

HB 5117

2009

1 A bill to be entitled
2 An act relating to court finances; amending s. 28.2401,
3 F.S.; providing for additional filing fees and service
4 charges for certain probate matters; providing for
5 remission and deposit of such fees and charges;
6 prohibiting adding additional fees, charges, or costs to
7 filing fees under certain circumstances; amending s.
8 28.241, F.S.; expanding the parties subject to certain
9 filing fees; providing an additional filing fee in trial
10 and appellate proceedings for a party instituting an
11 injunction action against repeat violence; providing for
12 remission and deposit of such fee; amending s. 34.041,
13 F.S.; expanding the parties subject to certain filing
14 fees; amending s. 318.15, F.S.; revising provisions for
15 reimbursement of a reduction in certain civil penalties
16 relating to noncriminal traffic infractions; amending s.
17 784.046, F.S.; deleting a prohibition against assessment
18 of a filing fee for a petition for protection against
19 repeat violence; requiring respondents in certain sexual
20 violence or dating violence cases to pay certain court
21 costs and reimburse certain filing fees; requesting the
22 Supreme Court to modify certain judicial rules to
23 implement changes made by the act; providing a declaration
24 of important state interest; providing effective dates.

25
26 Be It Enacted by the Legislature of the State of Florida:
27

HB 5117

2009

28 Section 1. Effective August 1, 2009, subsections (1), (2),
 29 and (3) of section 28.2401, Florida Statutes, are amended to
 30 read:

31 28.2401 Filing fees and service charges in probate
 32 matters.--

33 (1) Except when otherwise provided, the clerk shall ~~may~~
 34 charge filing fees and impose service charges for the following
 35 probate matters services, not to exceed the following amounts:

36 (a) For the opening of any estate of one document or more,
 37 including, but not limited to, petitions and orders to approve
 38 settlement of minor's claims; to open a safe-deposit box; to
 39 enter rooms and places; for the determination of heirs, if not
 40 formal administration; and for a foreign guardian to manage
 41 property of a nonresident; but not to include issuance of
 42 letters or order of summary administration....\$115

43 (b) Caveat....\$40

44 (c) Petition and order to admit foreign wills,
 45 authenticated copies, exemplified copies, or transcript to
 46 record....\$115

47 (d) For disposition of personal property without
 48 administration....\$115

49 (e) Summary administration--estates valued at \$1,000 or
 50 more....\$225

51 (f) Summary administration--estates valued at less than
 52 \$1,000....\$115

53 (g) Formal administration, guardianship, ancillary,
 54 curatorship, or conservatorship proceedings for estates valued
 55 at less than \$75,000....\$280

56 (h) Formal administration, guardianship, ancillary,
 57 curatorship, or conservatorship proceedings for estates valued
 58 from \$75,000 to \$250,000....\$1,000

59 (i) Formal administration, guardianship, ancillary,
 60 curatorship, or conservatorship proceedings for estates valued
 61 from \$250,001 to \$1 million....\$2,000

62 (j) Formal administration, guardianship, ancillary,
 63 curatorship, or conservatorship proceedings for estates valued
 64 at more than \$1 million....\$5,000

65 (k)~~(h)~~ Guardianship proceedings of person only....\$115

66 (l)~~(i)~~ Veterans' guardianship pursuant to chapter
 67 744....\$115

68 (m)~~(j)~~ Exemplified certificates....\$7

69 (n)~~(k)~~ Petition for determination of incompetency....\$115

70 (2) The clerk shall remit any filing fees above \$280 in
 71 probate matters to the Department of Revenue for deposit into
 72 the State Courts Revenue Trust Fund. Upon application by the
 73 ~~clerk and a showing of extraordinary circumstances, the service~~
 74 ~~charges set forth in this section may be increased in an~~
 75 ~~individual matter by order of the circuit court before which the~~
 76 ~~matter is pending, to more adequately compensate for the~~
 77 ~~services performed.~~

78 (3) An additional service charge of \$4 on petitions
 79 seeking summary administration, formal administration, ancillary
 80 administration, guardianship, curatorship, and conservatorship
 81 shall be paid to the clerk. The clerk shall transfer \$3.50 to
 82 the Department of Revenue for deposit into the Court Education
 83 Trust Fund and shall transfer 50 cents to the Department of

HB 5117

2009

84 Revenue for deposit into the Department of Financial Services'
85 Administrative Trust Fund to fund clerk education. No additional
86 fees, charges, or costs shall be added to the filing fees or
87 service charges imposed under this section, except as authorized
88 by general law.

89 Section 2. Paragraph (c) of subsection (1) of section
90 28.241, Florida Statutes, is amended, and subsection (7) is
91 added to that section, to read:

92 28.241 Filing fees for trial and appellate proceedings.--

93 (1)

94 (c) Any party in addition to ~~other than~~ a party described
95 in paragraph (a) who files a pleading in an original civil
96 action in circuit court for affirmative relief by cross-claim,
97 counterclaim, counterpetition, or third-party complaint shall
98 pay the clerk of court a fee of \$295. The clerk shall remit the
99 fee to the Department of Revenue for deposit into the General
100 Revenue Fund.

101 (7) The party instituting an action for injunction against
102 repeat violence under s. 784.046 shall pay to the clerk of the
103 court a filing fee of \$200. The clerk shall remit this fee to
104 the Department of Revenue for deposit into the State Courts
105 Revenue Trust Fund.

106 Section 3. Paragraph (c) of subsection (1) of section
107 34.041, Florida Statutes, is amended to read:

108 34.041 Filing fees.--

109 (1)

110 (c) Any party in addition to ~~other than~~ a party described
111 in paragraph (a) who files a pleading in an original civil

HB 5117

2009

112 action in the county court for affirmative relief by cross-
 113 claim, counterclaim, counterpetition, or third-party complaint,
 114 or who files a notice of cross-appeal or notice of joinder or
 115 motion to intervene as an appellant, cross-appellant, or
 116 petitioner, shall pay the clerk of court a fee of \$295 if the
 117 relief sought by the party under this paragraph exceeds \$2,500.
 118 This fee shall not apply where the cross-claim, counterclaim,
 119 counterpetition, or third-party complaint requires transfer of
 120 the case from county to circuit court. The clerk shall remit the
 121 fee to the Department of Revenue for deposit into the General
 122 Revenue Fund.

123 Section 4. Paragraph (b) of subsection (1) of section
 124 318.15, Florida Statutes, as amended by chapter 2009-6, Laws of
 125 Florida, is amended to read:

126 318.15 Failure to comply with civil penalty or to appear;
 127 penalty.--

128 (1)

129 (b) However, a person who elects to attend driver
 130 improvement school and has paid the civil penalty as provided in
 131 s. 318.14(9), but who subsequently fails to attend the driver
 132 improvement school within the time specified by the court shall
 133 be deemed to have admitted the infraction and shall be
 134 adjudicated guilty. In such a case in which there was an 18-
 135 percent reduction pursuant to s. 318.14(9) as it existed prior
 136 to February 1, 2009 ~~the effective date of this act~~, the person
 137 must pay the clerk of the court that amount. Any person who
 138 elects to attend driver improvement school but fails to attend
 139 through completion shall pay ~~and~~ a processing fee of up to \$18,

HB 5117

2009

140 after which no additional penalties, court costs, or surcharges
 141 shall be imposed for the violation. The clerk of the court shall
 142 notify the department of the person's failure to attend driver
 143 improvement school, and points shall be assessed pursuant to s.
 144 322.27.

145 Section 5. Paragraph (b) of subsection (3) and subsection
 146 (7) of section 784.046, Florida Statutes, are amended to read:

147 784.046 Action by victim of repeat violence, sexual
 148 violence, or dating violence for protective injunction; dating
 149 violence investigations, notice to victims, and reporting;
 150 pretrial release violations.--

151 (3)

152 (b) Notwithstanding any other law, the clerk of the court
 153 may not assess a fee for filing a petition for protection
 154 against ~~repeat violence~~, sexual violence, or dating violence.
 155 However, subject to legislative appropriation, the clerk of the
 156 court may, each quarter, submit to the Office of the State
 157 Courts Administrator a certified request for reimbursement for
 158 petitions for protection issued by the court under this section
 159 at the rate of \$40 per petition for sexual violence or dating
 160 violence. The request for reimbursement shall be submitted in
 161 the form and manner prescribed by the Office of the State Courts
 162 Administrator. From this reimbursement, the clerk shall pay the
 163 law enforcement agency serving the injunction the fee requested
 164 by the law enforcement agency; however, this fee may not exceed
 165 \$20.

166 (7) (a) Upon notice and hearing, the court may grant such
 167 relief as the court deems proper, including an injunction:

HB 5117

2009

168 1.~~(a)~~ Enjoining the respondent from committing any acts of
169 violence.

170 2.~~(b)~~ Ordering such other relief as the court deems
171 necessary for the protection of the petitioner, including
172 injunctions or directives to law enforcement agencies, as
173 provided in this section.

174 (b)~~(e)~~ The terms of the injunction shall remain in full
175 force and effect until modified or dissolved. Either party may
176 move at any time to modify or dissolve the injunction. Such
177 relief may be granted in addition to other civil or criminal
178 remedies.

179 (c)~~(d)~~ A temporary or final judgment on injunction for
180 protection against repeat violence, sexual violence, or dating
181 violence entered pursuant to this section shall, on its face,
182 indicate that:

183 1. The injunction is valid and enforceable in all counties
184 of the State of Florida.

185 2. Law enforcement officers may use their arrest powers
186 pursuant to s. 901.15(6) to enforce the terms of the injunction.

187 3. The court had jurisdiction over the parties and matter
188 under the laws of Florida and that reasonable notice and
189 opportunity to be heard was given to the person against whom the
190 order is sought sufficient to protect that person's right to due
191 process.

192 4. The date that the respondent was served with the
193 temporary or final order, if obtainable.

194 (d) The respondent in a case of sexual violence or dating
195 violence shall pay a court cost of \$200 to be remitted by the

HB 5117

2009

196 clerk to the Department of Revenue for deposit into the State
197 Courts Revenue Trust Fund. In addition, the respondent in a case
198 of repeat violence shall be ordered to pay the petitioner \$200
199 to reimburse the petitioner for the filing fee paid pursuant to
200 s. 28.241(7).

201 Section 6. The Legislature requests that the Supreme Court
202 modify judicial rules associated with filing fees to implement
203 the changes provided for in this act.

204 Section 7. The Legislature determines and declares that
205 this act fulfills an important state interest.

206 Section 8. Except as otherwise expressly provided in this
207 act, this act shall take effect June 1, 2009.