | be appointed by the President of the Senate. Neither the Speaker
1851 | of the House of Representatives nor the President of the Senate
1852 | shall appoint more than one member from the same political
1853 | party. Of the nine members of the Commission, no more than five
1854 | members shall be from the same political party at any one time.
1855 | No member may hold any public employment. An individual who
1856 | qualifies as a lobbyist pursuant to s. 11.045 or s. 112.3215 or
1857 | pursuant to any local government charter or ordinance may not
1858 | serve as a member of the commission, except that this
1859 | prohibition does not apply to an individual who is a member of
1860 | the commission on July 1, 2006, until the expiration of his or
1861 | her current term. A member of the commission may not lobby any
1862 | state or local governmental entity as provided in s. 11.045 or
1863 | s. 112.3215 or as provided by any local government charter or
1864 | ordinance, except that this prohibition does not apply to an
1865 | individual who is a member of the commission on July 1, 2006,
1866 | until the expiration of his or her current term. All members
1867 | shall serve 2-year terms. A member may not serve more than two
1868 | full terms in succession. Any member of the commission may be
1869 | removed for cause by majority vote of the Governor, the
1870 | President of the Senate, the Speaker of the House of
1871 | Representatives, and the Chief Justice of the Supreme Court of
1872 | Civil Appeals.

1873 | Section 96. Paragraph (b) of subsection (8) and subsection
1874 | (10) of section 112.324, Florida Statutes, are amended to read:

HB 7199

2011

1875 112.324 Procedures on complaints of violations; public
1876 records and meeting exemptions.—

1877 (8) If, in cases pertaining to complaints other than
1878 complaints against impeachable officers or members of the
1879 Legislature, upon completion of a full and final investigation
1880 by the commission, the commission finds that there has been a
1881 violation of this part or of s. 8, Art. II of the State
1882 Constitution, it shall be the duty of the commission to report
1883 its findings and recommend appropriate action to the proper
1884 disciplinary official or body as follows, and such official or
1885 body shall have the power to invoke the penalty provisions of
1886 this part, including the power to order the appropriate
1887 elections official to remove a candidate from the ballot for a
1888 violation of s. 112.3145 or s. 8(a) and (i), Art. II of the
1889 State Constitution:

1890 (b) The Supreme Court of Civil Appeals, in any case
1891 concerning an employee of the judicial branch.

1892 (10) Notwithstanding the foregoing procedures of this
1893 section, a sworn complaint against any member or employee of the
1894 Commission on Ethics for violation of this part or of s. 8, Art.
1895 II of the State Constitution shall be filed with the President
1896 of the Senate and the Speaker of the House of Representatives.
1897 Each presiding officer shall, after determining that there are
1898 sufficient grounds for review, appoint three members of their
1899 respective bodies to a special joint committee who shall
1900 investigate the complaint. The members shall elect a chair from
1901 among their number. If the special joint committee finds
1902 insufficient evidence to establish probable cause to believe a

HB 7199

2011

1903 violation of this part or of s. 8, Art. II of the State
 1904 Constitution has occurred, it shall dismiss the complaint. If,
 1905 upon completion of its preliminary investigation, the committee
 1906 finds sufficient evidence to establish probable cause to believe
 1907 a violation has occurred, the chair thereof shall transmit such
 1908 findings to the Governor who shall convene a meeting of the
 1909 Governor, the President of the Senate, the Speaker of the House
 1910 of Representatives, and the Chief Justice of the Supreme Court
 1911 of Civil Appeals to take such final action on the complaint as
 1912 they shall deem appropriate, consistent with the penalty
 1913 provisions of this part. Upon request of a majority of the
 1914 Governor, the President of the Senate, the Speaker of the House
 1915 of Representatives, and the Chief Justice of the Supreme Court
 1916 of Civil Appeals, the special joint committee shall submit a
 1917 recommendation as to what penalty, if any, should be imposed.

1918 Section 97. Paragraph (j) of subsection (4) of section
 1919 121.091, Florida Statutes, is amended to read:

1920 121.091 Benefits payable under the system.—Benefits may
 1921 not be paid under this section unless the member has terminated
 1922 employment as provided in s. 121.021(39) (a) or begun
 1923 participation in the Deferred Retirement Option Program as
 1924 provided in subsection (13), and a proper application has been
 1925 filed in the manner prescribed by the department. The department
 1926 may cancel an application for retirement benefits when the
 1927 member or beneficiary fails to timely provide the information
 1928 and documents required by this chapter and the department's
 1929 rules. The department shall adopt rules establishing procedures
 1930 for application for retirement benefits and for the cancellation

HB 7199

2011

1931 of such application when the required information or documents
 1932 are not received.

1933 (4) DISABILITY RETIREMENT BENEFIT.—

1934 (j) Disability retirement of justice or judge by order of
 1935 a supreme court.—

1936 1. If a member is a justice of a ~~the~~ supreme court, judge
 1937 of a district court of appeal, circuit judge, or judge of a
 1938 county court who has served for 6 years or more as an elected
 1939 constitutional judicial officer, including service as a judicial
 1940 officer in any court abolished pursuant to Art. V of the State
 1941 Constitution, and who is retired for disability by order of the
 1942 Supreme Court of Criminal Appeals upon recommendation of the
 1943 Judicial Qualifications Commission pursuant to ~~the provisions of~~
 1944 Art. V of the State Constitution, the member's Option 1 monthly
 1945 benefit as provided in subparagraph (6)(a)1. shall not be less
 1946 than two-thirds of his or her monthly compensation as of the
 1947 member's disability retirement date. Such a member may
 1948 alternatively elect to receive a disability retirement benefit
 1949 under any other option as provided in paragraph (6)(a).

1950 2. Should any justice or judge who is a member of the
 1951 Florida Retirement System be retired for disability by order of
 1952 the Supreme Court of Criminal Appeals upon recommendation of the
 1953 Judicial Qualifications Commission pursuant to ~~the provisions of~~
 1954 Art. V of the State Constitution, then all contributions to his
 1955 or her account and all contributions made on his or her behalf
 1956 by the employer shall be transferred to and deposited in the
 1957 General Revenue Fund of the state, and there is hereby
 1958 appropriated annually out of the General Revenue Fund, to be

HB 7199

2011

1959 | paid into the Florida Retirement System Fund, an amount
 1960 | necessary to pay the benefits of all justices and judges retired
 1961 | from the Florida Retirement System pursuant to Art. V of the
 1962 | State Constitution.

1963 | Section 98. Paragraph (m) of subsection (2) of section
 1964 | 121.591, Florida Statutes, is amended to read:

1965 | 121.591 Benefits payable under the Public Employee
 1966 | Optional Retirement Program of the Florida Retirement System.—
 1967 | Benefits may not be paid under this section unless the member
 1968 | has terminated employment as provided in s. 121.021(39)(a) or is
 1969 | deceased and a proper application has been filed in the manner
 1970 | prescribed by the state board or the department. The state board
 1971 | or department, as appropriate, may cancel an application for
 1972 | retirement benefits when the member or beneficiary fails to
 1973 | timely provide the information and documents required by this
 1974 | chapter and the rules of the state board and department. In
 1975 | accordance with their respective responsibilities as provided
 1976 | herein, the State Board of Administration and the Department of
 1977 | Management Services shall adopt rules establishing procedures
 1978 | for application for retirement benefits and for the cancellation
 1979 | of such application when the required information or documents
 1980 | are not received. The State Board of Administration and the
 1981 | Department of Management Services, as appropriate, are
 1982 | authorized to cash out a de minimis account of a participant who
 1983 | has been terminated from Florida Retirement System covered
 1984 | employment for a minimum of 6 calendar months. A de minimis
 1985 | account is an account containing employer contributions and
 1986 | accumulated earnings of not more than \$5,000 made under the

1987 provisions of this chapter. Such cash-out must either be a
 1988 complete lump-sum liquidation of the account balance, subject to
 1989 the provisions of the Internal Revenue Code, or a lump-sum
 1990 direct rollover distribution paid directly to the custodian of
 1991 an eligible retirement plan, as defined by the Internal Revenue
 1992 Code, on behalf of the participant. If any financial instrument
 1993 issued for the payment of retirement benefits under this section
 1994 is not presented for payment within 180 days after the last day
 1995 of the month in which it was originally issued, the third-party
 1996 administrator or other duly authorized agent of the State Board
 1997 of Administration shall cancel the instrument and credit the
 1998 amount of the instrument to the suspense account of the Public
 1999 Employee Optional Retirement Program Trust Fund authorized under
 2000 s. 121.4501(6). Any such amounts transferred to the suspense
 2001 account are payable upon a proper application, not to include
 2002 earnings thereon, as provided in this section, within 10 years
 2003 after the last day of the month in which the instrument was
 2004 originally issued, after which time such amounts and any
 2005 earnings thereon shall be forfeited. Any such forfeited amounts
 2006 are assets of the Public Employee Optional Retirement Program
 2007 Trust Fund and are not subject to the provisions of chapter 717.

2008 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided
 2009 under this subsection are payable in lieu of the benefits which
 2010 would otherwise be payable under the provisions of subsection
 2011 (1). Such benefits shall be funded entirely from employer
 2012 contributions made under s. 121.571, transferred participant
 2013 funds accumulated pursuant to paragraph (a), and interest and
 2014 earnings thereon. Pursuant thereto:

HB 7199

2011

2015 (m) Disability retirement of justice or judge by order of
 2016 a supreme court.—

2017 1. If a participant is a justice of a ~~the~~ supreme court,
 2018 judge of a district court of appeal, circuit judge, or judge of
 2019 a county court who has served for 6 years or more as an elected
 2020 constitutional judicial officer, including service as a judicial
 2021 officer in any court abolished pursuant to Art. V of the State
 2022 Constitution, and who is retired for disability by order of the
 2023 Supreme Court of Criminal Appeals upon recommendation of the
 2024 Judicial Qualifications Commission pursuant to ~~the provisions of~~
 2025 Art. V of the State Constitution, the participant's Option 1
 2026 monthly disability benefit amount as provided in s.
 2027 121.091(6) (a)1. shall be two-thirds of his or her monthly
 2028 compensation as of the participant's disability retirement date.
 2029 Such a participant may alternatively elect to receive an
 2030 actuarially adjusted disability retirement benefit under any
 2031 other option as provided in s. 121.091(6) (a), or to receive the
 2032 normal benefit payable under the Public Employee Optional
 2033 Retirement Program as set forth in subsection (1).

2034 2. If any justice or judge who is a participant of the
 2035 Public Employee Optional Retirement Program of the Florida
 2036 Retirement System is retired for disability by order of the
 2037 Supreme Court of Criminal Appeals upon recommendation of the
 2038 Judicial Qualifications Commission pursuant to ~~the provisions of~~
 2039 Art. V of the State Constitution and elects to receive a monthly
 2040 disability benefit under ~~the provisions of~~ this paragraph:

2041 a. Any present value amount that was transferred to his or
 2042 her program account and all employer contributions made to such

2043 account on his or her behalf, plus interest and earnings
 2044 thereon, shall be transferred to and deposited in the disability
 2045 account of the Florida Retirement System Trust Fund; and

2046 b. The monthly benefits payable under this paragraph for
 2047 any affected justice or judge retired from the Florida
 2048 Retirement System pursuant to Art. V of the State Constitution
 2049 shall be paid from the disability account of the Florida
 2050 Retirement System Trust Fund.

2051 Section 99. Subsection (4) of section 215.91, Florida
 2052 Statutes, is amended to read:

2053 215.91 Florida Financial Management Information System;
 2054 board; council.—

2055 (4) The council shall provide ongoing counsel to the board
 2056 and act to resolve problems among or between the functional
 2057 owner subsystems. The board, through the coordinating council,
 2058 shall direct and manage the development, implementation, and
 2059 operation of the information subsystems that together are the
 2060 Florida Financial Management Information System. The
 2061 coordinating council shall approve the information subsystems'
 2062 designs prior to the development, implementation, and operation
 2063 of the subsystems and shall approve subsequent proposed design
 2064 modifications to the information subsystems subject to the
 2065 guidelines issued by the council. The coordinating council shall
 2066 ensure that the information subsystems' operations support the
 2067 exchange of unified and coordinated data between information
 2068 subsystems. The coordinating council shall establish the common
 2069 data codes for financial management, and it shall require and
 2070 ensure the use of common data codes by the information

HB 7199

2011

2071 subsystems that together constitute the Florida Financial
 2072 Management Information System. The Chief Financial Officer shall
 2073 adopt a chart of accounts consistent with the common financial
 2074 management data codes established by the coordinating council.
 2075 The board, through the coordinating council, shall establish the
 2076 financial management policies and procedures for the executive
 2077 branch of state government. The coordinating council shall
 2078 notify in writing the chairs of the legislative fiscal
 2079 committees and the Office of the State Courts Administrator
 2080 ~~Chief Justice of the Supreme Court~~ regarding the adoption of, or
 2081 modification to, a proposed financial management policy or
 2082 procedure. The notice shall solicit comments from the chairs of
 2083 the legislative fiscal committees and the Office of the State
 2084 Courts Administrator ~~Chief Justice of the Supreme Court~~ at least
 2085 14 consecutive days before the final action by the coordinating
 2086 council.

2087 Section 100. Paragraph (v) of subsection (1) of section
 2088 216.011, Florida Statutes, is amended to read:

2089 216.011 Definitions.—

2090 (1) For the purpose of fiscal affairs of the state,
 2091 appropriations acts, legislative budgets, and approved budgets,
 2092 each of the following terms has the meaning indicated:

2093 (v) "Judicial branch" means all officers, employees, and
 2094 offices of each ~~the~~ supreme court, the district courts of
 2095 appeal, circuit courts, and county courts, the Office of the
 2096 State Courts Administrator, and the Judicial Qualifications
 2097 Commission.

HB 7199

2011

2098 Section 101. Subsection (2) of section 216.0158, Florida
 2099 Statutes, is amended to read:

2100 216.0158 Assessment of facility needs.—

2101 (2) On or before September 15 of each year, each state
 2102 agency, as defined in s. 216.011, shall submit to the Executive
 2103 Office of the Governor, and each district court of appeal and
 2104 the marshal of the supreme courts ~~court~~ shall submit to the
 2105 Office of the State Courts Administrator ~~Chief Justice of the~~
 2106 ~~Supreme Court~~, in a manner prescribed by the legislative budget
 2107 instructions, a short-term plan for facility needs covering the
 2108 next 5-year period. The short-term plan shall list the agency's
 2109 or judicial branch's facility needs in order of priority and
 2110 shall include preventive maintenance strategies, expected
 2111 replacement of existing facilities, expected improvements or
 2112 additions to facilities on a specific project-by-project basis,
 2113 estimated cost, and other information as prescribed by the
 2114 legislative budget instructions. The Office of the State Courts
 2115 Administrator ~~Chief Justice~~ shall certify the final approved
 2116 plan for the judicial branch to the Executive Office of the
 2117 Governor which shall include the plan, without modification, in
 2118 the state comprehensive plan.

2119 Section 102. Subsection (5) of section 216.023, Florida
 2120 Statutes, is amended to read:

2121 216.023 Legislative budget requests to be furnished to
 2122 Legislature by agencies.—

2123 (5) As a part of the legislative budget request, the head
 2124 of each state agency and the Office of the State Courts
 2125 Administrator ~~Chief Justice of the Supreme Court~~ for the

HB 7199

2011

2126 | judicial branch shall include an inventory of all litigation in
 2127 | which the agency is involved that may require additional
 2128 | appropriations to the agency, that may significantly affect
 2129 | revenues received or anticipated to be received by the state, or
 2130 | that may require amendments to the law under which the agency
 2131 | operates. No later than March 1 following the submission of the
 2132 | legislative budget request, the head of the state agency and the
 2133 | Office of the State Courts Administrator ~~Chief Justice of the~~
 2134 | ~~Supreme Court~~ shall provide an update of any additions or
 2135 | changes to the inventory. Such inventory shall include
 2136 | information specified annually in the legislative budget
 2137 | instructions and, within the discretion of the head of the state
 2138 | agency or the Office of the State Courts Administrator ~~Chief~~
 2139 | ~~Justice of the Supreme Court~~, may contain only information found
 2140 | in the pleadings.

2141 | Section 103. Subsection (1) of section 216.043, Florida
 2142 | Statutes, is amended to read:

2143 | 216.043 Budgets for fixed capital outlay.—

2144 | (1) A legislative budget request, reflecting the
 2145 | independent judgment of the head of the agency or of the Office
 2146 | of the State Courts Administrator ~~Chief Justice of the Supreme~~
 2147 | ~~Court~~ with respect to the needs of the agency or of the judicial
 2148 | branch for fixed capital outlay during the next fiscal year,
 2149 | shall be submitted by each head of an agency and by the Office
 2150 | of the State Courts Administrator ~~Chief Justice~~ and shall
 2151 | contain:

2152 | (a) An estimate in itemized form showing the amounts
 2153 | needed for fixed capital outlay expenditures, to include a

HB 7199

2011

2154 detailed statement of program needs, estimated construction
 2155 costs and square footage, site costs, operating capital
 2156 necessary to furnish and equip for operating a new or improved
 2157 facility, and the anticipated sources of funding during the next
 2158 fiscal year.

2159 (b) Proposed fixed capital outlay projects, including
 2160 proposed operational standards related to programs and
 2161 utilization, an analysis of continuing operating costs, and such
 2162 other data as the Executive Office of the Governor deems
 2163 necessary for state agencies, or the Chief Justice deems
 2164 necessary for the judicial branch, to analyze the relationship
 2165 of agency needs and program requirements to construction
 2166 requirements. The plan shall also include the availability and
 2167 suitability of privately constructed and owned buildings and
 2168 facilities to meet the needs and program requirements of the
 2169 agency or of the judicial branch.

2170 (c) For any budget request for fixed capital outlay or
 2171 operating capital outlay which is to be funded by a proposed
 2172 state debt or obligation as defined in s. 216.0442, the
 2173 information set forth in s. 216.0442(2).

2174 Section 104. Subsection (2) of section 216.044, Florida
 2175 Statutes, is amended to read:

2176 216.044 Budget evaluation by Department of Management
 2177 Services.—

2178 (2) Concurrently with the submission of the fixed capital
 2179 outlay legislative budget request to the Executive Office of the
 2180 Governor or to the Office of the State Courts Administrator
 2181 ~~Chief Justice of the Supreme Court~~, the agency or judicial

HB 7199

2011

2182 branch shall submit a copy of the legislative budget request to
 2183 the Department of Management Services for evaluation.

2184 Section 105. Section 216.131, Florida Statutes, is amended
 2185 to read:

2186 216.131 Public hearings on legislative budgets.—The
 2187 Governor and the Office of the State Courts Administrator ~~Chief~~
 2188 ~~Justice of the Supreme Court~~ shall each provide for at least one
 2189 public hearing prior to submission of budget recommendations to
 2190 the Legislature on issues contained in agency legislative budget
 2191 requests or in the judicial branch budget request and issues
 2192 that may be included in budget recommendations to the
 2193 Legislature, which hearing shall be held at such time as the
 2194 Governor or the Office of the State Courts Administrator ~~Chief~~
 2195 ~~Justice~~ may fix. The Governor may require the attendance or
 2196 participation, or both, at his or her hearings of the heads or
 2197 responsible representatives of all state agencies supported by
 2198 any form of taxation or licenses, fees, imposts, or exactions.
 2199 The Governor and the Office of the State Courts Administrator
 2200 ~~Chief Justice~~ may provide these hearings simultaneously via
 2201 electronic format, such as teleconference, Internet, etc.,
 2202 provided that a means for active participation and questions by
 2203 the audience is accommodated.

2204 Section 106. Paragraph (a) of subsection (2) of section
 2205 216.163, Florida Statutes, is amended to read:

2206 216.163 Governor's recommended budget; form and content;
 2207 declaration of collective bargaining impasses.—

2208 (2) The Governor's recommended budget shall also include:

2209 (a) The Governor's recommendations for operating each

HB 7199

2011

2210 state agency, and those of the Office of the State Courts
 2211 Administrator ~~Chief Justice of the Supreme Court~~ for operating
 2212 the judicial branch, for the next fiscal year. These
 2213 recommendations shall be displayed by appropriation category
 2214 within each budget entity and shall also include the legislative
 2215 budget request of the corresponding agency. In order to present
 2216 a balanced budget as required by s. 216.162, the Governor's
 2217 recommendations for operating appropriations may include an
 2218 alternative recommendation to that of the Office of the State
 2219 Courts Administrator ~~Chief Justice~~.

2220 Section 107. Subsection (1) and paragraphs (a) and (b) of
 2221 subsection (2) of section 216.177, Florida Statutes, are amended
 2222 to read:

2223 216.177 Appropriations acts, statement of intent,
 2224 violation, notice, review and objection procedures.—

2225 (1) When an appropriations act is delivered to the
 2226 Governor after the Legislature has adjourned sine die, as soon
 2227 as practicable, but no later than the 10th day before the end of
 2228 the period allowed by law for veto consideration in any year in
 2229 which an appropriation is made, the chairs of the legislative
 2230 appropriations committees shall jointly transmit:

2231 (a) The official list of General Revenue Fund
 2232 appropriations determined in consultation with the Executive
 2233 Office of the Governor to be nonrecurring; and

2234 (b) The documents set forth in s. 216.0442(2)(a) and (c),
 2235
 2236 to the Executive Office of the Governor, the Chief Financial
 2237 Officer, the Auditor General, the director of the Office of

HB 7199

2011

2238 Program Policy Analysis and Government Accountability, the
 2239 Office of the State Courts Administrator ~~Chief Justice of the~~
 2240 ~~Supreme Court~~, and each state agency. A request for additional
 2241 explanation and direction regarding the legislative intent of
 2242 the General Appropriations Act during the fiscal year may be
 2243 made to the chair and vice chair of the Legislative Budget
 2244 Commission or the President of the Senate and the Speaker of the
 2245 House of Representatives only by and through the Executive
 2246 Office of the Governor for state agencies, and by and through
 2247 the Office of the State Courts Administrator ~~Chief Justice of~~
 2248 ~~the Supreme Court~~ for the judicial branch, as is deemed
 2249 necessary. However, the Chief Financial Officer may also request
 2250 further clarification of legislative intent pursuant to the
 2251 Chief Financial Officer's responsibilities related to his or her
 2252 preaudit function of expenditures.

2253 (2) (a) Whenever notice of action to be taken by the
 2254 Executive Office of the Governor or the Office of the State
 2255 Courts Administrator ~~Chief Justice of the Supreme Court~~ is
 2256 required by law, such notice shall be given to the chair and
 2257 vice chair of the Legislative Budget Commission in writing, and
 2258 shall be delivered at least 14 days prior to the action referred
 2259 to, unless a shorter period is approved in writing by the chair
 2260 and vice chair or a different period is specified by law. If the
 2261 action is solely for the release of funds appropriated by the
 2262 Legislature, the notice shall be delivered at least 3 days
 2263 before the effective date of the action. Action shall not be
 2264 taken on any budget item for which this chapter requires notice
 2265 to the Legislative Budget Commission or the appropriations

HB 7199

2011

2266 | committees without such notice having been provided, even though
 2267 | there may be good cause for considering such item.

2268 | (b) If the chair and vice chair of the Legislative Budget
 2269 | Commission or the President of the Senate and the Speaker of the
 2270 | House of Representatives timely advise, in writing, the
 2271 | Executive Office of the Governor or the Office of the State
 2272 | Courts Administrator ~~Chief Justice of the Supreme Court~~ that an
 2273 | action or a proposed action, including any expenditure of funds
 2274 | resulting from the settlement of litigation involving a state
 2275 | agency or officer, whether subject to the notice and review
 2276 | requirements of this chapter or not, exceeds the delegated
 2277 | authority of the Executive Office of the Governor for the
 2278 | executive branch or the Office of the State Courts Administrator
 2279 | ~~Chief Justice~~ for the judicial branch, respectively, or is
 2280 | contrary to legislative policy and intent, the Governor or the
 2281 | Office of the State Courts Administrator ~~Chief Justice of the~~
 2282 | ~~Supreme Court~~ shall void such action and instruct the affected
 2283 | state agency or entity of the judicial branch to change
 2284 | immediately its spending action or spending proposal until the
 2285 | Legislative Budget Commission or the Legislature addresses the
 2286 | issue. The written documentation shall indicate the specific
 2287 | reasons that an action or proposed action exceeds the delegated
 2288 | authority or is contrary to legislative policy and intent.

2289 | Section 108. Section 216.179, Florida Statutes, is amended
 2290 | to read:

2291 | 216.179 Reinstatement of vetoed appropriations by
 2292 | administrative means prohibited.—After the Governor has vetoed a
 2293 | specific appropriation for an agency or the judicial branch,

HB 7199

2011

2294 neither the Governor, the Office of the State Courts
 2295 Administrator ~~Chief Justice of the Supreme Court~~, nor a state
 2296 agency, in their various statutory and constitutional roles, may
 2297 authorize expenditures for or implementation in any manner of
 2298 the programs that were authorized by the vetoed appropriation.

2299 Section 109. Subsections (1), (6), (7), and (8), paragraph
 2300 (a) of subsection (10), and subsections (11) and (14) of section
 2301 216.181, Florida Statutes, are amended to read:

2302 216.181 Approved budgets for operations and fixed capital
 2303 outlay.—

2304 (1) The General Appropriations Act and any other acts
 2305 containing appropriations shall be considered the original
 2306 approved operating budgets for operational and fixed capital
 2307 expenditures. Amendments to the approved operating budgets for
 2308 operational and fixed capital outlay expenditures from state
 2309 agencies may be requested only through the Executive Office of
 2310 the Governor and approved by the Governor and the Legislative
 2311 Budget Commission as provided in this chapter. Amendments from
 2312 the judicial branch may be requested only through the Office of
 2313 the State Courts Administrator ~~Chief Justice of the Supreme~~
 2314 ~~Court~~ and must be approved by the Office of the State Courts
 2315 Administrator ~~Chief Justice~~ and the Legislative Budget
 2316 Commission as provided in this chapter. This includes amendments
 2317 which are necessary to implement ~~the provisions of~~ s. 216.212 or
 2318 s. 216.221.

2319 (6) (a) A detailed plan allocating a lump-sum appropriation
 2320 to traditional appropriations categories shall be submitted by
 2321 the affected agency to the Executive Office of the Governor or

HB 7199

2011

2322 | the Office of the State Courts Administrator ~~Chief Justice of~~
 2323 | ~~the Supreme Court~~. The Executive Office of the Governor and the
 2324 | Office of the State Courts Administrator ~~Chief Justice of the~~
 2325 | ~~Supreme Court~~ shall submit such plan to the chair and vice chair
 2326 | of the Legislative Budget Commission either before or concurrent
 2327 | with the submission of any budget amendment that recommends the
 2328 | transfer and release of the balance of a lump-sum appropriation.

2329 | (b) The Executive Office of the Governor and the Office of
 2330 | the State Courts Administrator ~~Chief Justice of the Supreme~~
 2331 | ~~Court~~ may amend, without approval of the Legislative Budget
 2332 | Commission, state agency and judicial branch entity budgets,
 2333 | respectively, to reflect the transferred funds and to provide
 2334 | the associated increased salary rate based on the approved plans
 2335 | for lump-sum appropriations. Any action proposed pursuant to
 2336 | this paragraph is subject to the procedures set forth in s.
 2337 | 216.177.

2338 |
 2339 | The Executive Office of the Governor shall transmit to each
 2340 | state agency and the Chief Financial Officer, and the Office of
 2341 | the State Courts Administrator ~~Chief Justice~~ shall transmit to
 2342 | each judicial branch component and the Chief Financial Officer,
 2343 | any approved amendments to the approved operating budgets.

2344 | (7) The Executive Office of the Governor may, for the
 2345 | purpose of improved contract administration, authorize the
 2346 | consolidation of two or more fixed capital outlay appropriations
 2347 | for an agency, and the Office of the State Courts Administrator
 2348 | ~~Chief Justice of the Supreme Court~~ for the judicial branch,
 2349 | except for projects authorized under chapter 1013, provided the

HB 7199

2011

2350 original scope and purpose of each project are not changed.

2351 (8) As part of the approved operating budget, the
 2352 Executive Office of the Governor shall furnish to each state
 2353 agency, and the Office of the State Courts Administrator ~~Chief~~
 2354 ~~Justice of the Supreme Court~~ shall furnish to the entity of the
 2355 judicial branch, an approved annual salary rate for each budget
 2356 entity containing a salary appropriation. This rate shall be
 2357 based upon the actual salary rate and shall be consistent with
 2358 the General Appropriations Act or special appropriations acts.
 2359 The annual salary rate shall be:

2360 (a) Determined by the salary rate specified in the General
 2361 Appropriations Act and adjusted for reorganizations authorized
 2362 by law, for any other appropriations made by law, and, subject
 2363 to s. 216.177, for distributions of lump-sum appropriations and
 2364 administered funds and for actions that require authorization of
 2365 salary rate from salary rate reserve and placement of salary
 2366 rate in salary rate reserve.

2367 (b) Controlled by department or agency; except for the
 2368 Department of Education, which shall be controlled by division
 2369 and for the judicial branch, which shall be controlled at the
 2370 branch level.

2371 (c) Assigned to the number of authorized positions.

2372 (10) (a) The Legislative Budget Commission may authorize
 2373 increases or decreases in the approved salary rate, except as
 2374 authorized in paragraph (8) (a), for positions pursuant to the
 2375 request of the agency filed with the Executive Office of the
 2376 Governor or pursuant to the request of an entity of the judicial
 2377 branch filed with the Office of the State Courts Administrator

HB 7199

2011

2378 ~~Chief Justice of the Supreme Court~~, if deemed necessary and in
 2379 the best interest of the state and consistent with legislative
 2380 policy and intent.

2381 (11) (a) The Executive Office of the Governor and the
 2382 Office of the State Courts Administrator ~~Chief Justice of the~~
 2383 ~~Supreme Court~~ may approve changes in the amounts appropriated
 2384 from state trust funds in excess of those in the approved
 2385 operating budget up to \$1 million only pursuant to the federal
 2386 funds provisions of s. 216.212, when grants and donations are
 2387 received after April 1, or when deemed necessary due to a set of
 2388 conditions that were unforeseen at the time the General
 2389 Appropriations Act was adopted and that are essential to correct
 2390 in order to continue the operation of government.

2391 (b) Changes in the amounts appropriated from state trust
 2392 funds in excess of those in the approved operating budget which
 2393 are in excess of \$1 million may be approved only by the
 2394 Legislative Budget Commission pursuant to the request of a state
 2395 agency filed with the Executive Office of the Governor or
 2396 pursuant to the request of an entity of the judicial branch
 2397 filed with the Office of the State Courts Administrator ~~Chief~~
 2398 ~~Justice of the Supreme Court~~.

2399 (c) Notwithstanding the provisions of paragraphs (a) and
 2400 (b) to the contrary, the Executive Office of the Governor may
 2401 approve changes in the amounts appropriated to the Department of
 2402 Military Affairs for fixed capital outlay projects when the
 2403 department has received federal funds for specific fixed capital
 2404 outlay projects that do not carry a continuing commitment for
 2405 future appropriations by the Legislature.

HB 7199

2011

2406
 2407 The provisions of this subsection are subject to the notice and
 2408 objection procedures ~~set forth~~ in s. 216.177.

2409 (14) The Executive Office of the Governor and the Office
 2410 of the State Courts Administrator ~~Chief Justice of the Supreme~~
 2411 ~~Court~~ shall certify the amounts approved for operations and
 2412 fixed capital outlay, together with any relevant supplementary
 2413 materials or information, to the Chief Financial Officer; and
 2414 such certification shall be the Chief Financial Officer's guide
 2415 with reference to the expenditures of each state agency pursuant
 2416 to s. 216.192.

2417 Section 110. Subsection (2) of section 216.1815, Florida
 2418 Statutes, is amended to read:

2419 216.1815 Agency incentive and savings program.—

2420 (2) To be eligible to retain funds, an agency or the
 2421 Office of the State Courts Administrator ~~Chief Justice of the~~
 2422 ~~Supreme Court~~ must submit a plan and an associated request to
 2423 amend its approved operating budget to the Legislative Budget
 2424 Commission specifying:

2425 (a) The modifications to approved programs resulting in
 2426 efficiencies and cost savings;

2427 (b) The amount and source of the funds and positions
 2428 saved;

2429 (c) The specific positions, rate, amounts, and sources of
 2430 funds the agency or the judicial branch wishes to include in its
 2431 incentive expenditures;

2432 (d) How the agency or the judicial branch will meet the
 2433 goals and objectives established in its long-range program plan;

HB 7199

2011

2434 (e) How the agency or the judicial branch will meet
 2435 performance standards, including those in its long-range program
 2436 plan; and

2437 (f) Any other incentive expenditures which the agency or
 2438 the judicial branch believes will enhance its performance.

2439 Section 111. Section 216.1826, Florida Statutes, is
 2440 amended to read:

2441 216.1826 Activity-based planning and budgeting.—Agencies
 2442 are directed to work in consultation with the Executive Office
 2443 of the Governor and the appropriations and appropriate
 2444 substantive committees of the Legislature, and the Office of the
 2445 State Courts Administrator ~~Chief Justice of the Supreme Court~~ is
 2446 directed to work with the appropriations and appropriate
 2447 substantive committees of the Legislature, to identify and reach
 2448 consensus on the appropriate services and activities for
 2449 activity-based budgeting. It is the intent of the Legislature
 2450 that all dollars within an agency or the judicial branch be
 2451 allocated to the appropriate activity for budgeting purposes.
 2452 Additionally, agencies or the judicial branch shall examine
 2453 approved performance measures and recommend any changes so that
 2454 outcomes are clearly delineated for each service or program, as
 2455 appropriate, and outputs are aligned with activities. Output
 2456 measures should be capable of being used to generate a unit cost
 2457 for each activity resulting in a true accounting of what the
 2458 state should spend on each activity it provides and what the
 2459 state should expect to accomplish with those funds.

HB 7199

2011

2460 Section 112. Paragraph (b) of subsection (3) and paragraph
 2461 (a) of subsection (4) of section 216.1827, Florida Statutes, are
 2462 amended to read:

2463 216.1827 Requirements for performance measures and
 2464 standards.—

2465 (3)

2466 (b) The Office of the State Courts Administrator ~~Chief~~
 2467 ~~Justice of the Supreme Court~~ may submit deletions or amendments
 2468 of the judicial branch's existing approved performance measures
 2469 and standards or may submit additional performance measures and
 2470 standards to the Legislature accompanied with justification for
 2471 the change and ensure that the revision, deletion, or addition
 2472 is consistent with legislative intent. Revisions or deletions
 2473 to, or additions of performance measures and standards submitted
 2474 by the Office of the State Courts Administrator ~~Chief Justice of~~
 2475 ~~the Supreme Court~~ are subject to the review and objection
 2476 procedure set forth in s. 216.177.

2477 (4) (a) The Legislature may create, amend, and delete
 2478 performance measures and standards. The Legislature may confer
 2479 with the Executive Office of the Governor for state agencies and
 2480 the Office of the State Courts Administrator ~~Chief Justice of~~
 2481 ~~the Supreme Court~~ for the judicial branch prior to any such
 2482 action.

2483 Section 113. Subsection (1) of section 216.192, Florida
 2484 Statutes, is amended to read:

2485 216.192 Release of appropriations; revision of budgets.—

2486 (1) Unless otherwise provided in law, on July 1 of each
 2487 fiscal year, up to 25 percent of the original approved operating

HB 7199

2011

2488 budget of each agency and of the judicial branch may be released
 2489 until such time as annual plans for quarterly releases for all
 2490 appropriations have been developed, approved, and furnished to
 2491 the Chief Financial Officer by the Executive Office of the
 2492 Governor for state agencies and by the Office of the State
 2493 Courts Administrator ~~Chief Justice of the Supreme Court~~ for the
 2494 judicial branch. The plans, including appropriate plans of
 2495 releases for fixed capital outlay projects that correspond with
 2496 each project schedule, shall attempt to maximize the use of
 2497 trust funds and shall be transmitted to the Chief Financial
 2498 Officer by August 1 of each fiscal year. Such releases shall at
 2499 no time exceed the total appropriations available to a state
 2500 agency or to the judicial branch, or the approved budget for
 2501 such agency or the judicial branch if less. The Chief Financial
 2502 Officer shall enter such releases in his or her records in
 2503 accordance with the release plans prescribed by the Executive
 2504 Office of the Governor and the Office of the State Courts
 2505 Administrator ~~Chief Justice~~, unless otherwise amended as
 2506 provided by law. The Executive Office of the Governor and the
 2507 Office of the State Courts Administrator ~~Chief Justice~~ shall
 2508 transmit a copy of the approved annual releases to the head of
 2509 the state agency, the chair and vice chair of the Legislative
 2510 Budget Commission, and the Auditor General. The Chief Financial
 2511 Officer shall authorize all expenditures to be made from the
 2512 appropriations on the basis of such releases and in accordance
 2513 with the approved budget, and not otherwise. Expenditures shall
 2514 be authorized only in accordance with legislative
 2515 authorizations. Nothing herein precludes periodic reexamination

HB 7199

2011

2516 and revision by the Executive Office of the Governor or by the
 2517 Office of the State Courts Administrator ~~Chief Justice~~ of the
 2518 annual plans for release of appropriations and the notifications
 2519 of the parties of all such revisions.

2520 Section 114. Section 216.195, Florida Statutes, is amended
 2521 to read:

2522 216.195 Impoundment of funds; restricted.—The Executive
 2523 Office of the Governor, the Office of the State Courts
 2524 Administrator ~~Chief Justice of the Supreme Court~~, any member of
 2525 the Cabinet, or any state agency shall not impound any
 2526 appropriation except as necessary to avoid or eliminate a
 2527 deficit pursuant to ~~the provisions of~~ s. 216.221. As used in
 2528 this section, the term "impoundment" means the omission of any
 2529 appropriation or part of an appropriation in the approved
 2530 operating plan prepared pursuant to s. 216.181 or in the
 2531 schedule of releases prepared pursuant to s. 216.192 or the
 2532 failure of any state agency or the judicial branch to spend an
 2533 appropriation for the stated purposes authorized in the approved
 2534 operating budget. The Governor or either house of the
 2535 Legislature may seek judicial review of any action or proposed
 2536 action which violates this section.

2537 Section 115. Paragraph (b) of subsection (1) and
 2538 subsection (3) of section 216.212, Florida Statutes, are amended
 2539 to read:

2540 216.212 Budgets for federal funds; restrictions on
 2541 expenditure of federal funds.—

2542 (1) The Executive Office of the Governor and the office of
 2543 the Chief Financial Officer shall develop and implement

HB 7199

2011

2544 | procedures for accelerating the drawdown of, and minimizing the
 2545 | payment of interest on, federal funds. The Executive Office of
 2546 | the Governor shall establish a clearinghouse for federal
 2547 | programs and activities. The clearinghouse shall develop the
 2548 | capacity to respond to federal grant opportunities and to
 2549 | coordinate the use of federal funds in the state.

2550 | (b) Every office or court of the judicial branch, when
 2551 | making a request or preparing a budget to be submitted to the
 2552 | Federal Government for funds, equipment, material, or services,
 2553 | shall submit such request or budget to the Office of the State
 2554 | Courts Administrator ~~Chief Justice of the Supreme Court~~ for
 2555 | approval before submitting it to the proper federal authority.
 2556 | However, the Office of the State Courts Administrator ~~Chief~~
 2557 | ~~Justice~~ may specifically authorize any court to submit specific
 2558 | types of grant proposals directly to the Federal Government.

2559 | (3) Federal money appropriated by Congress or received
 2560 | from court settlements to be used for state purposes, whether by
 2561 | itself or in conjunction with moneys appropriated by the
 2562 | Legislature, may not be expended unless appropriated by the
 2563 | Legislature. However, the Executive Office of the Governor or
 2564 | the Office of the State Courts Administrator ~~Chief Justice of~~
 2565 | ~~the Supreme Court~~ may, after consultation with the legislative
 2566 | appropriations committees, approve the receipt and expenditure
 2567 | of funds from federal sources by state agencies or by the
 2568 | judicial branch. Any federal programs requiring state matching
 2569 | funds which funds were eliminated, or were requested and were
 2570 | not approved, by the Legislature may not be implemented during
 2571 | the interim. However, federal and other fund sources for the

HB 7199

2011

2572 State University System which do not carry a continuing
 2573 commitment on future appropriations are hereby appropriated for
 2574 the purpose received.

2575 Section 116. Paragraphs (a) and (b) of subsection (5) and
 2576 subsections (7) and (9) of section 216.221, Florida Statutes,
 2577 are amended to read:

2578 216.221 Appropriations as maximum appropriations;
 2579 adjustment of budgets to avoid or eliminate deficits.—

2580 (5) (a) If, in the opinion of the Governor, after
 2581 consultation with the Revenue Estimating Conference, a deficit
 2582 will occur in the General Revenue Fund, he or she shall so
 2583 certify to the commission and to the Office of the State Courts
 2584 Administrator ~~Chief Justice of the Supreme Court~~. No more than
 2585 30 days after certifying that a deficit will occur in the
 2586 General Revenue Fund, the Governor shall develop for the
 2587 executive branch, and the Office of the State Courts
 2588 Administrator ~~Chief Justice of the Supreme Court~~ shall develop
 2589 for the judicial branch, and provide to the commission and to
 2590 the Legislature plans of action to eliminate the deficit.

2591 (b) If, in the opinion of the President of the Senate and
 2592 the Speaker of the House of Representatives, after consultation
 2593 with the Revenue Estimating Conference, a deficit will occur in
 2594 the General Revenue Fund and the Governor has not certified the
 2595 deficit, the President of the Senate and the Speaker of the
 2596 House of Representatives shall so certify. Within 30 days after
 2597 such certification, the Governor shall develop for the executive
 2598 branch and the Office of the State Courts Administrator ~~Chief~~
 2599 ~~Justice of the Supreme Court~~ shall develop for the judicial

HB 7199

2011

2600 branch and provide to the commission and to the Legislature
 2601 plans of action to eliminate the deficit.

2602 (7) Deficits in the General Revenue Fund that do not meet
 2603 the amounts specified by subsection (6) shall be resolved by the
 2604 Governor for the executive branch and the Office of the State
 2605 Courts Administrator ~~Chief Justice of the Supreme Court~~ for the
 2606 judicial branch. The Governor and the Office of the State Courts
 2607 Administrator ~~Chief Justice~~ shall implement any directions
 2608 provided in the General Appropriations Act related to
 2609 eliminating deficits and to reducing agency and judicial branch
 2610 budgets, including the use of those legislative appropriations
 2611 voluntarily placed in reserve. In addition, the Governor and the
 2612 Office of the State Courts Administrator ~~Chief Justice~~ shall
 2613 implement any directions in the General Appropriations Act
 2614 relating to the resolution of deficit situations. When reducing
 2615 state agency or judicial branch budgets, the Governor or the
 2616 Office of the State Courts Administrator ~~Chief Justice~~,
 2617 respectively, shall use the guidelines prescribed in subsection
 2618 (5). The Executive Office of the Governor, and the Office of the
 2619 State Courts Administrator ~~Chief Justice~~ for the judicial
 2620 branch, shall implement the deficit reduction plans through
 2621 amendments to the approved operating budgets in accordance with
 2622 s. 216.181.

2623 (9) If, in the opinion of the Chief Financial Officer,
 2624 after consultation with the Revenue Estimating Conference, a
 2625 deficit will occur, he or she shall report his or her opinion to
 2626 the Governor, the President of the Senate, and the Speaker of
 2627 the House of Representatives in writing. In the event the

HB 7199

2011

2628 Governor does not certify a deficit, or the President of the
 2629 Senate and the Speaker of the House of Representatives do not
 2630 certify a deficit within 10 days after the Chief Financial
 2631 Officer's report, the Chief Financial Officer shall report his
 2632 or her findings and opinion to the commission and the Office of
 2633 the State Courts Administrator ~~Chief Justice of the Supreme~~
 2634 ~~Court~~.

2635 Section 117. Paragraphs (c) and (d) of subsection (1) of
 2636 section 216.262, Florida Statutes, are amended to read:

2637 216.262 Authorized positions.—

2638 (1)

2639 (c)1. The Executive Office of the Governor, under such
 2640 procedures and qualifications as it deems appropriate, shall,
 2641 upon agency request, delegate to any state agency authority to
 2642 add and delete authorized positions or transfer authorized
 2643 positions from one budget entity to another budget entity within
 2644 the same division, and may approve additions and deletions of
 2645 authorized positions or transfers of authorized positions within
 2646 the state agency when such changes would enable the agency to
 2647 administer more effectively its authorized and approved
 2648 programs. The additions or deletions must be consistent with the
 2649 intent of the approved operating budget, must be consistent with
 2650 legislative policy and intent, and must not conflict with
 2651 specific spending policies specified in the General
 2652 Appropriations Act.

2653 2. The Office of the State Courts Administrator ~~Chief~~
 2654 ~~Justice of the Supreme Court~~ shall have the authority to
 2655 establish procedures for the judicial branch to add and delete

HB 7199

2011

2656 authorized positions or transfer authorized positions from one
 2657 budget entity to another budget entity, and to add and delete
 2658 authorized positions within the same budget entity, when such
 2659 changes are consistent with legislative policy and intent and do
 2660 not conflict with spending policies specified in the General
 2661 Appropriations Act.

2662 (d) An individual employed by a state agency or by the
 2663 judicial branch may not hold more than one employment during his
 2664 or her normal working hours with the state, such working hours
 2665 to be determined by the head of the state agency affected,
 2666 unless approved by the Department of Management Services, or
 2667 otherwise delegated to the agency head, or by the Office of the
 2668 State Courts Administrator ~~Chief Justice of the Supreme Court~~,
 2669 respectively.

2670 Section 118. Subsections (2) and (4) of section 216.292,
 2671 Florida Statutes, are amended to read:

2672 216.292 Appropriations nontransferable; exceptions.—

2673 (2) The following transfers are authorized to be made by
 2674 the head of each department or the Office of the State Courts
 2675 Administrator ~~Chief Justice of the Supreme Court~~ whenever it is
 2676 deemed necessary by reason of changed conditions:

2677 (a) The transfer of appropriations funded from identical
 2678 funding sources, except appropriations for fixed capital outlay,
 2679 and the transfer of amounts included within the total original
 2680 approved budget and plans of releases of appropriations as
 2681 furnished pursuant to ss. 216.181 and 216.192, as follows:

2682 1. Between categories of appropriations within a budget
 2683 entity, if no category of appropriation is increased or

HB 7199

2011

2684 decreased by more than 5 percent of the original approved budget
 2685 or \$250,000, whichever is greater, by all action taken under
 2686 this subsection.

2687 2. Between budget entities within identical categories of
 2688 appropriations, if no category of appropriation is increased or
 2689 decreased by more than 5 percent of the original approved budget
 2690 or \$250,000, whichever is greater, by all action taken under
 2691 this subsection.

2692 3. Any agency exceeding salary rate established pursuant
 2693 to s. 216.181(8) on June 30th of any fiscal year shall not be
 2694 authorized to make transfers pursuant to subparagraphs 1. and 2.
 2695 in the subsequent fiscal year.

2696 4. Notice of proposed transfers under subparagraphs 1. and
 2697 2. shall be provided to the Executive Office of the Governor and
 2698 the chairs of the legislative appropriations committees at least
 2699 3 days prior to agency implementation in order to provide an
 2700 opportunity for review. The review shall be limited to ensuring
 2701 that the transfer is in compliance with the requirements of this
 2702 paragraph.

2703 (b) After providing notice at least 5 working days prior
 2704 to implementation:

2705 1. The transfer of funds within programs identified in the
 2706 General Appropriations Act from identical funding sources
 2707 between the following appropriation categories without
 2708 limitation so long as such a transfer does not result in an
 2709 increase, to the total recurring general revenue or trust fund
 2710 cost of the agency or entity of the judicial branch in the
 2711 subsequent fiscal year: other personal services, expenses,

HB 7199

2011

2712 | operating capital outlay, food products, state attorney and
 2713 | public defender operations, data processing services, operating
 2714 | and maintenance of patrol vehicles, overtime payments, salary
 2715 | incentive payments, compensation to retired judges, law
 2716 | libraries, and juror and witness payments.

2717 | 2. The transfer of funds and positions from identical
 2718 | funding sources between salaries and benefits appropriation
 2719 | categories within programs identified in the General
 2720 | Appropriations Act. Such transfers must be consistent with
 2721 | legislative policy and intent and may not adversely affect
 2722 | achievement of approved performance outcomes or outputs in any
 2723 | program.

2724 | (c) The transfer of funds appropriated to accounts
 2725 | established for disbursement purposes upon release of such
 2726 | appropriation upon request of a department and approval by the
 2727 | Chief Financial Officer. Such transfer may only be made to the
 2728 | same appropriation category and the same funding source from
 2729 | which the funds are transferred.

2730 | (4) The following transfers are authorized with the
 2731 | approval of the Legislative Budget Commission. Unless waived by
 2732 | the chair and vice chair of the commission, notice of such
 2733 | transfers must be provided 14 days before the commission
 2734 | meeting:

2735 | (a) The transfer of appropriations for operations from the
 2736 | General Revenue Fund in excess of those provided in this section
 2737 | but within a state agency or within the judicial branch, as
 2738 | recommended by the Executive Office of the Governor or the
 2739 | Office of the State Courts Administrator ~~Chief Justice of the~~

HB 7199

2011

2740 ~~Supreme Court.~~

2741 (b) The transfer of appropriations for operations from
 2742 trust funds in excess of those authorized in subsection (2) or
 2743 subsection (3), as recommended by the Executive Office of the
 2744 Governor or the Office of the State Courts Administrator ~~Chief~~
 2745 ~~Justice of the Supreme Court.~~

2746 (c) The transfer of the portion of an appropriation for a
 2747 named fixed capital outlay project found to be in excess of that
 2748 needed to complete the project to another project for which
 2749 there has been an appropriation in the same fiscal year from the
 2750 same fund and within the same department where a deficiency is
 2751 found to exist, at the request of the Executive Office of the
 2752 Governor for state agencies or the Office of the State Courts
 2753 Administrator ~~Chief Justice of the Supreme Court~~ for the
 2754 judicial branch. The scope of a fixed capital outlay project may
 2755 not be changed by any transfer of funds made pursuant to this
 2756 subsection.

2757 (d) The transfers necessary to accomplish the purposes of
 2758 reorganization within state agencies or the judicial branch
 2759 authorized by the Legislature when the necessary adjustments of
 2760 appropriations and positions have not been provided in the
 2761 General Appropriations Act.

2762 Section 119. Paragraph (d) of subsection (1) and paragraph
 2763 (c) of subsection (2) of section 216.301, Florida Statutes, are
 2764 amended to read:

2765 216.301 Appropriations; undisbursed balances.—

2766 (1)

2767 (d) Each department and the judicial branch shall maintain

HB 7199

2011

2768 | the integrity of the General Revenue Fund. Appropriations from
 2769 | the General Revenue Fund contained in the original approved
 2770 | budget may be transferred to the proper trust fund for
 2771 | disbursement. Any reversion of appropriation balances from
 2772 | programs which receive funding from the General Revenue Fund and
 2773 | trust funds shall be transferred to the General Revenue Fund
 2774 | within 15 days after such reversion, unless otherwise provided
 2775 | by federal or state law, including the General Appropriations
 2776 | Act. The Executive Office of the Governor or the Office of the
 2777 | State Courts Administrator ~~Chief Justice of the Supreme Court~~
 2778 | shall determine the state agency or judicial branch programs
 2779 | which are subject to this paragraph. This determination shall be
 2780 | subject to the legislative consultation and objection process in
 2781 | this chapter. The Education Enhancement Trust Fund shall not be
 2782 | subject to the provisions of this section.

2783 | (2)

2784 | (c) The balance of any appropriation for fixed capital
 2785 | outlay certified forward under paragraph (a) which is not
 2786 | disbursed but expended, contracted, or committed to be expended
 2787 | prior to the end of the second fiscal year of the appropriation,
 2788 | or the third fiscal year if it is for an educational facility as
 2789 | defined in chapter 1013 or for a construction project of a state
 2790 | university, and any subsequent fiscal year, shall be certified
 2791 | by the head of the affected state agency or the legislative or
 2792 | judicial branch on or before August 1 of each year to the
 2793 | Executive Office of the Governor, showing in detail the
 2794 | commitment or to whom obligated and the amount of such
 2795 | commitment or obligation. On or before September 1 of each year,

HB 7199

2011

2796 the Executive Office of the Governor shall review and approve or
 2797 disapprove, consistent with legislative policy and intent, any
 2798 or all of the items and amounts certified by the head of the
 2799 affected state agency and shall approve all items and amounts
 2800 certified by the Office of the State Courts Administrator ~~Chief~~
 2801 ~~Justice of the Supreme Court~~ and by the legislative branch and
 2802 shall furnish the Chief Financial Officer, the legislative
 2803 appropriations committees, and the Auditor General a detailed
 2804 listing of the items and amounts approved as legal encumbrances
 2805 against the undisbursed balances of such appropriations. If such
 2806 certification is not made and the balance of the appropriation
 2807 has reverted and the obligation is proven to be legal, due, and
 2808 unpaid, the obligation shall be presented to the Legislature for
 2809 its consideration.

2810 Section 120. Section 272.04, Florida Statutes, is amended
 2811 to read:

2812 272.04 Department to allocate space.—The Department of
 2813 Management Services shall have authority to allocate space to
 2814 house the various departments, agencies, boards, and commissions
 2815 in said buildings, excepting, however, the ~~new~~ Supreme Court
 2816 Building, for which authority shall be vested in the marshal of
 2817 the supreme courts ~~justices of the Supreme Court~~.

2818 Section 121. Subsection (15) of section 287.059, Florida
 2819 Statutes, is amended to read:

2820 287.059 Private attorney services.—

2821 (15) The Attorney General's office may, by rule, adopt
 2822 standard fee schedules for court reporting services for each
 2823 judicial circuit in consultation with the Florida Court

HB 7199

2011

2824 Reporters Association. Agencies, when contracting for court
 2825 reporting services, must use the standard fee schedule for court
 2826 reporting services established pursuant to this section,
 2827 provided no state contract is applicable or unless the head of
 2828 the agency or his or her designee waives use of the schedule and
 2829 sets forth the reasons for deviating from the schedule in
 2830 writing to the Attorney General. Such waiver must demonstrate
 2831 necessity based upon criteria for deviation from the schedule
 2832 which the Attorney General shall establish by rule. Any proposed
 2833 fee schedule under this section shall be submitted to the
 2834 Governor, the Speaker of the House of Representatives, the
 2835 President of the Senate, and the chief justice of each the
 2836 ~~Florida~~ supreme court at least 60 days prior to publication of
 2837 the notice to adopt the rule.

2838 Section 122. Subsection (5) of section 288.9606, Florida
 2839 Statutes, is amended to read:

2840 288.9606 Issue of revenue bonds.—

2841 (5) In any suit, action, or proceeding involving the
 2842 validity or enforceability of any bond issued under this act, or
 2843 the security therefor, any such bond reciting in substance that
 2844 it has been issued by the corporation in connection with any
 2845 purpose of the act shall be conclusively deemed to have been
 2846 issued for such purpose, and such purpose shall be conclusively
 2847 deemed to have been carried out in accordance with the act. The
 2848 complaint in any action to validate such bonds shall be filed
 2849 only in the Circuit Court for Leon County. The notice required
 2850 to be published by s. 75.06 shall be published only in Leon
 2851 County, and the complaint and order of the circuit court shall

HB 7199

2011

2852 | be served only on the State Attorney of the Second Judicial
 2853 | Circuit and on the state attorney of each circuit in each county
 2854 | where the public agencies which were initially a party to the
 2855 | interlocal agreement are located. Notice of such proceedings
 2856 | shall be published in the manner and the time required by s.
 2857 | 75.06, in Leon County and in each county where the public
 2858 | agencies which were initially a party to the interlocal
 2859 | agreement are located. Obligations of the corporation pursuant
 2860 | to a loan agreement as described in this subsection may be
 2861 | validated as provided in chapter 75. The validation of at least
 2862 | the first bonds approved by the corporation shall be appealed to
 2863 | the ~~Florida~~ Supreme Court of Civil Appeals.

2864 | Section 123. Section 318.30, Florida Statutes, is amended
 2865 | to read:

2866 | 318.30 Legislative intent.—It is the intent of the
 2867 | Legislature that civil traffic infraction hearing officers be
 2868 | appointed and used in those counties where the need arises for
 2869 | their services. Any Civil Traffic Infraction Hearing Officer
 2870 | Program established in a county under ss. 318.30-318.38 shall be
 2871 | subject to the supervision of the Supreme Court of Civil
 2872 | Appeals.

2873 | Section 124. Section 318.34, Florida Statutes, is amended
 2874 | to read:

2875 | 318.34 Qualifications.—Applicants for the position of
 2876 | hearing officer of the civil traffic court shall be members in
 2877 | good standing of The Florida Bar and shall have completed a 40-
 2878 | hour education and training program which has been approved by
 2879 | the ~~Florida~~ Supreme Court of Civil Appeals. Thereafter, hearing

HB 7199

2011

2880 officers shall complete an approved 4-hour continuing education
 2881 program annually.

2882 Section 125. Subsection (1) of section 350.128, Florida
 2883 Statutes, is amended to read:

2884 350.128 Judicial review.—

2885 (1) As authorized by s. 3(a)(2) ~~3(b)(2)~~, Art. V of the
 2886 State Constitution, the Supreme Court of Civil Appeals shall,
 2887 upon petition, review any action of the commission relating to
 2888 rates or service of utilities providing electric, gas, or
 2889 telephone service. The District Court of Appeal, First District,
 2890 shall, upon petition, review any other action of the commission.

2891 Section 126. Section 364.381, Florida Statutes, is amended
 2892 to read:

2893 364.381 Judicial review.—As authorized by s. 3(a)(2)
 2894 ~~3(b)(2)~~, Art. V of the State Constitution, the Supreme Court of
 2895 Civil Appeals shall review, upon petition, any action of the
 2896 commission relating to rates or service of telecommunications
 2897 companies. ~~For purposes of judicial review, a telecommunications~~
 2898 ~~company is a telephone company within the meaning of s. 3(b)(2),~~
 2899 ~~Art. V of the State Constitution.~~

2900 Section 127. Section 366.10, Florida Statutes, is amended
 2901 to read:

2902 366.10 Judicial review.—As authorized by s. 3(a)(2)
 2903 ~~3(b)(2)~~, Art. V of the State Constitution, the Supreme Court of
 2904 Civil Appeals shall review, upon petition, any action of the
 2905 commission relating to rates or service of utilities providing
 2906 electric or gas service.

HB 7199

2011

2907 Section 128. Paragraph (d) of subsection (2) of section
 2908 366.8260, Florida Statutes, is amended to read:
 2909 366.8260 Storm-recovery financing.—
 2910 (2) FINANCING ORDERS.—
 2911 (d) Within 30 days after the commission issues an order
 2912 pursuant to paragraph (b) or a decision denying a request for
 2913 reconsideration or, if the request for reconsideration is
 2914 granted, within 30 days after the commission issues its decision
 2915 on reconsideration, an adversely affected party may petition for
 2916 judicial review in the ~~Florida~~ Supreme Court of Civil Appeals.
 2917 The petition for review shall be served upon the executive
 2918 director of the commission personally or by service at the
 2919 office of the commission. Review on appeal shall be based solely
 2920 on the record before the commission and briefs to the court and
 2921 shall be limited to determining whether the order issued
 2922 pursuant to paragraph (b), or the order on reconsideration,
 2923 conforms to the constitution and laws of this state and the
 2924 United States and is within the authority of the commission
 2925 under this section. Inasmuch as delay in the determination of
 2926 the appeal of a financing order will delay the issuance of
 2927 storm-recovery bonds, thereby diminishing savings to customers
 2928 which might be achieved if such bonds were issued as
 2929 contemplated by a financing order, the Supreme Court of Civil
 2930 Appeals shall proceed to hear and determine the action as
 2931 expeditiously as practicable and give the action precedence over
 2932 other matters not accorded similar precedence by law.
 2933 Section 129. Section 368.112, Florida Statutes, is amended
 2934 to read:

HB 7199

2011

2935 368.112 Judicial review.—As authorized by s. 3(a)(2)
 2936 ~~3(b)(2)~~, Art. V of the State Constitution, the Supreme Court of
 2937 Civil Appeals shall review, upon petition, any action of the
 2938 commission relating to rates or service of a natural gas
 2939 transmission company. ~~For purposes of judicial review, a natural~~
 2940 ~~gas transmission company is a utility providing gas service~~
 2941 ~~within the meaning of s. 3(b)(2), Art. V of the State~~
 2942 ~~Constitution.~~

2943 Section 130. Subsection (2) of section 379.332, Florida
 2944 Statutes, is amended to read:

2945 379.332 Prosecutions; state attorney to represent state.—

2946 (2) The state attorney shall represent the state in any
 2947 forfeiture proceeding under this chapter. The Department of
 2948 Legal Affairs shall represent the state in all appeals from
 2949 judgments of forfeiture to the appropriate supreme court. The
 2950 state may appeal any judgment denying forfeiture in whole or in
 2951 part that may be otherwise adverse to the state.

2952 Section 131. Paragraph (d) of subsection (3) of section
 2953 383.0115, Florida Statutes, is amended to read:

2954 383.0115 The Commission on Marriage and Family Support
 2955 Initiatives.—

2956 (3) SCOPE OF ACTIVITY.—The commission shall:

2957 (d) By December 31 of each year, ~~beginning December 31,~~
 2958 ~~2003,~~ issue an annual report to the Governor, the President of
 2959 the Senate, the Speaker of the House of Representatives, and the
 2960 Chief Justice of the Supreme Court of Civil Appeals on progress
 2961 it is making on its responsibilities.

HB 7199

2011

2962 Section 132. Paragraph (f) of subsection (4) and
 2963 subsections (5) and (6) of section 390.01114, Florida Statutes,
 2964 are amended to read:

2965 390.01114 Parental Notice of Abortion Act.—

2966 (4) PROCEDURE FOR JUDICIAL WAIVER OF NOTICE.—

2967 (f) An expedited appeal shall be available, as provided
 2968 ~~the Supreme Court provides~~ by court rule, to any minor to whom
 2969 the circuit court denies a waiver of notice. An order
 2970 authorizing a termination of pregnancy without notice is not
 2971 subject to appeal.

2972 (5) PROCEEDINGS.—The Supreme Court of Civil Appeals is
 2973 requested to adopt rules and forms for petitions to ensure that
 2974 proceedings under subsection (4) are handled expeditiously and
 2975 in a manner consistent with this act. The Supreme Court of Civil
 2976 Appeals is also requested to adopt rules to ensure that the
 2977 hearings protect the minor's confidentiality and the
 2978 confidentiality of the proceedings.

2979 (6) REPORT.—The Supreme Court of Civil Appeals, through
 2980 the Office of the State Courts Administrator, shall report by
 2981 February 1 of each year to the Governor, the President of the
 2982 Senate, and the Speaker of the House of Representatives on the
 2983 number of petitions filed under subsection (4) for the preceding
 2984 year, and the timing and manner of disposal of such petitions by
 2985 each circuit court.

2986 Section 133. Paragraph (e) of subsection (1) of section
 2987 397.333, Florida Statutes, is amended to read:

2988 397.333 Statewide Drug Policy Advisory Council.—

2989 (1)

HB 7199

2011

2990 (e) The Chief Justice of the Supreme Court of Civil
 2991 Appeals shall appoint a member of the judiciary to the advisory
 2992 council.

2993 Section 134. Subsection (1) of section 397.484, Florida
 2994 Statutes, is amended to read:

2995 397.484 Lawyer assistance programs; persons entitled to
 2996 immunity.—The civil immunity provided for in this act shall be
 2997 liberally construed to accomplish the purposes of this act. The
 2998 persons entitled to immunity under this act include:

2999 (1) Florida Lawyers Assistance, Inc., and other lawyer
 3000 assistance programs approved by the ~~Florida~~ Supreme Court of
 3001 Civil Appeals or The Florida Bar which provide assistance to
 3002 attorneys who may be impaired because of abuse of alcohol or
 3003 other drugs or because of any other physical or mental infirmity
 3004 causing impairment.

3005 Section 135. Subsection (11) of section 400.0233, Florida
 3006 Statutes, is amended to read:

3007 400.0233 Presuit notice; investigation; notification of
 3008 violation of resident's rights or alleged negligence; claims
 3009 evaluation procedure; informal discovery; review; settlement
 3010 offer; mediation.—

3011 (11) Within 30 days after the claimant's receipt of the
 3012 defendant's response to the claim, the parties or their
 3013 designated representatives shall meet in mediation to discuss
 3014 the issues of liability and damages in accordance with the
 3015 mediation rules of practice and procedures adopted by court rule
 3016 ~~the Supreme Court~~. Upon stipulation of the parties, this 30-day
 3017 period may be extended and the statute of limitations is tolled

HB 7199

2011

3018 | during the mediation and any such extension. At the conclusion
 3019 | of mediation, the claimant shall have 60 days or the remainder
 3020 | of the period of the statute of limitations, whichever is
 3021 | greater, within which to file suit.

3022 | Section 136. Paragraph (b) of subsection (4) of section
 3023 | 402.56, Florida Statutes, is amended to read:

3024 | 402.56 Children's cabinet; organization; responsibilities;
 3025 | annual report.—

3026 | (4) MEMBERS.—The cabinet shall consist of 15 members
 3027 | including the Governor and the following persons:

3028 | (b) The President of the Senate, the Speaker of the House
 3029 | of Representatives, the Chief Justice of the Supreme Court of
 3030 | Civil Appeals, the Attorney General, and the Chief Financial
 3031 | Officer, or their appointed designees, shall serve as ex officio
 3032 | members of the cabinet.

3033 | Section 137. Subsection (8) of section 403.1837, Florida
 3034 | Statutes, is amended to read:

3035 | 403.1837 Florida Water Pollution Control Financing
 3036 | Corporation.—

3037 | (8) The corporation shall validate any bonds issued under
 3038 | this section, except refunding bonds, which may be validated at
 3039 | the option of the corporation, by proceedings under chapter 75.
 3040 | The validation complaint must be filed in the Circuit Court for
 3041 | Leon County. The notice required under s. 75.06 must be
 3042 | published in Leon County, and the complaint and order of the
 3043 | circuit court shall be served only on the State Attorney for the
 3044 | Second Judicial Circuit. Sections 75.04(2) and 75.06(2) do not
 3045 | apply to a validation complaint filed as authorized in this

HB 7199

2011

3046 subsection. The validation of the first bonds issued under this
 3047 section may be appealed to the Supreme Court of Civil Appeals,
 3048 and the appeal shall be handled on an expedited basis.

3049 Section 138. Paragraph (d) of subsection (4) of section
 3050 403.519, Florida Statutes, is amended to read:

3051 403.519 Exclusive forum for determination of need.—

3052 (4) In making its determination on a proposed electrical
 3053 power plant using nuclear materials or synthesis gas produced by
 3054 integrated gasification combined cycle power plant as fuel, the
 3055 commission shall hold a hearing within 90 days after the filing
 3056 of the petition to determine need and shall issue an order
 3057 granting or denying the petition within 135 days after the date
 3058 of the filing of the petition. The commission shall be the sole
 3059 forum for the determination of this matter and the issues
 3060 addressed in the petition, which accordingly shall not be
 3061 reviewed in any other forum, or in the review of proceedings in
 3062 such other forum. In making its determination to either grant or
 3063 deny the petition, the commission shall consider the need for
 3064 electric system reliability and integrity, including fuel
 3065 diversity, the need for base-load generating capacity, the need
 3066 for adequate electricity at a reasonable cost, and whether
 3067 renewable energy sources and technologies, as well as
 3068 conservation measures, are utilized to the extent reasonably
 3069 available.

3070 (d) The commission's determination of need for a nuclear
 3071 or integrated gasification combined cycle power plant shall
 3072 create a presumption of public need and necessity and shall
 3073 serve as the commission's report required by s. 403.507(4) (a).

HB 7199

2011

3074 An order entered pursuant to this section constitutes final
 3075 agency action. Any petition for reconsideration of a final order
 3076 on a petition for need determination shall be filed within 5
 3077 days after the date of such order. The commission's final order,
 3078 including any order on reconsideration, shall be reviewable on
 3079 appeal in the ~~Florida~~ Supreme Court of Civil Appeals. Inasmuch
 3080 as delay in the determination of need will delay siting of a
 3081 nuclear or integrated gasification combined cycle power plant or
 3082 diminish the opportunity for savings to customers under the
 3083 federal Energy Policy Act of 2005, the Supreme Court of Civil
 3084 Appeals shall proceed to hear and determine the action as
 3085 expeditiously as practicable and give the action precedence over
 3086 matters not accorded similar precedence by law.

3087 Section 139. Subsection (4) of section 421.17, Florida
 3088 Statutes, is amended to read:

3089 421.17 Validation of debentures and proceedings.—

3090 (4) In the event no appeal is taken within the time
 3091 prescribed by said chapter, or if taken, and the decree
 3092 validating said debentures is affirmed by the Supreme Court of
 3093 Civil Appeals, the decree of the circuit court validating and
 3094 confirming the issuance of the debentures of the housing
 3095 authority shall be forever conclusive as to the validity of said
 3096 debentures against the housing authority and against all
 3097 taxpayers and citizens of the city for which said housing
 3098 authority was created and of the county or counties in the whole
 3099 or part of which the housing authority is empowered to function;
 3100 and the validity of said debentures shall never be called in
 3101 question in any court in this state. Debentures of a housing

HB 7199

2011

3102 authority, when issued under ~~the provisions of~~ said chapter,
 3103 shall have stamped or written thereon by the proper officers of
 3104 the housing authority issuing the same, the words: "Validated
 3105 and Confirmed by Decree of the Circuit Court," specifying the
 3106 date when such decree was rendered and the court in which it was
 3107 rendered, which shall be signed by the clerk of the circuit
 3108 court in which the decree was rendered, which entry shall be
 3109 original evidence of said decree in any court in this state.

3110 Section 140. Subsection (11) of section 429.293, Florida
 3111 Statutes, is amended to read:

3112 429.293 Presuit notice; investigation; notification of
 3113 violation of residents' rights or alleged negligence; claims
 3114 evaluation procedure; informal discovery; review; settlement
 3115 offer; mediation.—

3116 (11) Within 30 days after the claimant's receipt of
 3117 defendant's response to the claim, the parties or their
 3118 designated representatives shall meet in mediation to discuss
 3119 the issues of liability and damages in accordance with the
 3120 mediation rules of practice and procedures adopted by court rule
 3121 ~~the Supreme Court~~. Upon stipulation of the parties, this 30-day
 3122 period may be extended and the statute of limitations is tolled
 3123 during the mediation and any such extension. At the conclusion
 3124 of mediation, the claimant shall have 60 days or the remainder
 3125 of the period of the statute of limitations, whichever is
 3126 greater, within which to file suit.

3127 Section 141. Paragraph (a) of subsection (2) of section
 3128 429.87, Florida Statutes, is amended to read:

3129 429.87 Civil actions to enforce rights.—

3130 (2) To recover attorney's fees under this section, the
 3131 following conditions precedent must be met:

3132 (a) Within 120 days after the filing of a responsive
 3133 pleading or defensive motion to a complaint brought under this
 3134 section and before trial, the parties or their designated
 3135 representatives shall meet in mediation to discuss the issues of
 3136 liability and damages in accordance with this paragraph for the
 3137 purpose of an early resolution of the matter.

3138 1. Within 60 days after the filing of the responsive
 3139 pleading or defensive motion, the parties shall:

3140 a. Agree on a mediator. If the parties cannot agree on a
 3141 mediator, the defendant shall immediately notify the court,
 3142 which shall appoint a mediator within 10 days after such notice.

3143 b. Set a date for mediation.

3144 c. Prepare an order for the court that identifies the
 3145 mediator, the scheduled date of the mediation, and other terms
 3146 of the mediation. Absent any disagreement between the parties,
 3147 the court may issue the order for the mediation submitted by the
 3148 parties without a hearing.

3149 2. The mediation must be concluded within 120 days after
 3150 the filing of a responsive pleading or defensive motion. The
 3151 date may be extended only by agreement of all parties subject to
 3152 mediation under this subsection.

3153 3. The mediation shall be conducted in the following
 3154 manner:

3155 a. Each party shall ensure that all persons necessary for
 3156 complete settlement authority are present at the mediation.

3157 b. Each party shall mediate in good faith.

HB 7199

2011

3158 4. All aspects of the mediation which are not specifically
 3159 established by this subsection must be conducted according to
 3160 the rules of practice and procedure adopted by court rule ~~the~~
 3161 ~~Supreme Court of this state.~~

3162 Section 142. Subsection (1) of section 440.106, Florida
 3163 Statutes, is amended to read:

3164 440.106 Civil remedies; administrative penalties.—

3165 (1) Whenever any circuit or special grievance committee
 3166 acting under the jurisdiction of the Supreme Court of Civil
 3167 Appeals finds probable cause to believe that an attorney has
 3168 violated s. 440.105, such committee may forward to the
 3169 appropriate state attorney a copy of the findings of probable
 3170 cause and a copy of the report being filed in the matter.

3171 Section 143. Paragraph (a) of subsection (5) of section
 3172 440.25, Florida Statutes, is amended to read:

3173 440.25 Procedures for mediation and hearings.—

3174 (5) (a) Procedures with respect to appeals from orders of
 3175 judges of compensation claims shall be governed by court rules
 3176 ~~adopted by the Supreme Court~~. Such an order shall become final
 3177 30 days after mailing of copies of such order to the parties,
 3178 unless appealed pursuant to such rules.

3179 Section 144. Section 440.271, Florida Statutes, is amended
 3180 to read:

3181 440.271 Appeal of order of judge of compensation claims.—
 3182 Review of any order of a judge of compensation claims entered
 3183 pursuant to this chapter shall be by appeal to the District
 3184 Court of Appeal, First District. Appeals shall be filed in
 3185 accordance with rules of procedure prescribed by court rule ~~the~~

HB 7199

2011

3186 ~~Supreme Court~~ for review of such orders. The department shall be
 3187 given notice of any proceedings pertaining to s. 440.25,
 3188 regarding indigency, or s. 440.49, regarding the Special
 3189 Disability Trust Fund, and shall have the right to intervene in
 3190 any proceedings.

3191 Section 145. Subsection (3) of section 440.29, Florida
 3192 Statutes, is amended to read:

3193 440.29 Procedure before the judge of compensation claims.—

3194 (3) The practice and procedure before the judges of
 3195 compensation claims shall be governed by rules adopted by the
 3196 Office of the Judges of Compensation Claims ~~Supreme Court~~,
 3197 except to the extent that such rules conflict with ~~the~~
 3198 ~~provisions of~~ this chapter.

3199 Section 146. Subsection (2) of section 440.32, Florida
 3200 Statutes, is amended to read:

3201 440.32 Cost in proceedings brought without reasonable
 3202 ground.—

3203 (2) If the judge of compensation claims or any court
 3204 having jurisdiction of proceedings in respect to any claims or
 3205 defense under this section determines that the proceedings were
 3206 maintained or continued frivolously, the cost of the
 3207 proceedings, including reasonable attorney's fees, shall be
 3208 assessed against the offending attorney. If a penalty is
 3209 assessed under this subsection, a copy of the order assessing
 3210 the penalty must be forwarded to the appropriate grievance
 3211 committee acting under the jurisdiction of the Supreme Court of
 3212 Civil Appeals. Penalties, fees, and costs awarded under this
 3213 provision may not be recouped from the party.

HB 7199

2011

3214 Section 147. Section 440.442, Florida Statutes, is amended
 3215 to read:

3216 440.442 Code of Judicial Conduct.—The Deputy Chief Judge
 3217 and judges of compensation claims shall observe and abide by the
 3218 Code of Judicial Conduct ~~as adopted by the Florida Supreme~~
 3219 ~~Court~~. Any material violation of a provision of the Code of
 3220 Judicial Conduct shall constitute either malfeasance or
 3221 misfeasance in office and shall be grounds for suspension and
 3222 removal of the Deputy Chief Judge or judge of compensation
 3223 claims by the Governor.

3224 Section 148. Subsection (2) of section 454.021, Florida
 3225 Statutes, is amended to read:

3226 454.021 Attorneys; admission to practice law; Supreme
 3227 Court of Civil Appeals to govern and regulate.—

3228 (2) The Supreme Court of Civil Appeals of Florida, being
 3229 the highest civil court of the ~~said~~ state, is the proper court
 3230 to govern and regulate admissions of attorneys and counselors to
 3231 practice law in the ~~said~~ state.

3232 Section 149. Section 454.31, Florida Statutes, is amended
 3233 to read:

3234 454.31 Practice while disbarred or suspended prohibited.—
 3235 Any person who has been knowingly disbarred and who has not been
 3236 lawfully reinstated or is knowingly under suspension from the
 3237 practice of law ~~by any circuit court of the state or by the~~
 3238 ~~Supreme Court of the state~~ who practices law in this state or
 3239 holds himself or herself out as an attorney at law or qualified
 3240 to practice law in this state commits a felony of the third
 3241 degree, punishable as provided in s. 775.082, s. 775.083, or s.

HB 7199

2011

3242 775.084.

3243 Section 150. Section 454.32, Florida Statutes, is amended
3244 to read:

3245 454.32 Aiding or assisting disbarred or suspended attorney
3246 prohibited.—A person who knowingly aids or assists any person in
3247 carrying on the unauthorized practice of law, knowing that such
3248 person has been disbarred and has not been lawfully reinstated
3249 or is under suspension from the practice of law ~~by any circuit~~
3250 ~~court of the state or by the Supreme Court of the state~~, commits
3251 a felony of the third degree, punishable as provided in s.
3252 775.082, s. 775.083, or s. 775.084, and shall also be subject to
3253 disbarment.

3254 Section 151. Paragraph (d) of subsection (7) of section
3255 489.533, Florida Statutes, is amended to read:

3256 489.533 Disciplinary proceedings.—
3257 (7)

3258 (d) Mediation shall be conducted according to rules of
3259 practice and procedure for circuit court as adopted by court
3260 rule ~~the Supreme Court~~. The mediator shall be a certified
3261 circuit court mediator.

3262 Section 152. Subsection (4) of section 627.7015, Florida
3263 Statutes, is amended to read:

3264 627.7015 Alternative procedure for resolution of disputed
3265 property insurance claims.—

3266 (4) The department shall adopt by rule a property
3267 insurance mediation program to be administered by the department
3268 or its designee. The department may also adopt special rules
3269 which are applicable in cases of an emergency within the state.

HB 7199

2011

3270 The rules shall be modeled after practices and procedures set
 3271 forth in mediation rules of procedure adopted by court rule ~~the~~
 3272 ~~Supreme Court~~. The rules shall provide for:

3273 (a) Reasonable requirement for processing and scheduling
 3274 of requests for mediation.

3275 (b) Qualifications of mediators as provided in s. 627.745
 3276 and in the Florida Rules of Certified and Court Appointed
 3277 Mediators, and for such other individuals as are qualified by
 3278 education, training, or experience as the department determines
 3279 to be appropriate.

3280 (c) Provisions governing who may attend mediation
 3281 conferences.

3282 (d) Selection of mediators.

3283 (e) Criteria for the conduct of mediation conferences.

3284 (f) Right to legal counsel.

3285 Section 153. Subsection (2) of section 723.038, Florida
 3286 Statutes, is amended to read:

3287 723.038 Dispute settlement; mediation.—

3288 (2) The division upon petition shall appoint a qualified
 3289 mediator to conduct mediation proceedings unless the parties
 3290 timely notify the division in writing that they have selected a
 3291 mediator. A person appointed by the division shall be a
 3292 qualified mediator from a list of circuit court mediators in
 3293 each judicial circuit who has met training and educational
 3294 requirements established by the Supreme Court of Civil Appeals.
 3295 If such mediators are not available, the division may select a
 3296 mediator from the list maintained by the Florida Growth
 3297 Management Conflict Resolution Consortium. The division shall

HB 7199

2011

3298 | promulgate rules of procedure to govern such proceedings in
 3299 | accordance with the rules of practice and procedure adopted by
 3300 | court rule ~~the Supreme Court~~. The division shall also establish,
 3301 | by rule, the fee to be charged by a mediator which shall not
 3302 | exceed the fee authorized by the circuit court.

3303 | Section 154. Subsection (2) of section 744.703, Florida
 3304 | Statutes, is amended to read:

3305 | 744.703 Office of public guardian; appointment,
 3306 | notification.—

3307 | (2) The executive director shall appoint or contract with
 3308 | a public guardian from the list of candidates described in
 3309 | subsection (1). A public guardian must meet the qualifications
 3310 | for a guardian as prescribed in s. 744.309(1)(a). Upon
 3311 | appointment of the public guardian, the executive director shall
 3312 | notify the chief judge of the judicial circuit ~~and the Chief~~
 3313 | ~~Justice of the Supreme Court of Florida~~, in writing, of the
 3314 | appointment.

3315 | Section 155. Section 752.015, Florida Statutes, is amended
 3316 | to read:

3317 | 752.015 Mediation of visitation disputes.—It shall be the
 3318 | public policy of this state that families resolve differences
 3319 | over grandparent visitation within the family. It shall be the
 3320 | further public policy of this state that when families are
 3321 | unable to resolve differences relating to grandparent visitation
 3322 | that the family participate in any formal or informal mediation
 3323 | services that may be available. When families are unable to
 3324 | resolve differences relating to grandparent visitation and a
 3325 | petition is filed pursuant to s. 752.01, the court shall, if

HB 7199

2011

3326 such services are available in the circuit, refer the case to
 3327 family mediation in accordance with court rules ~~promulgated by~~
 3328 ~~the Supreme Court.~~

3329 Section 156. Paragraphs (f) and (g) of subsection (2) of
 3330 section 753.03, Florida Statutes, are amended to read:

3331 753.03 Standards for supervised visitation and supervised
 3332 exchange programs.—

3333 (2) The clearinghouse shall use an advisory board to
 3334 assist in developing the standards. The advisory board must
 3335 include:

3336 (f) A circuit court judge who presides over domestic
 3337 violence proceedings, appointed by the Chief Justice of the
 3338 Supreme Court of Civil Appeals.

3339 (g) A circuit court judge who presides over dependency
 3340 proceedings, appointed by the Chief Justice of the Supreme Court
 3341 of Civil Appeals.

3342 Section 157. Subsections (4) and (6) of section 766.107,
 3343 Florida Statutes, are amended to read:

3344 766.107 Court-ordered arbitration.—

3345 (4) The decision of the arbitration panel shall not be
 3346 binding. If all parties accept the decision of the arbitration
 3347 panel, that decision shall be deemed a settlement of the case
 3348 and it shall be dismissed with prejudice. After the arbitration
 3349 award is rendered, any party may demand a trial de novo in the
 3350 circuit court by filing with the clerk of the circuit court and
 3351 all parties such notice as is required by court rules ~~adopted by~~
 3352 ~~the Supreme Court.~~

3353 (6) The supreme courts ~~Court~~ may adopt rules to supplement

HB 7199

2011

3354 the provisions of this section.

3355 Section 158. Subsection (4) of section 766.206, Florida
 3356 Statutes, is amended to read:

3357 766.206 Presuit investigation of medical negligence claims
 3358 and defenses by court.—

3359 (4) If the court finds that an attorney for the claimant
 3360 mailed notice of intent to initiate litigation without
 3361 reasonable investigation, or filed a medical negligence claim
 3362 without first mailing such notice of intent which complies with
 3363 the reasonable investigation requirements, or if the court finds
 3364 that an attorney for a defendant mailed a response rejecting the
 3365 claim without reasonable investigation, the court shall submit
 3366 its finding in the matter to The Florida Bar for disciplinary
 3367 review of the attorney. Any attorney so reported three or more
 3368 times within a 5-year period shall be reported to a circuit
 3369 grievance committee acting under the jurisdiction of the Supreme
 3370 Court of Civil Appeals. If such committee finds probable cause
 3371 to believe that an attorney has violated this section, such
 3372 committee shall forward to the Supreme Court of Civil Appeals a
 3373 copy of its finding.

3374 Section 159. Subsection (1) of section 766.311, Florida
 3375 Statutes, is amended to read:

3376 766.311 Conclusiveness of determination or award; appeal.—

3377 (1) A determination of the administrative law judge as to
 3378 qualification of the claim for purposes of compensability under
 3379 s. 766.309 or an award by the administrative law judge pursuant
 3380 to s. 766.31 shall be conclusive and binding as to all questions
 3381 of fact. Review of an order of an administrative law judge shall

HB 7199

2011

3382 be by appeal to the District Court of Appeal. Appeals shall be
 3383 filed in accordance with court rules ~~of procedure prescribed by~~
 3384 ~~the Supreme Court~~ for review of such orders.

3385 Section 160. Subsection (6) of section 768.79, Florida
 3386 Statutes, is amended to read:

3387 768.79 Offer of judgment and demand for judgment.—

3388 (6) Upon motion made by the offeror within 30 days after
 3389 the entry of judgment or after voluntary or involuntary
 3390 dismissal, the court shall determine the following:

3391 (a) If a defendant serves an offer which is not accepted
 3392 by the plaintiff, and if the judgment obtained by the plaintiff
 3393 is at least 25 percent less than the amount of the offer, the
 3394 defendant shall be awarded reasonable costs, including
 3395 investigative expenses, and attorney's fees, calculated in
 3396 accordance with the guidelines promulgated by court rule ~~the~~
 3397 ~~Supreme Court~~, incurred from the date the offer was served, and
 3398 the court shall set off such costs in attorney's fees against
 3399 the award. When such costs and attorney's fees total more than
 3400 the amount of the judgment, the court shall enter judgment for
 3401 the defendant against the plaintiff for the amount of the costs
 3402 and fees, less the amount of the award to the plaintiff.

3403 (b) If a plaintiff serves an offer which is not accepted
 3404 by the defendant, and if the judgment obtained by the plaintiff
 3405 is at least 25 percent more than the amount of the offer, the
 3406 plaintiff shall be awarded reasonable costs, including
 3407 investigative expenses, and attorney's fees, calculated in
 3408 accordance with the guidelines promulgated by court rule ~~the~~
 3409 ~~Supreme Court~~, incurred from the date the offer was served.

HB 7199

2011

3410
 3411 For purposes of the determination required by paragraph (a), the
 3412 term "judgment obtained" means the amount of the net judgment
 3413 entered, plus any postoffer collateral source payments received
 3414 or due as of the date of the judgment, plus any postoffer
 3415 settlement amounts by which the verdict was reduced. For
 3416 purposes of the determination required by paragraph (b), the
 3417 term "judgment obtained" means the amount of the net judgment
 3418 entered, plus any postoffer settlement amounts by which the
 3419 verdict was reduced.

3420 Section 161. Section 849.42, Florida Statutes, is amended
 3421 to read:

3422 849.42 State attorney to represent state.—Upon the filing
 3423 of the sheriff's return with the clerk of the circuit court the
 3424 said clerk shall furnish the state attorney with a copy thereof
 3425 and the said state attorney shall represent the state in the
 3426 forfeiture proceedings. The Department of Legal Affairs shall
 3427 represent the state in all appeals from judgments of forfeiture
 3428 to the appropriate district court of appeal or direct to the
 3429 Supreme Court of Criminal Appeals when authorized by s. 3, Art.
 3430 V of the State Constitution. The state may appeal any judgment
 3431 denying forfeiture in whole or in part or that may be otherwise
 3432 adverse to the state.

3433 Section 162. Subsection (1) of section 877.02, Florida
 3434 Statutes, is amended to read:

3435 877.02 Solicitation of legal services or retainers
 3436 therefor; penalty.—

3437 (1) It shall be unlawful for any person or her or his

HB 7199

2011

3438 agent, employee or any person acting on her or his behalf, to
 3439 solicit or procure through solicitation either directly or
 3440 indirectly legal business, or to solicit or procure through
 3441 solicitation a retainer, written or oral, or any agreement
 3442 authorizing an attorney to perform or render legal service, or
 3443 to make it a business to solicit or procure such business,
 3444 retainers or agreements; provided, however, that nothing herein
 3445 shall prohibit or be applicable to banks, trust companies,
 3446 lawyer reference services, legal aid associations, lay
 3447 collection agencies, railroad companies, insurance companies and
 3448 agencies, and real estate companies and agencies, in the conduct
 3449 of their lawful businesses, and in connection therewith and
 3450 incidental thereto forwarding legal matters to attorneys at law
 3451 when such forwarding is authorized by the customers or clients
 3452 of said businesses and is done pursuant to the rules regulating
 3453 The Florida Bar canons of legal ethics as pronounced by the
 3454 Supreme Court of Florida.

3455 Section 163. Section 905.33, Florida Statutes, is amended
 3456 to read:

3457 905.33 Petition to Supreme Court of Criminal Appeals by
 3458 Governor; order.—

3459 (1) Whenever the Governor, for good and sufficient reason,
 3460 deems it to be in the public interest to impanel a statewide
 3461 grand jury, she or he may petition in writing to the Supreme
 3462 Court of Criminal Appeals for an order impaneling a statewide
 3463 grand jury. The petition shall state the general crimes or
 3464 wrongs to be inquired into and shall state that said crimes or
 3465 wrongs are of a multicircuit nature. The Supreme Court of

HB 7199

2011

3466 Criminal Appeals may order the impaneling of a statewide grand
 3467 jury, in accordance with the petition, for a term of 12 calendar
 3468 months. Upon petition by a majority of the statewide grand jury
 3469 or by the legal adviser to the statewide grand jury, the Supreme
 3470 Court of Criminal Appeals, by order, may extend the term of the
 3471 statewide grand jury for a period of up to 6 months.

3472 (2) The Chief Justice of the Supreme Court of Criminal
 3473 Appeals shall designate a judge of a circuit court to preside
 3474 over the statewide grand jury; such judge shall be referred to
 3475 herein as the presiding judge.

3476 Section 164. Subsection (2) of section 905.37, Florida
 3477 Statutes, is amended to read:

3478 905.37 List of prospective jurors; impanelment;
 3479 composition of jury; compensation.—

3480 (2) The State Courts Administrator, upon receipt of the
 3481 order of the Supreme Court of Criminal Appeals granting a
 3482 petition to impanel a statewide grand jury, shall certify and
 3483 submit to the presiding judge the lists submitted by the chief
 3484 judge of each judicial circuit. The Supreme Court of Criminal
 3485 Appeals shall provide in its order impaneling the statewide
 3486 grand jury whether the prospective jurors are to be drawn from
 3487 the jury lists, as selected, certified, and submitted pursuant
 3488 to this section, from a designated circuit or circuits or from a
 3489 statewide list containing the names of all persons who are named
 3490 in the certified jury lists submitted by the chief judge of each
 3491 judicial circuit. If the Supreme Court of Criminal Appeals
 3492 determines, based upon the facts set forth in the Governor's
 3493 petition, that the principal scope of the investigation to be

HB 7199

2011

3494 | conducted by the statewide grand jury is limited to a particular
 3495 | region or section of the state, or if, in the interest of
 3496 | convenience to the prospective grand jury witnesses, law
 3497 | enforcement officers, or others, the investigation could more
 3498 | appropriately operate within a particular region or section of
 3499 | the state, then, in either such event, the Supreme Court of
 3500 | Criminal Appeals may designate the judicial circuits within that
 3501 | region of the state which shall be the base operating area for
 3502 | the statewide grand jury, from which designated circuits the
 3503 | prospective jurors of the statewide grand jury shall be
 3504 | selected. The presiding judge shall, by lot and at random,
 3505 | select and impanel the statewide grand jury from the jury lists
 3506 | of the designated circuits certified and submitted through State
 3507 | Courts Administrator, or of the composite statewide list, in
 3508 | accordance with the order of the Supreme Court of Criminal
 3509 | Appeals. In selecting and impaneling the statewide grand jury in
 3510 | the manner prescribed herein, the presiding judge shall select
 3511 | no fewer than one statewide grand juror from each congressional
 3512 | district in the state. Each such prospective juror may be
 3513 | excused by the presiding judge upon a showing that service on
 3514 | the statewide grand jury will result in an unreasonable personal
 3515 | or financial hardship by virtue of the location or projected
 3516 | length of the grand jury investigation.

3517 | Section 165. Subsection (2) of section 907.041, Florida
 3518 | Statutes, is amended to read:

3519 | 907.041 Pretrial detention and release.—

3520 | (2) RULES OF PROCEDURE.—Procedures for pretrial release
 3521 | determinations shall be governed by court rule ~~rules adopted by~~

HB 7199

2011

3522 ~~the Supreme Court.~~

3523 Section 166. Section 918.19, Florida Statutes, is amended
3524 to read:

3525 918.19 Closing argument.—As provided in the common law, in
3526 criminal prosecutions after the closing of evidence:

3527 (1) The prosecuting attorney shall open the closing
3528 arguments.

3529 (2) The accused or the attorney for the accused may reply.

3530 (3) The prosecuting attorney may reply in rebuttal.

3531

3532 ~~The method set forth in this section shall control unless the~~
3533 ~~Supreme Court determines it is procedural and issues a~~
3534 ~~substitute rule of criminal procedure.~~

3535 Section 167. Subsection (4) of section 921.141, Florida
3536 Statutes, is amended to read:

3537 921.141 Sentence of death or life imprisonment for capital
3538 felonies; further proceedings to determine sentence.—

3539 (4) REVIEW OF JUDGMENT AND SENTENCE.—The judgment of
3540 conviction and sentence of death shall be subject to automatic
3541 review by the Supreme Court of Criminal Appeals Florida and
3542 disposition rendered within 2 years after the filing of a notice
3543 of appeal. Such review by the Supreme Court of Criminal Appeals
3544 shall have priority over all other cases and shall be heard in
3545 accordance with court rules ~~promulgated by the Supreme Court.~~

3546 Section 168. Subsection (5) of section 921.142, Florida
3547 Statutes, is amended to read:

3548 921.142 Sentence of death or life imprisonment for capital
3549 drug trafficking felonies; further proceedings to determine

HB 7199

2011

3550 sentence.—

3551 (5) REVIEW OF JUDGMENT AND SENTENCE.—The judgment of
 3552 conviction and sentence of death shall be subject to automatic
 3553 review and disposition rendered by the Supreme Court of Criminal
 3554 Appeals ~~Florida~~ within 2 years after the filing of a notice of
 3555 appeal. Such review by the Supreme Court of Criminal Appeals
 3556 shall have priority over all other cases and shall be heard in
 3557 accordance with rules adopted ~~promulgated~~ by the Supreme Court
 3558 of Criminal Appeals.

3559 Section 169. Subsections (2) and (3) of section 922.105,
 3560 Florida Statutes, are amended to read:

3561 922.105 Execution of death sentence; prohibition against
 3562 reduction of death sentence as a result of determination that a
 3563 method of execution is unconstitutional.—

3564 (2) A person convicted and sentenced to death for a
 3565 capital crime at any time shall have one opportunity to elect
 3566 that his or her death sentence be executed by electrocution. The
 3567 election for death by electrocution is waived unless it is
 3568 personally made by the person in writing and delivered to the
 3569 warden of the correctional facility within 30 days after the
 3570 issuance of mandate pursuant to a decision by the ~~Florida~~
 3571 Supreme Court of Criminal Appeals affirming the sentence of
 3572 death or, if mandate issued before the effective date of this
 3573 act, the election must be made and delivered to the warden
 3574 within 30 days after the effective date of this act. If a
 3575 warrant of execution is pending on the effective date of this
 3576 act, or if a warrant is issued within 30 days after the
 3577 effective date of this act, the person sentenced to death who is

HB 7199

2011

3578 the subject of the warrant shall have waived election of
3579 electrocution as the method of execution unless a written
3580 election signed by the person is submitted to the warden of the
3581 correctional facility no later than 48 hours after a new date
3582 for execution of the death sentence is set by the Governor under
3583 s. 922.06.

3584 (3) If electrocution or lethal injection is held to be
3585 unconstitutional by the ~~Florida~~ Supreme Court of Criminal
3586 Appeals under the State Constitution, or held to be
3587 unconstitutional by the United States Supreme Court under the
3588 United States Constitution, or if the United States Supreme
3589 Court declines to review any judgment holding a method of
3590 execution to be unconstitutional under the United States
3591 Constitution made by the ~~Florida~~ Supreme Court of Criminal
3592 Appeals or the United States Court of Appeals that has
3593 jurisdiction over Florida, all persons sentenced to death for a
3594 capital crime shall be executed by any constitutional method of
3595 execution.

3596 Section 170. Section 922.14, Florida Statutes, is amended
3597 to read:

3598 922.14 Sentence of death unexecuted for unjustifiable
3599 reasons.—If a death sentence is not executed because of
3600 unjustified failure of the Governor to issue a warrant, or for
3601 any other unjustifiable reason, on application of the Department
3602 of Legal Affairs, the Supreme Court of Criminal Appeals shall
3603 issue a warrant directing the sentence to be executed during a
3604 week designated in the warrant.

HB 7199

2011

3605 Section 171. Section 922.15, Florida Statutes, is amended
 3606 to read:

3607 922.15 Return of warrant of execution issued by Supreme
 3608 Court of Criminal Appeals.—After the sentence has been executed
 3609 pursuant to a warrant issued by the Supreme Court of Criminal
 3610 Appeals, the warden of the state prison shall send the warrant
 3611 and a signed statement of the execution to the Secretary of
 3612 State. The warden shall file an attested copy of the warrant and
 3613 statement with the clerk of the court that imposed the sentence.
 3614 The warden shall send to the Governor an attested copy of the
 3615 warrant and statement.

3616 Section 172. Subsection (1) of section 924.055, Florida
 3617 Statutes, is amended to read:

3618 924.055 Postconviction review in capital cases;
 3619 legislative findings and intent.—

3620 (1) It is the intent of the Legislature to reduce delays
 3621 in capital cases and to ensure that all appeals and
 3622 postconviction actions in capital cases are resolved within 5
 3623 years after the date a sentence of death is imposed in the
 3624 circuit court. All capital postconviction actions must be filed
 3625 as early as possible after the imposition of a sentence of death
 3626 which may be during a direct appeal of the conviction and
 3627 sentence. A person sentenced to death or that person's capital
 3628 postconviction counsel must file any postconviction legal action
 3629 in compliance with the statutes of limitation established in s.
 3630 924.056 and elsewhere in this chapter. Except as expressly
 3631 allowed by s. 924.056(5), a person sentenced to death or that
 3632 person's capital postconviction counsel may not file more than

HB 7199

2011

3633 one postconviction action in a sentencing court and one appeal
 3634 therefrom to the ~~Florida~~ Supreme Court of Criminal Appeals,
 3635 unless authorized by law.

3636 Section 173. Paragraph (a) of subsection (3) and
 3637 subsection (4) of section 924.056, Florida Statutes, are amended
 3638 to read:

3639 924.056 Commencement of capital postconviction actions for
 3640 which sentence of death is imposed on or after January 14, 2000;
 3641 limitations on actions.—

3642 (3) (a) With respect to all capital postconviction actions
 3643 commenced after the effective date of this act, a capital
 3644 postconviction action is not commenced until the defendant or
 3645 the defendant's postconviction counsel files a fully pled
 3646 postconviction action in the sentencing court or, as provided in
 3647 subsection (4), the ~~Florida~~ Supreme Court of Criminal Appeals.
 3648 For the purposes of this subsection, a fully pled capital
 3649 postconviction action is one which complies with s. 924.058(2)
 3650 or any superseding court rule ~~adopted by the Florida Supreme~~
 3651 ~~Court~~. Except as provided by subsection (4) or subsection (5),
 3652 all capital postconviction actions shall be barred unless they
 3653 are commenced within 180 days after the filing of the
 3654 appellant's initial brief in the ~~Florida~~ Supreme Court of
 3655 Criminal Appeals on direct appeal of the defendant's capital
 3656 conviction and sentence. The fully pled postconviction action
 3657 must raise all cognizable claims that the defendant's judgment
 3658 or sentence was entered in violation of the Constitution or laws
 3659 of the United States or the Constitution or the laws of the
 3660 state, including any claim of ineffective assistance of trial

HB 7199

2011

3661 counsel, allegations of innocence, or that the state withheld
 3662 evidence favorable to the defendant. No claim may be considered
 3663 in such action which could have or should have been raised
 3664 before trial, at trial, or if preserved on direct appeal. For
 3665 the purposes of this subsection, a capital postconviction action
 3666 is not fully pled unless it satisfies the requirements of s.
 3667 924.058(2) or any superseding rule of court.

3668 (4) All capital postconviction actions raising any claim
 3669 of ineffective assistance of direct appeal counsel are barred
 3670 unless they are commenced in conformity with this subsection.
 3671 The defendant or the defendant's capital postconviction counsel
 3672 shall file an action in the ~~Florida~~ Supreme Court of Criminal
 3673 Appeals raising any claim of ineffective assistance of direct
 3674 appeal counsel within 45 days after mandate issues affirming the
 3675 death sentence in the direct appeal.

3676 Section 174. Subsection (2) of section 924.057, Florida
 3677 Statutes, is amended to read:

3678 924.057 Limitation on postconviction cases in which the
 3679 death sentence was imposed before January 14, 2000.—This section
 3680 shall govern all capital postconviction actions in cases in
 3681 which the trial court imposed the sentence of death before the
 3682 effective date of this act.

3683 (2) Except as provided in s. 924.056(5), in every case in
 3684 which mandate has issued in the ~~Florida~~ Supreme Court of
 3685 Criminal Appeals concluding at least one capital postconviction
 3686 action in the state court system, a successive capital
 3687 postconviction action shall be barred on the effective date of
 3688 this act, unless the rules or law in effect immediately prior to

HB 7199

2011

3689 | the effective date of this act permitted the successive
 3690 | postconviction action, in which case the action shall be barred
 3691 | on the date provided in subsection (4).

3692 | Section 175. Section 924.058, Florida Statutes, is amended
 3693 | to read:

3694 | 924.058 Capital postconviction claims.—This section shall
 3695 | regulate the procedures in actions for capital postconviction
 3696 | relief commencing after the effective date of this act unless
 3697 | and until such procedures are revised by court rule ~~or rules~~
 3698 | ~~adopted by the Florida Supreme Court~~ which specifically
 3699 | reference this section.

3700 | (1) The defendant or the defendant's capital
 3701 | postconviction counsel shall not file more than one capital
 3702 | postconviction action in the sentencing court, one appeal
 3703 | therefrom in the ~~Florida~~ Supreme Court of Criminal Appeals, and
 3704 | one original capital postconviction action alleging the
 3705 | ineffectiveness of direct appeal counsel in the ~~Florida~~ Supreme
 3706 | Court of Criminal Appeals, except as expressly allowed by s.
 3707 | 924.056(5).

3708 | (2) The defendant's postconviction action shall be filed
 3709 | under oath and shall be fully pled to include:

3710 | (a) The judgment or sentence under attack and the court
 3711 | which rendered the same;

3712 | (b) A statement of each issue raised on appeal and the
 3713 | disposition thereof;

3714 | (c) Whether a previous postconviction action has been
 3715 | filed and, if so, the disposition of all previous claims raised
 3716 | in postconviction litigation; if a previous action or actions

HB 7199

2011

3717 have been filed, the reason or reasons the claim or claims in
3718 the present motion were not raised in the former action or
3719 actions;

3720 (d) The nature of the relief sought;

3721 (e) A fully detailed allegation of the factual basis for
3722 any claim of legal or constitutional error asserted, including
3723 the attachment of any document supporting the claim, the name
3724 and address of any witness, the attachment of affidavits of the
3725 witnesses or a proffer of the testimony; and

3726 (f) A concise memorandum of applicable case law as to each
3727 claim asserted.

3728 (3) Any capital postconviction action that does not comply
3729 with any requirement in this section or other applicable
3730 provision in law shall not be considered in any state court. No
3731 amendment of a defendant's capital postconviction action shall
3732 be allowed by the court after the expiration of the time
3733 limitation provided by statute for the commencement of capital
3734 postconviction actions.

3735 (4) The prosecuting attorney or Attorney General shall be
3736 allowed to file one response to any capital postconviction
3737 action within 60 days after receipt of the defendant's fully
3738 pled capital postconviction action.

3739 Section 176. Section 924.059, Florida Statutes, is amended
3740 to read:

3741 924.059 Time limitations and judicial review in capital
3742 postconviction actions.—This section shall regulate the
3743 procedures in actions for capital postconviction relief
3744 commencing after the effective date of this act unless and until

HB 7199

2011

3745 such procedures are revised by court rule ~~or rules adopted by~~
3746 ~~the Florida Supreme Court~~ which specifically reference this
3747 section.

3748 (1) No amendment of a defendant's capital postconviction
3749 action shall be allowed by the court after the expiration of the
3750 time periods provided by statute for the filing of capital
3751 postconviction claims.

3752 (2) Within 30 days after the state files its answer, the
3753 sentencing court shall conduct a hearing to determine if an
3754 evidentiary hearing is required, if a hearing has been requested
3755 by the defendant or the defendant's capital postconviction
3756 counsel. Within 30 days thereafter, the court shall rule whether
3757 an evidentiary hearing is required and, if so, shall schedule an
3758 evidentiary hearing to be held within 90 days. If the court
3759 determines that the defendant's capital postconviction action is
3760 legally insufficient or the action, files, and records in the
3761 case show that the defendant is not entitled to relief, the
3762 court shall, within 45 days thereafter, deny the action, setting
3763 forth a detailed rationale therefore, and attaching or
3764 referencing such portions of the record as are necessary to
3765 allow for meaningful appellate review.

3766 (3) Within 10 days after the order scheduling an
3767 evidentiary hearing, the defendant or the defendant's capital
3768 postconviction counsel shall disclose the names and addresses of
3769 any potential witnesses not previously disclosed, with their
3770 affidavits or a proffer of their testimony. Upon receipt of the
3771 defendant's disclosure, the state shall have 10 days within
3772 which to provide reciprocal disclosure. If the defendant intends

HB 7199

2011

3773 to offer expert testimony of his or her mental status, the state
3774 shall be entitled to have the defendant examined by an expert of
3775 its choosing. All of the defendant's mental status claims shall
3776 be deemed denied as a matter of law if the defendant fails to
3777 cooperate with the state's expert. Reports provided by expert
3778 witnesses shall be disclosed by opposing counsel upon receipt.

3779 (4) Following the evidentiary hearing, the court shall
3780 order the transcription of the proceeding which shall be filed
3781 within 30 days. Within 30 days after receipt of the transcript,
3782 the sentencing court shall issue a final order granting or
3783 denying postconviction relief, making detailed findings of fact
3784 and conclusions of law with respect to any allegation asserted.

3785 (5) An appeal may be taken to the Supreme Court of
3786 Criminal Appeals ~~Florida~~ within 15 days from the entry of a
3787 final order on a capital postconviction action. No interlocutory
3788 appeal shall be permitted. No motion for rehearing shall be
3789 permitted. The clerk of the court shall promptly serve upon all
3790 parties a copy of the final order.

3791 (6) If the sentencing court has denied the capital
3792 postconviction action without an evidentiary hearing, the appeal
3793 to the ~~Florida~~ Supreme Court of Criminal Appeals will be
3794 expeditiously resolved in a summary fashion. On appeal, the case
3795 shall be initially reviewed for a determination whether the
3796 sentencing court correctly resolved the defendant's claims
3797 without an evidentiary hearing. If the ~~Florida~~ Supreme Court of
3798 Criminal Appeals determines an evidentiary hearing should have
3799 been held, the decision to remand for an evidentiary hearing may
3800 be made by an order without an opinion. Jurisdiction shall be

HB 7199

2011

3801 | relinquished to the trial court for a specified period, which
 3802 | must be scheduled within 30 days and must be concluded within 90
 3803 | days, for the purpose of conducting an evidentiary hearing on
 3804 | any issue identified by the Supreme Court of Criminal Appeals'
 3805 | ~~Florida supreme court's~~ order. Thereafter, the record shall be
 3806 | supplemented with the hearing transcript.

3807 | (7) The ~~Florida~~ Supreme Court of Criminal Appeals shall
 3808 | render its decision within 180 days after receipt of the record
 3809 | on appeal. If a denial of an action for postconviction relief is
 3810 | affirmed, the Governor may proceed to issue a warrant for
 3811 | execution.

3812 | (8) A capital postconviction action filed in violation of
 3813 | the time limitations provided by statute is barred, and all
 3814 | claims raised therein are waived. A state court shall not
 3815 | consider any capital postconviction action filed in violation of
 3816 | s. 924.056 or s. 924.057. The Attorney General shall deliver to
 3817 | the Governor, the President of the Senate, and the Speaker of
 3818 | the House of Representatives a copy of any pleading or order
 3819 | that alleges or adjudicates any violation of this provision.

3820 | Section 177. Subsection (3) of section 925.12, Florida
 3821 | Statutes, is amended to read:

3822 | 925.12 DNA testing; defendants entering pleas.—

3823 | (3) It is the intent of the Legislature that the Supreme
 3824 | Court of Criminal Appeals adopt rules of procedure consistent
 3825 | with this section for a court, prior to the acceptance of a
 3826 | plea, to make an inquiry into the following matters:

3827 | (a) Whether counsel for the defense has reviewed the
 3828 | discovery disclosed by the state and whether such discovery

HB 7199

2011

3829 included a listing or description of physical items of evidence.

3830 (b) Whether the nature of the evidence against the
 3831 defendant disclosed through discovery has been reviewed with the
 3832 defendant.

3833 (c) Whether the defendant or counsel for the defendant is
 3834 aware of any physical evidence disclosed by the state for which
 3835 DNA testing may exonerate the defendant.

3836 (d) Whether the state is aware of any physical evidence
 3837 for which DNA testing may exonerate the defendant.

3838 Section 178. Subsection (8) of section 934.02, Florida
 3839 Statutes, is amended to read:

3840 934.02 Definitions.—As used in this chapter:

3841 (8) "Judge of competent jurisdiction" means justice of the
 3842 Supreme Court of Criminal Appeals, judge of a district court of
 3843 appeal, circuit judge, or judge of any court of record having
 3844 felony jurisdiction of the State of Florida, irrespective of the
 3845 geographic location or jurisdiction where the judge presides.

3846 Section 179. Paragraph (a) of subsection (1) of section
 3847 939.185, Florida Statutes, is amended to read:

3848 939.185 Assessment of additional court costs and
 3849 surcharges.—

3850 (1)(a) The board of county commissioners may adopt by
 3851 ordinance an additional court cost, not to exceed \$65, to be
 3852 imposed by the court when a person pleads guilty or nolo
 3853 contendere to, or is found guilty of, or adjudicated delinquent
 3854 for, any felony, misdemeanor, delinquent act, or criminal
 3855 traffic offense under the laws of this state. Such additional
 3856 assessment shall be accounted for separately by the county in

3857 | which the offense occurred and be used only in the county
 3858 | imposing this cost, to be allocated as follows:

3859 | 1. Twenty-five percent of the amount collected shall be
 3860 | allocated to fund innovations, as determined by the chief judge
 3861 | of the circuit, to supplement state funding for the elements of
 3862 | the state courts system identified in s. 29.004 and county
 3863 | funding for local requirements under s. 29.008(2)(a)2.

3864 | 2. Twenty-five percent of the amount collected shall be
 3865 | allocated to assist counties in providing legal aid programs
 3866 | required under s. 29.008(3)(a).

3867 | 3. Twenty-five percent of the amount collected shall be
 3868 | allocated to fund personnel and legal materials for the public
 3869 | as part of a law library.

3870 | 4. Twenty-five percent of the amount collected shall be
 3871 | used as determined by the board of county commissioners to
 3872 | support teen court programs, except as provided in s. 938.19(7),
 3873 | juvenile assessment centers, and other juvenile alternative
 3874 | programs.

3875 |
 3876 | Each county receiving funds under this section shall report the
 3877 | amount of funds collected pursuant to this section and an
 3878 | itemized list of expenditures for all authorized programs and
 3879 | activities. The report shall be submitted in a format developed
 3880 | by the Office of the State Courts Administrator ~~Supreme Court~~ to
 3881 | the Governor, the Chief Financial Officer, the President of the
 3882 | Senate, and the Speaker of the House of Representatives on a
 3883 | quarterly basis beginning with the quarter ending September 30,
 3884 | 2004. Quarterly reports shall be submitted no later than 30 days

HB 7199

2011

3885 after the end of the quarter. Any unspent funds at the close of
 3886 the county fiscal year allocated under subparagraphs 2., 3., and
 3887 4., shall be transferred for use pursuant to subparagraph 1.

3888 Section 180. Paragraph (a) of subsection (4) of section
 3889 944.096, Florida Statutes, is amended to read:

3890 944.096 Budget requests for residential facility
 3891 construction; estimates; appropriations; population in excess of
 3892 capacity.—

3893 (4) As used in this section, the term:

3894 (a) "Criminal Justice Estimating Conference" means the
 3895 designated professional staffs of the Governor's office, the
 3896 Legislature, and the Office of the State Courts Administrator
 3897 ~~Supreme Court~~ who meet in regularly scheduled meetings chaired
 3898 by the state economist or the state economist's designee to
 3899 forecast inmate and caseload counts and other information needed
 3900 to support the state budgeting process.

3901 Section 181. Subsection (4) of section 984.15, Florida
 3902 Statutes, is amended to read:

3903 984.15 Petition for a child in need of services.—

3904 (4) The form of the petition and any additional contents
 3905 shall be determined by court rules ~~of procedure adopted by the~~
 3906 ~~Supreme Court~~.

3907 Section 182. Subsection (3) of section 984.151, Florida
 3908 Statutes, is amended to read:

3909 984.151 Truancy petition; prosecution; disposition.—

3910 (3) Original jurisdiction to hear a truancy petition shall
 3911 be in the circuit court; however, the circuit court may use a
 3912 general or special master pursuant to ~~Supreme~~ court rules. Upon

HB 7199

2011

3913 | the filing of the petition, the clerk shall issue a summons to
 3914 | the parent, guardian, or legal custodian of the student,
 3915 | directing that person and the student to appear for a hearing at
 3916 | a time and place specified.

3917 | Section 183. Subsection (1) of section 984.18, Florida
 3918 | Statutes, is amended to read:

3919 | 984.18 Referral of child-in-need-of-services cases to
 3920 | mediation.—

3921 | (1) At any stage in a child-in-need-of-services
 3922 | proceeding, the case staffing committee or any party may request
 3923 | the court to refer the parties to mediation in accordance with
 3924 | chapter 44 and court rules ~~and procedures developed by the~~
 3925 | ~~Supreme Court.~~

3926 | Section 184. Subsection (3) of section 985.16, Florida
 3927 | Statutes, is amended to read:

3928 | 985.16 Community arbitration.—

3929 | (3) COMMUNITY ARBITRATORS.—The chief judge of each
 3930 | judicial circuit shall maintain a list of qualified persons who
 3931 | have agreed to serve as community arbitrators for the purpose of
 3932 | carrying out ~~the provisions of~~ this chapter. Community
 3933 | arbitrators shall meet the qualification and training
 3934 | requirements adopted in court rule ~~by the Supreme Court.~~
 3935 | Whenever possible, qualified volunteers shall be used as
 3936 | community arbitrators.

3937 | (a) Each community arbitrator or member of a community
 3938 | arbitration panel shall be selected by the chief judge of the
 3939 | circuit, the senior circuit court judge assigned to juvenile
 3940 | cases in the circuit, and the state attorney. A community

HB 7199

2011

3941 arbitrator or, in the case of a panel, the chief arbitrator
 3942 shall have such powers as are necessary to conduct the
 3943 proceedings in a fair and expeditious manner.

3944 (b) A community arbitrator or member of a community
 3945 arbitration panel shall be trained or experienced in juvenile
 3946 causes and shall be:

3947 1. Either a graduate of an accredited law school or of an
 3948 accredited school with a degree in behavioral social work or
 3949 trained in conflict resolution techniques; and

3950 2. A person of the temperament necessary to deal properly
 3951 with cases involving children and with the family crises likely
 3952 to be presented to him or her.

3953 Section 185. Subsection (5) of section 985.318, Florida
 3954 Statutes, is amended to read:

3955 985.318 Petition.—

3956 (5) The form of the petition and its contents shall be
 3957 determined by court rule ~~rules of procedure adopted by the~~
 3958 ~~Supreme Court.~~

3959 Section 186. Paragraph (a) of subsection (2) of section
 3960 985.66, Florida Statutes, is amended to read:

3961 985.66 Juvenile justice training academies; Juvenile
 3962 Justice Standards and Training Commission; Juvenile Justice
 3963 Training Trust Fund.—

3964 (2) JUVENILE JUSTICE STANDARDS AND TRAINING COMMISSION.—

3965 (a) There is created under the Department of Juvenile
 3966 Justice the Juvenile Justice Standards and Training Commission,
 3967 hereinafter referred to as the commission. The 17-member
 3968 commission shall consist of the Attorney General or designee,

HB 7199

2011

3969 the Commissioner of Education or designee, a member of the
 3970 juvenile court judiciary to be appointed by the Chief Justice of
 3971 the Supreme Court of Civil Appeals, and 14 members to be
 3972 appointed by the Secretary of Juvenile Justice as follows:

3973 1. Seven members shall be juvenile justice professionals:
 3974 a superintendent or a direct care staff member from an
 3975 institution; a director from a contracted community-based
 3976 program; a superintendent and a direct care staff member from a
 3977 regional detention center or facility; a juvenile probation
 3978 officer supervisor and a juvenile probation officer; and a
 3979 director of a day treatment or conditional release program. No
 3980 fewer than three of these members shall be contract providers.

3981 2. Two members shall be representatives of local law
 3982 enforcement agencies.

3983 3. One member shall be an educator from the state's
 3984 university and community college program of criminology,
 3985 criminal justice administration, social work, psychology,
 3986 sociology, or other field of study pertinent to the training of
 3987 juvenile justice program staff.

3988 4. One member shall be a member of the public.

3989 5. One member shall be a state attorney, or assistant
 3990 state attorney, who has juvenile court experience.

3991 6. One member shall be a public defender, or assistant
 3992 public defender, who has juvenile court experience.

3993 7. One member shall be a representative of the business
 3994 community.

3995

3996 All appointed members shall be appointed to serve terms of 2

HB 7199

2011

3997 | years.

3998 | Section 187. This act shall take effect on the effective
3999 | date of House Joint Resolution 7111, or a similar joint
4000 | resolution having substantially the same specific intent and
4001 | purpose, if that joint resolution is approved by the electors at
4002 | the general election to be held in November 2012.