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1
2 An act relating to court-related assessments; creating
3 s. 28.2457, F.S.; providing for a monetary assessment
4 mandated by statute to be imposed regardless of
5 whether the assessment is announced in open court;
6 providing guidelines for establishing the amount of a
7 mandatory assessment under certain conditions;
8 requiring the clerks of court to develop a uniform
9 form to be used in identifying and imposing mandatory
10 assessments; providing for the clerks to consult with
11 the Office of the State Courts Administrator;
12 providing for the Supreme Court to approve the form;
13 defining terms; amending s. 28.246, F.S.; revising
14 requirements for the clerks of court to report on the
15 assessment and collection of certain fines or other
16 monetary penalties, fees, costs, and charges;
17 prescribing requirements for reporting certain
18 assessments that are waived, suspended, or reduced;
19 requiring the clerks to report collection rates;
20 providing guidelines for calculating the collection
21 rate; revising the timeframe for submitting the
22 report; requiring the clerks, rather than the
23 Department of Financial Services, to develop a
24 reporting form and guidelines; providing for the
25 clerks to consult with the Office of the State Courts
26 Administrator; amending s. 28.42, F.S.; removing an
27 obsolete date; providing for the clerks of court,
28 rather than the Office of the State Courts
29 Administrator, to prepare and disseminate a manual of

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30 filing fees, service charges, costs, and fines;
31 revising requirements relating to the content and
32 presentation of information in the manual; providing
33 for the clerks to consult with the Office of the State
34 Courts Administrator; providing for applicability of
35 amendments made by the act; providing an effective
36 date.

37
38 Be It Enacted by the Legislature of the State of Florida:

39
40 Section 1. Section 28.2457, Florida Statutes, is created to
41 read:

42 28.2457 Mandatory monetary assessments.—

43 (1) (a) Except as otherwise provided by law, a monetary
44 assessment mandated by statute shall be imposed and included in
45 the judgment without regard to whether the assessment is
46 announced in open court.

47 (b) When an assessment mandated by statute prescribes a
48 minimum assessment and a maximum assessment, or prescribes
49 solely a minimum assessment, the minimum assessment is presumed
50 and shall be imposed and included in the judgment, unless the
51 court specifies a greater amount.

52 (2) The clerks of court, through their association and in
53 consultation with the Office of the State Courts Administrator,
54 shall develop by October 1, 2012, a uniform form for the
55 identification and imposition of all assessments mandated by
56 statute. The clerks shall submit the form by that date, and by
57 October 1 every year thereafter if necessary to reflect changes
58 in the law, to the Supreme Court for approval. Upon approval of

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59 the form by the Supreme Court, all circuit and county courts
60 shall use the form.

61 (3) As used in this section, the term "monetary assessment"
62 or "assessment" includes, but is not limited to, a fine or other
63 monetary penalty, fee, service charge, or cost.

64 Section 2. Section 28.246, Florida Statutes, is amended to
65 read:

66 28.246 Payment of court-related fines or other monetary
67 penalties, fees, charges, and costs; partial payments;
68 distribution of funds.-

69 (1) The clerk of the circuit court shall report the
70 following information to the Legislature and the Florida Clerks
71 of Court Operations Corporation on a form, and using guidelines
72 developed by the clerks of court, through their association and
73 in consultation with the Office of the State Courts
74 Administrator Department of Financial Services:

75 (a) The total amount of mandatory fees, service charges,
76 and costs; ~~the total amount actually~~ assessed; the total amount
77 underassessed, if any, which is the amount less than the minimum
78 amount required by law to be discharged, waived, or otherwise
79 ~~not~~ assessed; and the total amount collected.

80 (b) The total amount of discretionary fees, service
81 charges, and costs assessed; ~~the total amount discharged;~~ and
82 the total amount collected.

83 (c) The total amount of mandatory fines and other monetary
84 penalties; ~~the total amount~~ assessed; the total amount
85 underassessed, if any, which is the amount less than the minimum
86 amount required by law to be discharged, waived, or otherwise
87 ~~not~~ assessed; and the total amount collected.

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88 (d) The total amount of discretionary fines and other
89 monetary penalties assessed; ~~the amount discharged;~~ and the
90 total amount collected.

91
92 ~~If provided to the clerk of court by the judge,~~ The clerk, in
93 reporting to the Legislature and corporation ~~amount assessed,~~
94 shall separately identify the monetary amount assessed and
95 subsequently discharged or converted pursuant to s. 938.30 as
96 community service, assessed by reducing the amount to a
97 judgment or lien, or to, satisfied by time served; or other. The
98 form developed by the clerks Chief Financial Officer shall
99 include separate entries for recording the amount discharged and
100 the amount converted ~~these amounts.~~ If a court waives, suspends,
101 or reduces an assessment as authorized by law, the portion
102 waived, suspended, or reduced may not be deemed assessed or
103 underassessed for purposes of the reporting requirements of this
104 section. The clerk also shall report a collection rate for
105 mandatory and discretionary assessments. In calculating the
106 rate, the clerk shall deduct amounts discharged or converted
107 from the amount assessed. The clerk shall submit the report on
108 an annual basis 90 ~~60~~ days after the end of the county fiscal
109 year. The clerks and the courts shall develop by October 1,
110 2012, the form and guidelines to govern the accurate and
111 consistent reporting statewide of assessments as provided in
112 this section. The clerk shall use the new reporting form and
113 guidelines in submitting the report for the county fiscal year
114 ending September 30, 2013, and for each year thereafter.

115 (2) The clerk of the circuit court shall establish and
116 maintain a system of accounts receivable for court-related fees,

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117 charges, and costs.

118 (3) Court costs, fines, and other dispositional assessments
119 shall be enforced by order of the courts, collected by the
120 clerks of the circuit and county courts, and disbursed in
121 accordance with authorizations and procedures as established by
122 general law.

123 (4) The clerk of the circuit court shall accept partial
124 payments for court-related fees, service charges, costs, and
125 fines in accordance with the terms of an established payment
126 plan. An individual seeking to defer payment of fees, service
127 charges, costs, or fines imposed by operation of law or order of
128 the court under any provision of general law shall apply to the
129 clerk for enrollment in a payment plan. The clerk shall enter
130 into a payment plan with an individual who the court determines
131 is indigent for costs. A monthly payment amount, calculated
132 based upon all fees and all anticipated costs, is presumed to
133 correspond to the person's ability to pay if the amount does not
134 exceed 2 percent of the person's annual net income, as defined
135 in s. 27.52(1), divided by 12. The court may review the
136 reasonableness of the payment plan.

137 (5) When receiving partial payment of fees, service
138 charges, court costs, and fines, clerks shall distribute funds
139 according to the following order of priority:

140 (a) That portion of fees, service charges, court costs, and
141 fines to be remitted to the state for deposit into the General
142 Revenue Fund.

143 (b) That portion of fees, service charges, court costs, and
144 fines ~~which are~~ required to be retained by the clerk of the
145 court or deposited into the Clerks of the Court Trust Fund

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146 within the Justice Administrative Commission.

147 (c) That portion of fees, service charges, court costs, and
148 fines payable to state trust funds, allocated on a pro rata
149 basis among the various authorized funds if the total collection
150 amount is insufficient to fully fund all such funds as provided
151 by law.

152 (d) That portion of fees, service charges, court costs, and
153 fines payable to counties, municipalities, or other local
154 entities, allocated on a pro rata basis among the various
155 authorized recipients if the total collection amount is
156 insufficient to fully fund all such recipients as provided by
157 law.

158

159 To offset processing costs, clerks may impose either a per-month
160 service charge pursuant to s. 28.24(26) (b) or a one-time
161 administrative processing service charge at the inception of the
162 payment plan pursuant to s. 28.24(26) (c).

163 (6) A clerk of court shall pursue the collection of any
164 fees, service charges, fines, court costs, and liens for the
165 payment of attorney ~~attorney's~~ fees and costs pursuant to s.
166 938.29 which remain unpaid after 90 days by referring the
167 account to a private attorney who is a member in good standing
168 of The Florida Bar or collection agent who is registered and in
169 good standing pursuant to chapter 559. In pursuing the
170 collection of such unpaid financial obligations through a
171 private attorney or collection agent, the clerk of the court
172 must have attempted to collect the unpaid amount through a
173 collection court, collections docket, or other collections
174 process, if any, established by the court, find this to be cost-

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175 effective and follow any applicable procurement practices. The
176 collection fee, including any reasonable attorney's fee, paid to
177 any attorney or collection agent retained by the clerk may be
178 added to the balance owed in an amount not to exceed 40 percent
179 of the amount owed at the time the account is referred to the
180 attorney or agent for collection. The clerk shall give the
181 private attorney or collection agent the application for the
182 appointment of court-appointed counsel regardless of whether the
183 court file is otherwise confidential from disclosure.

184 Section 3. Section 28.42, Florida Statutes, is amended to
185 read:

186 28.42 Manual of ~~court-related~~ filing fees, charges, costs,
187 and fines. ~~No later than July 1, 2004,~~ The clerks of court,
188 through their association and in consultation with the Office of
189 the State Courts Administrator, shall prepare and disseminate a
190 manual of ~~court-related~~ filing fees, service charges, costs, and
191 fines imposed pursuant to state law, ~~organized by county~~ for
192 each type of action and offense, and classified as either
193 mandatory or discretionary. The manual also shall classify the
194 fee, charge, cost, or fine as court-related revenue or noncourt-
195 related revenue. The clerks, through their association, Office
196 ~~of the State Courts Administrator~~ shall disseminate this manual
197 to the chief judge, state attorney, public defender, and court
198 administrator in each circuit and to the clerk of the court in
199 each county. The clerks, through their association and in
200 consultation with the Office of the State Courts Administrator,
201 shall at a minimum update and disseminate this manual on July 1
202 of each year ~~thereafter~~.

203 Section 4. Notwithstanding the amendments made by this act

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204 to s. 28.246, Florida Statutes, the clerks of court shall use
205 the reporting requirements, standards, and form prescribed in
206 that section before July 1, 2012, for the report due for the
207 county fiscal year ending September 30, 2012. The amendments
208 made by this act to s. 28.246, Florida Statutes, apply beginning
209 with the report for the county fiscal year ending September 30,
210 2013.

211 Section 5. This act shall take effect July 1, 2012.