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## EXECUTIVE COMMITTEE MEETING

October 23, 2023

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**Stacy M. Butterfield, CPA**  
POLK COUNTY  
EXECUTIVE COUNCIL CHAIR

**Tiffany Moore Russell, ESQ.**  
ORANGE COUNTY  
VICE-CHAIR

**Laura E. Roth, ESQ.**  
VOLUSIA COUNTY  
SECRETARY/TREASURER

CRYSTAL K. KINZEL  
COLLIER COUNTY  
SENATE APPOINTEE

TODD NEWTON  
GILCHRIST COUNTY

JODY PHILLIPS  
DUVAL COUNTY

TOM BEXLEY  
FLAGLER COUNTY  
HOUSE APPOINTEE

JOHN A. CRAWFORD  
NASSAU COUNTY

JOHN DEW  
EXECUTIVE DIRECTOR

RON FICARROTTA  
13TH JUDICIAL CIRCUIT JUDGE  
SUPREME COURT APPOINTEE

MICHELLE R. MILLER  
SAINT LUCIE COUNTY

ROB BRADLEY  
BRADLEY, GARRISON & KOMANDO, P.A.  
GENERAL COUNSEL

2560-102 BARRINGTON CIRCLE | TALLAHASSEE, FLORIDA 32308 | PHONE 850.386.2223 | WWW.FLCCOC.ORG

## EXECUTIVE COMMITTEE MEETING

**Monday, October 23, 2023**

**Meeting: 2:30 PM EST**

**WebEx Link:** <https://flclerks.webex.com/flclerks/j.php?MTID=m0332dd0f7788d2aa6c8d3af4c888ff6d>

**Meeting Code:** 2313 657 9104, Password: Clerks2023

**Conference Call:** 1-866-469-3239, Access Code: 2313 657 9104

- 1) Call to Order and Introduction.....Hon. Stacy Butterfield
- 2) Approve Agenda .....Hon. Stacy Butterfield
- 3) Approve 2024 Legislative Agenda .....Jason L. Welty
- 4) Other Business.....Hon. Stacy Butterfield

**Committee Members:** Honorable Stacy Butterfield, CPA, Chair; and Honorable Tiffany Moore Russell, Esq.; and Honorable Laura Roth, Esq.

*Our Mission: As a governmental organization created by the Legislature, we evaluate Clerks' court-related budgetary needs, and recommend the fair and equitable allocation of resources needed to sustain court operations.*



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## AGENDA ITEM 3

**DATE:** October 23, 2023  
**SUBJECT:** CCOC 2024 Legislative Agenda  
**COMMITTEE ACTION:** Approve and Submit to FCCC

### OVERVIEW:

On October 3, 2023, the CCOC Legislative Committee discussed and approved the following items as the 2024 CCOC Legislative Agenda:

- 1) Additional juror management funding.
- 2) Reimbursement for Baker Act, Marchman Act, and Sexual Violent Predators Act cases.
- 3) JAC Statutory Changes – 2024 Legislative Session

For State Fiscal Year (SFY) 2023-24, the Legislature appropriated \$11.7 million of State General Revenue to the clerks for juror management costs. Based on recent average quarterly costs, clerks' quarterly reimbursement costs will likely exceed the quarterly budget amount in SFY Quarter 3 (reimbursement request due by April 10) and SFY Quarter 4 (reimbursement request due by July 10). Any juror management costs not reimbursed by General Revenue must be paid for by the clerk's CCOC budget authority.

In addition to the juror management funding, the committee should formalize its support of the Legislative Budget Request (LBR) for the Baker Act, Marchman Act, and Sexual Violent Predators Act cases. In these case types, clerks are responsible for creating emergency orders, setting the case, and disseminating the orders to the proper authorities. These tasks are often time-sensitive and potentially impact public safety. The Legislature authorized the reimbursement of these case types in 2022.

At the committee's direction, CCOC will work with the FCCC Legislative Team to help advocate and support the CCOC legislative agenda.

**COMMITTEE ACTION:** Approve and Submit to FCCC

**LEAD STAFF:** Jason L. Welty, CCOC Deputy Executive Director

**ATTACHMENTS:** JAC Statutory Changes – 2024 Legislative Session

# Justice Administrative Commission



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## JAC Statutory Changes 2024 Legislative Session

### **2024 JAC Statutory Changes Summary**

1. Revising Trust Fund References – ss. 27.52, 27.54, 57.082, and 501.2101, F.S., proposing language that ties these funds to the Trust Fund of a particular type of entity served by JAC (SA, PD, or RC) rather than JAC trust fund category.
2. Eliminating Reference to Chief Financial Officer related to payment of Court Appointed Capital Collateral Counsel – s. 27.703(2), F.S., proposed elimination of reference to Chief Financial Officer and insertion of JAC, the entity that processes these bills for payment.
3. Revising Responsibilities Associated with Maintaining the Capital Collateral Registry – s. 27.710, F.S., proposed amendment to move these responsibilities from the JAC to the Clerk of the Florida Supreme Court.
4. Eliminating a Reporting Requirement for State Attorneys and Public Defenders – s. 110.112, F.S.
5. Eliminating Improper Reference to Entities of Justice Administration in State Comprehensive Planning Chapter – s. 186.003, F.S.

## **2024 JAC STATUTORY CHANGES**

An act related to the Justice Administrative Commission; amending ss. 27.52, 27.54, 57.082, 501.2101, F.S.; revising references to the deposit of collections into certain trust funds; amending s. 27.703, F.S.; revising reference to the entity that pays court appointed capital collateral counsel; amending s. 27.710, F.S., revising responsibilities associated with the capital collateral registry; amending s. 110.112, F.S.; eliminating a reporting requirement for the State Attorneys and Public Defenders; and amending s. 186.003, F.S.; revising the definition of an agency or state agency.

## **1. Revising Trust Fund References**

Paragraph (b) of subsection (7) of section 27.52, Florida Statutes is amended to read:

27.52 Determination of indigent status.—

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

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

*The above language cites the grants and donations trust fund of the JAC, when it should reference the applicable state attorney. JAC staff requests that the language be modified to tie these funds to the Grants and Donations Trust Fund of a state attorney.*

Paragraph (c) of subsection (2) of section 27.54, Florida Statutes, is amended to read:

27.54 Limitation on payment of expenditures other than by the state.—

(2) A county or municipality may contract with, or appropriate or contribute funds to, the operation of the offices of the various public defenders and regional counsels as provided in this subsection. A public defender or regional counsel defending violations of special laws or county or municipal ordinances punishable by incarceration and not ancillary to a state charge shall contract with counties and municipalities to recover the full cost of services rendered on an hourly basis or reimburse the state for the full cost of assigning one or more full-time equivalent attorney positions to work on behalf of the county or municipality. Notwithstanding any other provision of law, in the case of a county with a population of less than 75,000, the public defender or regional counsel shall contract for full reimbursement, or for reimbursement as the parties otherwise agree. In local ordinance violation cases, the county or municipality shall pay for due process services that are approved by the court, including deposition costs, deposition transcript costs, investigative costs, witness fees, expert witness costs, and interpreter costs. The person charged with the violation shall be assessed a fee for the services of a public defender or regional counsel and other costs and fees paid by the county or municipality, which assessed fee may be reduced to a lien, in all instances in which the person enters a plea of guilty or no contest or is found to be in violation or guilty of any count or lesser included offense of the charge or companion case charges, regardless of adjudication. The court shall determine the amount of the obligation. The county or municipality may recover assessed fees through collections court or as otherwise permitted by law, and any fees recovered pursuant to this section shall be forwarded to the applicable county or municipality as reimbursement.

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

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

(c) Any payments received pursuant to this subsection shall be deposited into the Grants and Donations Trust Fund within of the applicable public defender or criminal conflict and civil regional counsel ~~Justice Administrative Commission~~ for appropriation by the Legislature.

The above language cites the grants and donations trust fund of the JAC, when it should reference the applicable public defender or regional counsel. *JAC staff requests that the language be modified to tie these funds to the Grants and Donations Trust Fund of the applicable public defender or regional counsel.*

Paragraph (b) of subsection (7) of section 57.082, Florida Statutes, is amended to read:

57.082 Determination of civil indigent status.—

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

(a) If the court learns of discrepancies between the application and the actual financial status of the person found to be indigent, the court shall determine whether the status and any relief provided as a result of that status shall be revoked. The person may be heard regarding the information learned by the court. If the court, based on the information, determines that the person is not indigent, the court shall revoke the provision of any relief under this section.

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

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

The above language cites the grants and donations trust fund of the JAC, when it should reference the applicable state attorney. *JAC staff requests that the language be modified to tie these funds to the Grants and Donations Trust Fund of a state attorney.*

Subsection (1) of section 501.2101, Florida Statutes, is amended to read:

501.2101 Enforcing authorities; moneys received in certain proceedings.--

(1) Any moneys received by an enforcing authority for attorney's fees and costs of investigation or litigation in proceedings brought under the provisions of s. 501.207, s. 501.208, or s. 501.211 shall be deposited as received in the Legal Affairs Revolving Trust Fund if the action is brought by the Department of Legal Affairs, and in the Consumer Frauds Grants and Donations Trust Fund of a state attorney ~~the Justice Administrative Commission~~ if the action is brought by that a state attorney.

The above language cites an incorrect trust fund of the JAC. JAC staff requests that the language be modified to tie these funds to the Grants and Donations Trust Fund of a state attorney, rather than a trust fund of the JAC. *JAC staff requests the above amendments to reflect actual practice.*

## **2. Elimination of reference to Chief Financial Officer related to payment of Court Appointed Capital Collateral Counsel**

Subsection (2) of section 27.703, Florida Statutes, is amended to read:

27.703 Conflict of interest and substitute counsel.—

(2) Appointed counsel shall be paid from funds appropriated to the ~~Chief Financial Officer~~ Justice Administrative Commission. The hourly rate may not exceed \$100. However, all appointments of private counsel under this section shall be in accordance with ss. 27.710 and 27.711.

The above language cites funds appropriated to the Chief Financial Officer and payment of court appointed capital collateral counsel by same. Payment of court appointed capital collateral counsel was assigned to JAC in 2013 with no specific appropriation. *JAC staff requests the above amendments to reflect the current practice.*

### **3. Revising Entity Responsible for Maintaining Capital Collateral Registry**

Subsections (1) – (4), of section 27.710, Florida Statutes, are amended to read:

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

(1) The Clerk of the Florida Supreme Court ~~executive director of the Justice Administrative Commission~~ shall compile and maintain a statewide registry of attorneys in private practice who have certified that they meet the minimum requirements of s. 27.704(2), who are available for appointment by the court under this section to represent persons convicted and sentenced to death in this state in postconviction collateral proceedings, and who have attended within the last year a continuing legal education program of at least 10 hours' duration devoted specifically to the defense of capital cases, if available. Continuing legal education programs meeting the requirements of this rule offered by The Florida Bar or another recognized provider and approved for continuing legal education credit by The Florida Bar shall satisfy this requirement. The failure to comply with this requirement may be cause for removal from the list until the requirement is fulfilled. To ensure that sufficient attorneys are available for appointment by the court, when the number of attorneys on the registry falls below 50, the Clerk ~~executive director~~ shall notify the chief judge of each circuit by letter and request the chief judge to promptly submit the names of at least three private attorneys who regularly practice criminal law in that circuit and who appear to meet the minimum requirements to represent persons in postconviction capital collateral proceedings. The Clerk ~~executive director~~ shall send an application to each attorney identified by the chief judge so that the attorney may register for appointment as counsel in postconviction capital collateral proceedings. As necessary, the Clerk ~~executive director~~ may also advertise in legal publications and other appropriate media for qualified attorneys interested in registering for appointment as counsel in postconviction capital collateral proceedings. Not later than September 1 of each year, and as necessary thereafter, the Clerk ~~executive director~~ shall provide to the Chief Justice of the Supreme Court, the chief judge and state attorney in each judicial circuit, and the Attorney General a current copy of its registry of attorneys who are available for appointment as counsel in postconviction capital collateral proceedings. The registry must be indexed by judicial circuit and must contain the requisite information submitted by the applicants in accordance with this section.

(2) To be eligible for court appointment as counsel in postconviction capital collateral proceedings, an attorney must certify on an application provided by the Clerk ~~executive director~~ that he or she satisfies the minimum requirements for private counsel set forth in s. 27.704(2).

(3) An attorney who applies for registration and court appointment as counsel in postconviction capital collateral proceedings must certify that he or she is counsel of record in not more than nine such proceedings and, if appointed to represent a person in postconviction capital collateral proceedings, shall continue such representation under the terms and conditions set forth in s. 27.711 until the sentence is reversed, reduced, or carried out or unless permitted to withdraw from representation by the trial

court. The court may not permit an attorney to withdraw from representation without a finding of sufficient good cause. The court may impose appropriate sanctions if it finds that an attorney has shown bad faith with respect to continuing to represent a defendant in a postconviction capital collateral proceeding. This section does not preclude the court from reassigning a case to a capital collateral regional counsel following discontinuation of representation if a conflict of interest no longer exists with respect to the case.

(4) Each private attorney who is appointed by the court to represent a capital defendant must enter into a contract with the Justice Administrative Commission. If the appointed attorney fails to execute the contract within 30 days after the date the contract is mailed to the attorney, the executive director of the Justice Administrative Commission shall notify the trial court. The Justice Administrative Commission shall function as contract manager and enforce performance of the terms and conditions of the contract. The Justice Administrative Commission shall approve uniform contract forms for use in procuring the services of private court-appointed counsel and uniform procedures and forms for use by a court-appointed attorney in support of billing for attorney fees, costs, and related expenses to demonstrate attorney completion of specified duties. By signing such contract, the attorney certifies that he or she intends to continue the representation under the terms and conditions set forth in the contract until the sentence is reversed, reduced, or carried out or until released by order of the trial court.

Moving the maintenance of a statewide registry associated with capital collateral proceedings from the Justice Administrative Commission to the Clerk of the Florida Supreme Court. *JAC staff requests the above amendments to give the Supreme Court ownership of this registry.*

#### **4. Eliminating a Reporting Requirement for State Attorneys and Public Defenders**

Paragraph (d) of subsection (4) of section 110.112, Florida Statutes, is repealed:

110.112 Affirmative action; equal employment opportunity.—

(4) Each state attorney and public defender shall:

(a) Develop and implement an affirmative action plan.

(b) Establish annual goals for ensuring full utilization of groups underrepresented in its workforce as compared to the relevant labor market in this state. The state attorneys' and public defenders' affirmative action plans must be designed to meet the established goals.

(c) Appoint an affirmative action-equal employment opportunity officer.

~~(d) Report annually to the Justice Administrative Commission on the implementation, continuance, updating, and results of his or her affirmative action program for the previous fiscal year.~~

The provision above requires each State Attorney and Public Defender to provide their affirmative action program to the JAC, without any further action taken by the JAC with this information. *JAC staff requests the elimination of this reporting requirement.*

## **5. Improper Reference to Entities of Justice Administration**

Subsection (6) of section 186.003, Florida Statutes, is amended to read:

186.003 Definitions; ss. 186.001-186.031, 186.801-186.901.—As used in ss. 186.001-186.031 and 186.801-186.901, the term: travelled traveled

(1) "Executive Office of the Governor" means the Office of Planning and Budgeting of the Executive Office of the Governor.

(2) "Goal" means the long-term end toward which programs and activities are ultimately directed.

(3) "Objective" means a specific, measurable, intermediate end that is achievable and marks progress toward a goal.

(4) "Policy" means the way in which programs and activities are conducted to achieve an identified goal.

(5) "Regional planning agency" means the regional planning council created pursuant to ss. 186.501-186.515 to exercise responsibilities under ss. 186.001-186.031 and 186.801-186.901 in a particular region of the state.

(6) "State agency" or "agency" means any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government. For purposes of this chapter, "state agency" or "agency" includes ~~state attorneys, public defenders, the capital collateral regional counsel, the Justice Administrative Commission,~~ and the Public Service Commission.

(7) "State comprehensive plan" means the state planning document required in s. 19, Art. III of the State Constitution and published as ss. 187.101 and 187.201.

The inclusion of most of the entities of Justice Administration in ch. 186, F.S., related to State Comprehensive Planning. The only relevant reference was in s. 186.021, F.S., related to the Long Range Program Plans (or LRPPs) that appears redundant with the provisions within s. 216.013, F.S. *JAC staff requests that the definition be amended to remove the entities of Justice Administration from this definition of a state agency.*