1

A bill to be entitled

2 An act relating to clerks of the court; amending s. 3 28.13, F.S.; providing requirements for the storage of 4 papers and electronic filings and requiring that they 5 be stamped with the date and time of submission; 6 requiring the clerk to retain control and custody of 7 filed documents; amending s. 28.222, F.S.; authorizing 8 the clerk to remove certain court records from the 9 Official Records; amending s. 28.24, F.S.; deleting provisions exempting specified persons from service 10 11 fees; amending s. 28.244, F.S.; increasing the 12 threshold amount for automatic repayment of 13 overpayments; amending s. 28.345, F.S.; requiring that the clerk provide access to public records without 14 charge to certain persons, subject to a limitation and 15 16 an exception; authorizing the clerk to provide public records in an electronic format under certain 17 circumstances; amending s. 101.151, F.S.; clarifying 18 when the office title "Clerk of the Circuit Court and 19 20 Comptroller" may be used; amending s. 119.0714, F.S.; requiring that certain requests for maintenance of a 21 22 public record exemption specify certain information; 23 amending s. 194.032, F.S.; requiring that the property 24 appraiser, rather than the clerk, provide the property 25 record card to a petitioner regardless of whether the 26 petitioner initiates evidence exchange; providing an 27 exception; amending s. 938.30, F.S.; providing that 28 the state is not required to pay fees to enforce

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29	judgment for costs and fines; amending s. 985.045,
30	F.S.; providing public defenders with access to
31	certain official records; providing an effective date.
32	
33	Be It Enacted by the Legislature of the State of Florida:
34	
35	Section 1. Section 28.13, Florida Statutes, is amended to
36	read:
37	28.13 To keep Papers <u>and electronic filings</u> .—The clerk of
38	the circuit court <u>must maintain</u> shall keep all papers <u>and</u>
39	electronic filings filed in the clerk's office with the utmost
40	care and security, storing them with related case arranged in
41	appropriate files and affixing a stamp, which may be electronic,
42	to each submission indicating (endorsing upon each the <u>date and</u>
43	time that when the submission same was filed. The clerk may),
44	and shall not permit any attorney or other person to <u>remove</u>
45	filed documents from the control or custody take papers once
46	filed out of the office of the clerk without leave of the court,
47	except as <u>otherwise</u> is hereinafter provided by law.
48	Section 2. Present subsections (4) through (6) of section
49	28.222, Florida Statutes, are renumbered as subsections (5)
50	through (7), respectively, and a new subsection (4) is added to
51	that section to read:
52	28.222 Clerk to be county recorder
53	(4) The county recorder shall remove recorded court
54	documents from the Official Records pursuant to a sealing or
55	expunction order.
56	Section 3. Section 28.24, Florida Statutes, is amended to

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58 Service charges by clerk of the circuit court.-The 28.24 59 clerk of the circuit court shall charge for services rendered 60 manually or electronically by the clerk's office in recording 61 documents and instruments and in performing other specified the 62 duties. These charges may enumerated in amounts not to exceed 63 those specified in this section, except as provided in s. 64 28.345. Notwithstanding any other provision of this section, the 65 clerk of the circuit court shall provide without charge to the 66 state attorney, public defender, guardian ad litem, public quardian, attorney ad litem, criminal conflict and civil 67 68 regional counsel, and private court-appointed counsel paid by 69 the state, and to the authorized staff acting on behalf of each, 70 access to and a copy of any public record, if the requesting party is entitled by law to view the exempt or confidential 71 72 record, as maintained by and in the custody of the clerk of the 73 circuit court as provided in general law and the Florida Rules 74 of Judicial Administration. The clerk of the circuit court may provide the requested public record in an electronic format in 75 76 licu of a paper format when capable of being accessed by the 77 requesting entity. 78 79 Charges 80 81 For examining, comparing, correcting, verifying, and (1)82 certifying transcripts of record in appellate proceedings,

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prepared by attorney for appellant or someone else other than

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85 For preparing, numbering, and indexing an original (2)86 record of appellate proceedings, per instrument.....3.50 87 For certifying copies of any instrument in the public (3) 88 89 (4) For verifying any instrument presented for 90 certification prepared by someone other than clerk, per page 3.50 91 (5) (a) For making copies by photographic process of any 92 93 instrument in the public records consisting of pages of not more 94 than 14 inches by 8 1/2 inches, per page.....1.00 95 For making copies by photographic process of any (b) 96 instrument in the public records of more than 14 inches by 8 1/297 For making microfilm copies of any public records: 98 (6) 99 (a) 100 (b) Microfiche, per fiche.....3.50 101 (C) For copying any instrument in the public records by 102 (7) other than photographic process, per page.....6.00 103 104 For writing any paper other than herein specifically (8) 105 mentioned, same as for copying, including signing and sealing 106 7.00 (9) For indexing each entry not recorded.....1.00 107 108 (10) For receiving money into the registry of court: 109 (a)1. First \$500, percent......3 110 2. Each subsequent \$100, percent.....1.5 111 Eminent domain actions, per deposit.....170.00 (b) 112 (11) For examining, certifying, and recording plats and

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for recording condominium exhibits larger than 14 inches by 8

CS/CS/HB 643

113

114 1/2 inches: 115 116 Each additional page.....15.00 (b) 117 (12) For recording, indexing, and filing any instrument 118 not more than 14 inches by 8 1/2 inches, including required notice to property appraiser where applicable: 119 First page or fraction thereof......5.00 120 (a) 121 Each additional page or fraction thereof.....4.00 (b) 122 For indexing instruments recorded in the official (C) 123 records which contain more than four names, per additional name 124 1.00 125 An additional service charge must shall be paid to the (d) 126 clerk of the circuit court to be deposited in the Public Records 127 Modernization Trust Fund for each instrument listed in s. 128 28.222, except judgments received from the courts and notices of 129 lis pendens, recorded in the official records: First page.....1.00 130 1. Each additional page.....0.50 131 2. 132 133 Said fund must shall be held in trust by the clerk and used 134 exclusively for equipment and maintenance of equipment, 135 personnel training, and technical assistance in modernizing the public records system of the office. In a county where the duty 136 of maintaining official records exists in an office other than 137 138 the office of the clerk of the circuit court, the clerk of the 139 circuit court is entitled to 25 percent of the moneys deposited into the trust fund for equipment, maintenance of equipment, 140 Page 5 of 18 CODING: Words stricken are deletions; words underlined are additions.

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141 training, and technical assistance in modernizing the system for 142 storing records in the office of the clerk of the circuit court. 143 The fund may not be used for the payment of travel expenses, 144 membership dues, bank charges, staff-recruitment costs, salaries 145 or benefits of employees, construction costs, general operating 146 expenses, or other costs not directly related to obtaining and maintaining equipment for public records systems or for the 147 purchase of furniture or office supplies and equipment not 148 149 related to the storage of records. On or before December 1, 150 1995, and on or before December 1 of each year immediately 151 preceding each year during which the trust fund is scheduled for 152 legislative review under s. 19(f)(2), Art. III of the State 153 Constitution, each clerk of the circuit court shall file a 154 report on the Public Records Modernization Trust Fund with the 155 President of the Senate and the Speaker of the House of 156 Representatives. The report must itemize each expenditure made 157 from the trust fund since the last report was filed; each 158 obligation payable from the trust fund on that date; and the 159 percentage of funds expended for each of the following: 160 equipment, maintenance of equipment, personnel training, and 161 technical assistance. The report must indicate the nature of the 162 system each clerk uses to store, maintain, and retrieve public 163 records and the degree to which the system has been upgraded since the creation of the trust fund. 164

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

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169 From the additional \$4 service charge collected:

170 If the counties maintain legal responsibility for the 1. 171 costs of the court-related technology needs as defined in s. 172 29.008(1)(f)2. and (h), 10 cents shall be distributed to the 173 Florida Association of Court Clerks and Comptrollers, Inc., for the cost of development, implementation, operation, and 174 maintenance of the clerks' Comprehensive Case Information 175 176 System; \$1.90 shall be retained by the clerk to be deposited in 177 the Public Records Modernization Trust Fund and used exclusively 178 for funding court-related technology needs of the clerk as 179 defined in s. 29.008(1)(f)2. and (h); and \$2 shall be 180 distributed to the board of county commissioners to be used 181 exclusively to fund court-related technology, and court 182 technology needs as defined in s. 29.008(1)(f)2. and (h) for the 183 state trial courts, state attorney, public defender, and 184 criminal conflict and civil regional counsel in that county. If 185 the counties maintain legal responsibility for the costs of the court-related technology needs as defined in s. 29.008(1)(f)2. 186 187 and (h), notwithstanding any other provision of law, the county 188 is not required to provide additional funding beyond that 189 provided herein for the court-related technology needs of the 190 clerk as defined in s. 29.008(1)(f)2. and (h). All court records 191 and official records are the property of the State of Florida, 192 including any records generated as part of the Comprehensive 193 Case Information System funded pursuant to this paragraph and 194 the clerk of court is designated as the custodian of such 195 records, except in a county where the duty of maintaining 196 official records exists in a county office other than the clerk

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of court or comptroller, such county office is designated the 197 198 custodian of all official records, and the clerk of court is 199 designated the custodian of all court records. The clerk of 200 court or any entity acting on behalf of the clerk of court, 201 including an association, may shall not charge a fee to any 202 agency as defined in s. 119.011, the Legislature, or the State 203 Court System for copies of records generated by the 204 Comprehensive Case Information System or held by the clerk of 205 court or any entity acting on behalf of the clerk of court, 206 including an association.

207 2. If the state becomes legally responsible for the costs
208 of court-related technology needs as defined in s.
209 29.008(1)(f)2. and (h), whether by operation of general law or
210 by court order, \$4 shall be remitted to the Department of
211 Revenue for deposit into the General Revenue Fund.

(14) For validating certificates, any authorized bonds,each 3.50

216	(15) For preparing affidavit of domicile5.00
217	(16) For exemplified certificates, including signing and
218	sealing7.00
219	(17) For authenticated certificates, including signing and
220	sealing7.00
221	(18)(a) For issuing and filing a subpoena for a witness,
222	not otherwise provided for herein (includes writing, preparing,
223	signing, and sealing)7.00
224	(b) For signing and sealing only

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225	(19) For approving bond
226	(20) For searching of records, for each year's search2.00
227	(21) For processing an application for a tax deed sale
228	(includes application, sale, issuance, and preparation of tax
229	deed, and disbursement of proceeds of sale), other than excess
230	proceeds
231	(22) For disbursement of excess proceeds of tax deed sale,
232	first \$100 or fraction thereof
233	(23) Upon receipt of an application for a marriage
234	license, for preparing and administering of oath; issuing,
235	sealing, and recording of the marriage license; and providing a
236	certified copy
237	(24) For solemnizing matrimony
238	(25) For sealing any court file or expungement of any
239	record
240	(26)(a) For receiving and disbursing all restitution
241	payments, per payment
242	(b) For receiving and disbursing all partial payments,
243	other than restitution payments, for which an administrative
244	processing service charge is not imposed pursuant to s. 28.246,
245	per month5.00
246	(c) For setting up a payment plan, a one-time
247	administrative processing charge in lieu of a per month charge
248	under paragraph (b)25.00
249	(27) Postal charges incurred by the clerk of the circuit
250	court in any mailing by certified or registered mail <u>must</u> shall
251	be paid by the party at whose instance the mailing is made.
252	(28) For furnishing an electronic copy of information

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253 contained in a computer database: a fee as provided for in 254 chapter 119.

255 Section 4. Section 28.244, Florida Statutes, is amended to 256 read:

257 28.244 Refunds.-A clerk of the circuit court or a filing 258 officer of another office where records are filed who receives 259 payment for services provided and thereafter determines that an 260 overpayment has occurred shall refund to the person who made the 261 payment the amount of any overpayment that exceeds \$10 \$5. If 262 the amount of the overpayment is \$10 \$5 or less, the clerk of 263 the circuit court or a filing officer of another office where 264 records are filed is not required to refund the amount of the 265 overpayment unless the person who made the overpayment makes a 266 written request.

267 Section 5. Section 28.345, Florida Statutes, is amended to 268 read:

269 28.345 <u>State access to records;</u> exemption from court-270 related fees and charges.-

271 Notwithstanding any other provision of law, the clerk (1) 272 of the circuit court shall, upon request, provide access to public records without charge to the state attorney, public 273 274 defender, guardian ad litem, public guardian, attorney ad litem, 275 criminal conflict and civil regional counsel, and private court-276 appointed counsel paid by the state, and to authorized staff 277 acting on their behalf. The clerk of court may provide the 278 requested public record in an electronic format in lieu of a 279 paper format if the requesting entity is capable of accessing 280 such public record electronically.

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281 Notwithstanding any other provision of this chapter or (2) 282 law to the contrary, judges and those court staff acting on 283 behalf of judges, state attorneys, guardians ad litem, public 284 guardians, attorneys ad litem, court-appointed private counsel, 285 criminal conflict and civil regional counsel, and public 286 defenders, and state agencies, while acting in their official 287 capacity, and state agencies, are exempt from all court-related 288 fees and charges assessed by the clerks of the circuit courts.

289 (3) The exemptions from fees and charges provided in this 290 section apply only to state agencies and state entities and the 291 party represented by the agency or entity.

- 292Section 6. Paragraph (a) of subsection (2) of section293101.151, Florida Statutes, is amended to read:
- 294

101.151 Specifications for ballots.-

(2) (a) The ballot <u>must include</u> shall have the following
office titles <u>above</u> under which shall appear the names of the
candidates for the respective offices in the following order:

298 The office titles of President and Vice President above 1. 299 and thereunder the names of the candidates for President and 300 Vice President of the United States nominated by the political 301 party that received the highest vote for Governor in the last 302 general election of the Governor in this state, followed by. 303 Then shall appear the names of other candidates for President 304 and Vice President of the United States who have been properly 305 nominated.

306 2. The office titles of United States Senator and 307 Representative in Congress.

308

3. The office titles of Governor and Lieutenant Governor;

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309 Attorney General; Chief Financial Officer; Commissioner of 310 Agriculture; State Attorney, with the applicable judicial 311 circuit; and Public Defender, with the applicable judicial 312 circuit.

313 4. The office titles of State Senator and State
314 Representative, with the applicable district for the office
315 printed beneath.

5. The office titles of Clerk of the Circuit Court₇ or,
when the Clerk of the Circuit Court also serves as the County
<u>Comptroller</u>, Clerk of the Circuit Court and Comptroller,
(whichever is applicable and when authorized by law;)₇ Clerk of
the County Court, (when authorized by law;)₇ Sheriff;₇ Property
Appraiser;₇ Tax Collector;₇ District Superintendent of Schools;₇
and Supervisor of Elections.

6. The office titles of Board of County Commissioners, with the applicable district printed beneath each office, and such other county and district offices as are involved in the election, in the order fixed by the Department of State, followed, in the year of their election, by "Party Offices," and thereunder the offices of state and county party executive committee members.

330 Section 7. Paragraph (f) is added to subsection (2) of 331 section 119.0714, Florida Statutes, and section (3) is amended, 332 to read:

333 119.0714 Court files; court records; official records.334 (2) COURT RECORDS.-

335 (f) A request for maintenance of a public records 336 exemption in s. 119.071(4)(d)2. made pursuant to s.

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337 119.071(4)(d)3. must specify the document type, name,

338 <u>identification number, and page number of the court record that</u> 339 contains the exempt information.

(3) OFFICIAL RECORDS.-

341 (a) <u>A</u> Any person who prepares or files a record for
342 recording in the official records as provided in chapter 28 may
343 not include in that record a social security number or a bank
344 account, debit, charge, or credit card number unless otherwise
345 expressly required by law.

346 <u>(a) (b)1.</u> If a social security number or a bank account, 347 debit, charge, or credit card number is included in an official 348 record, such number may be made available as part of the 349 official records available for public inspection and copying 350 unless redaction is requested by the holder of such number or by 351 the holder's attorney or legal guardian.

352 <u>1.2.</u> If such record is in electronic format, on January 1, 353 2011, and thereafter, the county recorder must use his or her 354 best effort, as provided in paragraph <u>(d) (h)</u>, to keep social 355 security numbers confidential and exempt as provided for in s. 356 119.071(5)(a), and to keep complete bank account, debit, charge, 357 and credit card numbers exempt as provided for in s.

358 119.071(5)(b), without any person having to request redaction.

359 <u>2.3.</u> Section 119.071(5)(a)7. and 8. does not apply to the 360 county recorder with respect to official records.

361 <u>(b)(c)</u> The holder of a social security number or a bank 362 account, debit, charge, or credit card number, or the holder's 363 attorney or legal guardian, may request that a county recorder 364 redact from an image or copy of an official record placed on a

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365 county recorder's publicly available Internet website or on a 366 publicly available Internet website used by a county recorder to 367 display public records, or otherwise made electronically 368 available to the public, his or her social security number or 369 bank account, debit, charge, or credit card number contained in 370 that official record.

371 <u>1.(d)</u> A request for redaction must be a signed, legibly 372 written request and must be delivered by mail, facsimile, 373 electronic transmission, or in person to the county recorder. 374 The request must specify the identification page number of the 375 record that contains the number to be redacted.

376 <u>2.(e)</u> The county recorder does not have a duty to inquire 377 beyond the written request to verify the identity of a person 378 requesting redaction.

379 <u>3.(f)</u> A fee may not be charged for redacting a social 380 security number or a bank account, debit, charge, or credit card 381 number.

382 <u>(c) (g)</u> A county recorder shall immediately and 383 conspicuously post signs throughout his or her offices for 384 public viewing, and shall immediately and conspicuously post on 385 any Internet website or remote electronic site made available by 386 the county recorder and used for the ordering or display of 387 official records or images or copies of official records, a 388 notice stating, in substantially similar form, the following:

389 1. On or after October 1, 2002, any person preparing or 390 filing a record for recordation in the official records may not 391 include a social security number or a bank account, debit, 392 charge, or credit card number in such document unless required

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393 by law.

394 Any person has a right to request a county recorder to 2. 395 remove from an image or copy of an official record placed on a 396 county recorder's publicly available Internet website or on a 397 publicly available Internet website used by a county recorder to 398 display public records, or otherwise made electronically 399 available to the general public, any social security number 400 contained in an official record. Such request must be made in 401 writing and delivered by mail, facsimile, or electronic 402 transmission, or delivered in person, to the county recorder. 403 The request must specify the identification page number that 404 contains the social security number to be redacted. A fee may 405 not be charged for the redaction of a social security number 406 pursuant to such a request.

407 (d) (h) If the county recorder accepts or stores official 408 records in an electronic format, the county recorder must use 409 his or her best efforts to redact all social security numbers 410 and bank account, debit, charge, or credit card numbers from electronic copies of the official record. The use of an 411 412 automated program for redaction is shall be deemed to be the 413 best effort in performing the redaction and is shall be deemed 414 in compliance with the requirements of this subsection.

415 <u>(e) (i)</u> The county recorder is not liable for the 416 inadvertent release of social security numbers, or bank account, 417 debit, charge, or credit card numbers, filed with the county 418 recorder.

419 (f) A request for maintenance of a public records
420 exemption in s. 119.071(4)(d)2. made pursuant to s.

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421 119.071(4)(d)3. must specify the document type, name,

422 <u>identification number, and page number of the official record</u> 423 <u>that contains the exempt information.</u>

424 Section 8. Paragraph (a) of subsection (2) of section 425 194.032, Florida Statutes, is amended to read:

194.032 Hearing purposes; timetable.-

427 The clerk of the governing body of the county shall (2) (a) 428 prepare a schedule of appearances before the board based on 429 petitions timely filed with him or her. The clerk shall notify 430 each petitioner of the scheduled time of his or her appearance 431 at least 25 calendar days before the day of the scheduled 432 appearance. The notice must shall indicate whether the petition 433 has been scheduled to be heard at a particular time or during a 434 block of time. If the petition has been scheduled to be heard 435 within a block of time, the beginning and ending of that block 436 of time must shall be indicated on the notice; however, as 437 provided in paragraph (b), a petitioner may not be required to 438 wait for more than a reasonable time, not to exceed 2 hours, 439 after the beginning of the block of time. If the petitioner 440 checked the appropriate box on the petition form to request a 441 copy of the property record card containing relevant information 442 used in computing the current assessment, the property appraiser 443 must provide the copy to the petitioner upon receipt of the 444 petition from the clerk regardless of whether the petitioner 445 initiates evidence exchange, unless the property record card is 446 available online from the property appraiser clerk shall provide 447 the copy of the card along with the notice. Upon receipt of the 448 notice, the petitioner may reschedule the hearing a single time

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449 by submitting to the clerk a written request to reschedule, at 450 least 5 calendar days before the day of the originally scheduled 451 hearing.

452 Section 9. Subsections (2) and (6) of section 938.30, 453 Florida Statutes, are amended to read:

454 938.30 Financial obligations in criminal cases;
455 supplementary proceedings.-

456 (2) The court may require a person liable for payment of 457 an obligation to appear and be examined under oath concerning 458 the person's financial ability to pay the obligation. The judge 459 may convert the statutory financial obligation into a court-460 ordered obligation to perform community service, subject to the 461 provisions of s. 318.18(8), after examining a person under oath 462 and determining the a person's inability to pay. Any person who 463 fails failing to attend a hearing may be arrested on warrant or 464 capias which may be issued by the clerk upon order of the court.

465 (6) If judgment has not been previously entered on any 466 court-imposed financial obligation, the court may enter judgment 467 thereon and issue any writ necessary to enforce the judgment in 468 the manner allowed in civil cases. Any judgment issued under 469 this section constitutes a civil lien against the judgment 470 debtor's presently owned or after-acquired property, when 471 recorded pursuant to s. 55.10. Supplementary proceedings 472 undertaken by any governmental entity to satisfy a judgment 473 imposed pursuant to this section may proceed without bond and 474 without the payment of statutory fees associated with judgment 475 enforcement.

476

Section 10. Subsection (2) of section 985.045, Florida

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- 477 Statutes, is amended to read:
- 478

985.045 Court records.-

479 The clerk shall keep all official records required by (2)480 this section separate from other records of the circuit court, 481 except those records pertaining to motor vehicle violations, 482 which shall be forwarded to the Department of Highway Safety and 483 Motor Vehicles. Except as provided in ss. 943.053 and 484 985.04(6)(b) and (7), official records required by this chapter 485 are not open to inspection by the public, but may be inspected 486 only upon order of the court by persons deemed by the court to 487 have a proper interest therein, except that a child and the 488 parents, guardians, or legal custodians of the child and their 489 attorneys, law enforcement agencies, the Department of Juvenile 490 Justice and its designees, the Parole Commission, the Department 491 of Corrections, and the Justice Administrative Commission shall 492 always have the right to inspect and copy any official record 493 pertaining to the child. Public defender offices shall have 494 access to official records of juveniles on whose behalf they are 495 expected to appear in detention or other hearings before an 496 appointment of representation. The court may permit authorized 497 representatives of recognized organizations compiling statistics 498 for proper purposes to inspect, and make abstracts from, 499 official records under whatever conditions upon the use and 500 disposition of such records the court may deem proper and may 501 punish by contempt proceedings any violation of those 502 conditions.

503

Section 11. This act shall take effect July 1, 2013.

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