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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/15/2018	.	
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Appropriations Subcommittee on Criminal and Civil Justice
(Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 353 - 684

and insert:

Section 5. Paragraph (b) of subsection (8) of section
318.18, Florida Statutes, is amended to read:

318.18 Amount of penalties.—The penalties required for a
noncriminal disposition pursuant to s. 318.14 or a criminal
offense listed in s. 318.17 are as follows:

(8)



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11 (b)1.a. If a person has been ordered to pay a civil penalty
12 for a noncriminal traffic infraction and the person is unable to
13 comply with the court's order due to demonstrable financial
14 hardship, the court shall allow the person to satisfy the civil
15 penalty by participating in community service until the civil
16 penalty is paid.

17 b. The court shall inquire at the time the civil penalty is
18 ordered whether the person is able to pay it.

19 c. If a court orders a person to perform community service,
20 the person shall receive credit for the civil penalty at the
21 specified hourly credit rate per hour of community service
22 performed, and each hour of community service performed shall
23 reduce the civil penalty by that amount.

24 2.a. As used in this paragraph, the term "specified hourly
25 credit rate" means the wage rate that is specified in 29 U.S.C.
26 s. 206(a)(1) under the federal Fair Labor Standards Act of 1938,
27 that is then in effect, and that an employer subject to such
28 provision must pay per hour to each employee subject to such
29 provision.

30 b. However, if a person ordered to perform community
31 service has a trade or profession for which there is a community
32 service need, the specified hourly credit rate for each hour of
33 community service performed by that person shall be the average
34 prevailing wage rate for the trade or profession that the
35 community service agency needs.

36 3.a. The community service agency supervising the person
37 shall record the number of hours of community service completed
38 and the date the community service hours were completed. The
39 community service agency shall submit the data to the clerk of



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40 court on the letterhead of the community service agency, which
41 must also bear the notarized signature of the person designated
42 to represent the community service agency.

43 b. When the number of community service hours completed by
44 the person equals the amount of the civil penalty, the clerk of
45 court shall certify this fact to the court. Thereafter, the
46 clerk of court shall record in the case file that the civil
47 penalty has been paid in full.

48 4. As used in this paragraph, the term:

49 a. "Community service" means uncompensated labor for a
50 community service agency.

51 b. "Community service agency" means a not-for-profit
52 corporation, community organization, charitable organization,
53 public officer, the state or any political subdivision of the
54 state, or any other body the purpose of which is to improve the
55 quality of life or social welfare of the community and which
56 agrees to accept community service from persons unable to pay
57 civil penalties for noncriminal traffic infractions.

58 Section 6. Subsections (1) through (4) of section 322.055,
59 Florida Statutes, are amended to read:

60 322.055 Revocation or suspension of, or delay of
61 eligibility for, driver license for persons 18 years of age or
62 older convicted of certain drug offenses.—

63 (1) Notwithstanding s. 322.28, upon the conviction of a
64 person 18 years of age or older for possession or sale of,
65 trafficking in, or conspiracy to possess, sell, or traffic in a
66 controlled substance, the court shall direct the department to
67 revoke the driver license or driving privilege of the person.
68 The period of such revocation shall be 6 months ~~1 year~~ or until



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69 the person is evaluated for and, if deemed necessary by the
70 evaluating agency, completes a drug treatment and rehabilitation
71 program approved or regulated by the Department of Children and
72 Families. However, the court may, in its sound discretion,
73 direct the department to issue a license for driving privilege
74 restricted to business or employment purposes only, as defined
75 by s. 322.271, if the person is otherwise qualified for such a
76 license. ~~A driver whose license or driving privilege has been~~
77 ~~suspended or revoked under this section or s. 322.056 may, upon~~
78 ~~the expiration of 6 months, petition the department for~~
79 ~~restoration of the driving privilege on a restricted or~~
80 ~~unrestricted basis depending on length of suspension or~~
81 ~~revocation. In no case shall~~ A restricted license may not be
82 available until 6 months of the suspension or revocation period
83 has been completed ~~expired~~.

84 (2) If a person 18 years of age or older is convicted for
85 the possession or sale of, trafficking in, or conspiracy to
86 possess, sell, or traffic in a controlled substance and such
87 person is eligible by reason of age for a driver license or
88 privilege, the court shall direct the department to withhold
89 issuance of such person's driver license or driving privilege
90 for a period of 6 months ~~1 year~~ after the date the person was
91 convicted or until the person is evaluated for and, if deemed
92 necessary by the evaluating agency, completes a drug treatment
93 and rehabilitation program approved or regulated by the
94 Department of Children and Families. However, the court may, in
95 its sound discretion, direct the department to issue a license
96 for driving privilege restricted to business or employment
97 purposes only, as defined by s. 322.271, if the person is



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98 otherwise qualified for such a license. ~~A driver whose license~~
99 ~~or driving privilege has been suspended or revoked under this~~
100 ~~section or s. 322.056 may, upon the expiration of 6 months,~~
101 ~~petition the department for restoration of the driving privilege~~
102 ~~on a restricted or unrestricted basis depending on the length of~~
103 ~~suspension or revocation. In no case shall~~ A restricted license
104 may not be available until 6 months of the withholding
105 ~~suspension or revocation~~ period has been completed ~~expired~~.

106 (3) If a person 18 years of age or older is convicted for
107 the possession or sale of, trafficking in, or conspiracy to
108 possess, sell, or traffic in a controlled substance and such
109 person's driver license or driving privilege is already under
110 suspension or revocation for any reason, the court shall direct
111 the department to extend the period of such suspension or
112 revocation by an additional period of 6 months ~~1 year~~ or until
113 the person is evaluated for and, if deemed necessary by the
114 evaluating agency, completes a drug treatment and rehabilitation
115 program approved or regulated by the Department of Children and
116 Families. However, the court may, in its sound discretion,
117 direct the department to issue a license for driving privilege
118 restricted to business or employment purposes only, as defined
119 by s. 322.271, if the person is otherwise qualified for such a
120 license. ~~A driver whose license or driving privilege has been~~
121 ~~suspended or revoked under this section or s. 322.056 may, upon~~
122 ~~the expiration of 6 months, petition the department for~~
123 ~~restoration of the driving privilege on a restricted or~~
124 ~~unrestricted basis depending on the length of suspension or~~
125 ~~revocation. In no case shall~~ A restricted license may not be
126 available until 6 months of the suspension or revocation period



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127 has been completed ~~expired~~.

128 (4) If a person 18 years of age or older is convicted for
129 the possession or sale of, trafficking in, or conspiracy to
130 possess, sell, or traffic in a controlled substance and such
131 person is ineligible by reason of age for a driver license or
132 driving privilege, the court shall direct the department to
133 withhold issuance of such person's driver license or driving
134 privilege for a period of 6 months ~~1 year~~ after the date that he
135 or she would otherwise have become eligible or until he or she
136 becomes eligible by reason of age for a driver license and is
137 evaluated for and, if deemed necessary by the evaluating agency,
138 completes a drug treatment and rehabilitation program approved
139 or regulated by the Department of Children and Families.
140 However, the court may, in its sound discretion, direct the
141 department to issue a license for driving privilege restricted
142 to business or employment purposes only, as defined by s.
143 322.271, if the person is otherwise qualified for such a
144 license. ~~A driver whose license or driving privilege has been~~
145 ~~suspended or revoked under this section or s. 322.056 may, upon~~
146 ~~the expiration of 6 months, petition the department for~~
147 ~~restoration of the driving privilege on a restricted or~~
148 ~~unrestricted basis depending on the length of suspension or~~
149 ~~revocation. In no case shall~~ A restricted license may not be
150 available until 6 months of the withholding ~~suspension or~~
151 ~~revocation~~ period has been completed ~~expired~~.

152 Section 7. Section 322.056, Florida Statutes, is amended to
153 read:

154 322.056 Mandatory revocation or suspension of, or delay of
155 eligibility for, driver license for persons under age 18 found



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156 guilty of certain alcohol, drug, or tobacco offenses;
157 prohibition.—

158 (1) Notwithstanding the provisions of s. 322.055, if a
159 person under 18 years of age is found guilty of or delinquent
160 for a violation of ~~s. 562.11(2), s. 562.111, or~~ chapter 893,
161 and:

162 (a) The person is eligible by reason of age for a driver
163 license or driving privilege, the court shall direct the
164 department to revoke or to withhold issuance of his or her
165 driver license or driving privilege for a period of 6 months.÷

166 ~~1. Not less than 6 months and not more than 1 year for the~~
167 ~~first violation.~~

168 ~~2. Two years, for a subsequent violation.~~

169 (b) The person's driver license or driving privilege is
170 under suspension or revocation for any reason, the court shall
171 direct the department to extend the period of suspension or
172 revocation by an additional period of 6 months.÷

173 ~~1. Not less than 6 months and not more than 1 year for the~~
174 ~~first violation.~~

175 ~~2. Two years, for a subsequent violation.~~

176 (c) The person is ineligible by reason of age for a driver
177 license or driving privilege, the court shall direct the
178 department to withhold issuance of his or her driver license or
179 driving privilege for a period of÷

180 ~~1. Not less than 6 months and not more than 1 year after~~
181 ~~the date on which he or she would otherwise have become~~
182 ~~eligible, for the first violation.~~

183 ~~2. Two years after the date on which he or she would~~
184 ~~otherwise have become eligible, for a subsequent violation.~~



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~~However, the court may, in its sound discretion, direct the department to issue a license for driving privileges restricted to business or employment purposes only, as defined in s. 322.271, if the person is otherwise qualified for such a license.~~

~~(2) If a person under 18 years of age is found by the court to have committed a noncriminal violation under s. 569.11 or s. 877.112(6) or (7) and that person has failed to comply with the procedures established in that section by failing to fulfill community service requirements, failing to pay the applicable fine, or failing to attend a locally available school-approved anti-tobacco program, and:~~

~~(a) The person is eligible by reason of age for a driver license or driving privilege, the court shall direct the department to revoke or to withhold issuance of his or her driver license or driving privilege as follows:~~

- ~~1. For the first violation, for 30 days.~~
- ~~2. For the second violation within 12 weeks of the first violation, for 45 days.~~

~~(b) The person's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the department to extend the period of suspension or revocation by an additional period as follows:~~

- ~~1. For the first violation, for 30 days.~~
- ~~2. For the second violation within 12 weeks of the first violation, for 45 days.~~

~~(c) The person is ineligible by reason of age for a driver license or driving privilege, the court shall direct the~~



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214 ~~department to withhold issuance of his or her driver license or~~
215 ~~driving privilege as follows:~~

216 ~~1. For the first violation, for 30 days.~~

217 ~~2. For the second violation within 12 weeks of the first~~
218 ~~violation, for 45 days.~~

219
220 ~~Any second violation of s. 569.11 or s. 877.112(6) or (7) not~~
221 ~~within the 12-week period after the first violation will be~~
222 ~~treated as a first violation and in the same manner as provided~~
223 ~~in this subsection.~~

224 ~~(3) If a person under 18 years of age is found by the court~~
225 ~~to have committed a third violation of s. 569.11 or s.~~
226 ~~877.112(6) or (7) within 12 weeks of the first violation, the~~
227 ~~court must direct the Department of Highway Safety and Motor~~
228 ~~Vehicles to suspend or withhold issuance of his or her driver~~
229 ~~license or driving privilege for 60 consecutive days. Any third~~
230 ~~violation of s. 569.11 or s. 877.112(6) or (7) not within the~~
231 ~~12-week period after the first violation will be treated as a~~
232 ~~first violation and in the same manner as provided in subsection~~
233 ~~(2).~~

234 ~~(2)(4)~~ A penalty imposed under this section shall be in
235 addition to any other penalty imposed by law.

236 ~~(5) The suspension or revocation of a person's driver~~
237 ~~license imposed pursuant to subsection (2) or subsection (3),~~
238 ~~shall not result in or be cause for an increase of the convicted~~
239 ~~person's, or his or her parent's or legal guardian's, automobile~~
240 ~~insurance rate or premium or result in points assessed against~~
241 ~~the person's driving record.~~

242 Section 8. Section 322.057, Florida Statutes, is repealed.



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243 Section 9. Present subsections (4) and (5) of section
244 322.09, Florida Statutes, are redesignated as subsections (3)
245 and (4), respectively, and present subsection (3) of that
246 section is amended, to read:

247 322.09 Application of minors; responsibility for negligence
248 or misconduct of minor.—

249 ~~(3) The department may not issue a driver license or~~
250 ~~learner's driver license to any applicant under the age of 18~~
251 ~~years who is not in compliance with the requirements of s.~~
252 ~~322.091.~~

253 Section 10. Section 322.091, Florida Statutes, is repealed.

254 Section 11. Clerks of Court Community Service Pilot
255 Program.—

256 (1) The Clerks of Court Community Service Pilot Program is
257 established in Pinellas and Clay Counties to be administered by
258 the clerks of court for the counties and by the Florida Clerks
259 of Court Operations Corporation.

260 (2) Notwithstanding any other law, the clerks of court in
261 the pilot program counties shall implement programs that allow
262 any person owing any court-ordered financial obligation or
263 payment that is unrelated to child support obligations under
264 chapter 61, Florida Statutes, to fulfill the obligation by
265 completing community service as provided in this section.

266 (a) A person's driver license may not be suspended solely
267 for a failure to pay fees, service charges, fines, or penalties
268 in a pilot program county if the person complies with the
269 requirements of the pilot program.

270 (b) A person in a pilot program county who fails to pay a
271 court-ordered financial obligation or payment unrelated to child



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272 support obligations under chapter 61, Florida Statutes, must be
273 notified by the clerk of court by mail immediately after such
274 failure that the person has 10 days to comply or elect to
275 participate in the community service pilot program with the
276 clerk of court to satisfy the obligation. Failure to comply or
277 make an election with the clerk of court within the required
278 timeframe shall result in suspension of the person's driver
279 license as otherwise provided in chapter 318 and chapter 322,
280 Florida Statutes.

281 (3) The clerks of court shall allow a person to satisfy the
282 financial obligation by participating in community service in
283 lieu of or in addition to making payments toward such
284 obligation. If a person performs community service, he or she
285 must receive credit for the obligation at the hourly credit rate
286 per hour of community service performed as specified in this
287 subsection, and each hour of community service performed must
288 reduce the obligation by that amount. As used in this
289 subsection, the term "hourly credit rate" means the adjusted
290 state minimum wage rate that is calculated as provided in s.
291 448.110, Florida Statutes, that is then in effect.

292 (4) The workweek schedule and timeframe permitted for
293 completing the community service must be commensurate with the
294 amount of the obligation, the employment obligations of the
295 person, and the community service needs of the local area, but
296 must equal at least 4 hours of community service per week and
297 may not exceed 180 days. Failure to complete the community
298 service requirements or pay the remaining obligation within the
299 authorized timeframe shall result in suspension of the person's
300 driver license as otherwise provided in chapters 318 and 322,



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301 Florida Statutes.

302 (5) (a) The community service agency supervising the person
303 shall record the number of hours of community service completed
304 and the date the community service hours were completed. The
305 community service agency shall submit the data to the clerk of
306 court on the letterhead of the community service agency and the
307 letter must also bear the notarized signature of the person
308 designated to represent the community service agency.

309 (b) When the number of community service hours completed by
310 the person equals the amount of the obligation owed, the clerks
311 of court must certify this fact, and the amount credited, to the
312 court and to the Florida Clerks of Court Operations Corporation.
313 Thereafter, the clerks of court shall record in the case file or
314 court records that the financial obligation has been paid in
315 full.

316 (6) Subject to the appropriation of funds for this pilot
317 program, a clerk of court may apply, on a quarterly basis, for a
318 grant from the Florida Clerks of Court Operations Corporation to
319 reimburse the clerk's office for the total amount of financial
320 obligations that have been converted to community service hours
321 for the previous quarter. The Florida Clerks of Court Operations
322 Corporation may review and approve the grant application and, if
323 approved, shall transfer the requested funds to the clerk. Upon
324 receipt of any such grant proceeds, the funds must be
325 distributed by the clerk in accordance with laws that would
326 otherwise have provided for distribution of payments for the
327 original penalty, fee, or obligation imposed on the person
328 performing the community service.

329 (7) The clerks of court in the pilot program counties and



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330 the Florida Clerks of Court Operations Corporation shall each
331 provide a report on the implementation of the pilot program to
332 the chairs of the legislative appropriations committees by
333 October 1, 2019. At a minimum, the reports must include the
334 number of persons converting financial obligations to community
335 service, the number of persons actually completing the community
336 service requirements, the number of persons participating in the
337 pilot program who have their driver licenses suspended, the
338 estimated costs and benefits of the pilot program, and
339 recommendations to improve the pilot program.

340 (8) Authority for a person to participate in the Clerks of
341 Court Community Service Pilot Program shall expire on June 30,
342 2019. However, community service obligations entered into
343 pursuant to this section before June 30, 2019, must continue
344 until completion of the community service or the closing of the
345 underlying court case.

346
347 ===== T I T L E A M E N D M E N T =====

348 And the title is amended as follows:

349 Delete lines 27 - 89

350 and insert:

351 of a penalty; amending s. 318.18, F.S.; requiring a
352 court to inquire at the time a certain civil penalty
353 is ordered whether the person is able to pay it;
354 amending s. 322.055, F.S.; decreasing the period for
355 revocation or suspension of, or delay of eligibility
356 for, driver licenses or driving privileges for certain
357 persons convicted of certain drug offenses; deleting
358 provisions authorizing a driver to petition the



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359 Department of Highway Safety and Motor Vehicles for
360 restoration of his or her driving privilege; amending
361 s. 322.056, F.S.; decreasing the period for revocation
362 or suspension of, or delay of eligibility for, driver
363 licenses or driving privileges for certain persons
364 found guilty of certain drug offenses; deleting a
365 provision authorizing a court to direct the department
366 to issue a license for certain restricted driving
367 privileges under certain circumstances; deleting
368 requirements relating to the revocation or suspension
369 of, or delay of eligibility for, driver licenses or
370 driving privileges for certain persons found guilty of
371 certain alcohol or tobacco offenses; repealing s.
372 322.057, F.S., relating to discretionary revocation or
373 suspension of a driver license for certain persons who
374 provide alcohol to persons under a specified age;
375 amending s. 322.09, F.S.; deleting a provision
376 prohibiting the issuance of a driver license or
377 learner's driver license under certain circumstances;
378 repealing s. 322.091, F.S., relating to attendance
379 requirements for driving privileges; creating the
380 Clerks of Court Community Service Pilot Program in
381 Pinellas and Clay Counties; requiring the program to
382 be administered by the clerks of court for the
383 counties and by the Florida Clerks of Court Operations
384 Corporation; requiring the clerks of court in the
385 pilot program counties to implement programs that
386 allow any person owing any court-ordered financial
387 obligation or payment that is unrelated to certain



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388 child support obligations to fulfill the obligation by
389 completing community service; providing that a
390 person's driver license may not be suspended solely
391 for a failure to pay fees, service charges, fines, or
392 penalties in a pilot program county if the person
393 complies with the requirements of the program;
394 requiring that a person in a pilot program county who
395 fails to pay a court-ordered financial obligation or
396 payment unrelated to child support obligations be
397 notified by the clerk of court by mail that the person
398 has a specified time to comply or elect to participate
399 in the community service pilot program; providing that
400 failure to comply or make an election with the clerk
401 of court within the required timeframe results in
402 suspension of the person's driver license; authorizing
403 the clerks of court to allow a person to satisfy the
404 financial obligation by participating in community
405 service in lieu of or in addition to making payments
406 toward such obligation; providing requirements for the
407 community service; defining the term "hourly credit
408 rate"; providing requirements for the workweek
409 schedule and timeframe permitted for completing the
410 community service; providing that failure to complete
411 the community service requirements or pay the
412 remaining obligation within the authorized timeframe
413 results in suspension of the person's driver license;
414 providing requirements for the community service
415 agency supervising the person; providing requirements
416 for the clerks of the court; authorizing the clerks of



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417 court to apply, on a quarterly basis, for a certain
418 grant from the corporation; authorizing the
419 corporation to review and approve the grant
420 application; requiring the corporation to transfer the
421 requested funds to the clerks if approved; providing
422 requirements for distribution of funds; requiring the
423 clerks of court in the pilot program counties and the
424 corporation to each provide a report on the
425 implementation of the pilot program to the chairs of
426 the legislative appropriations committees by a
427 specified date; providing requirements for the report;
428 requiring authority for a person to participate in the
429 pilot program to expire on a specified date; requiring
430 community service obligations entered into before a
431 specified date to continue until completion of the
432 community service or the closing of the underlying
433 court case; repealing s. 322.251(7), F.S.,