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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2020	.	
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The Committee on Judiciary (Wright) recommended the following:

1 **Senate Substitute for Amendment (785038) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Subsection (26) of section 28.24, Florida
7 Statutes, is amended to read:

8 28.24 Service charges.—The clerk of the circuit court shall
9 charge for services rendered manually or electronically by the
10 clerk's office in recording documents and instruments and in
11 performing other specified duties. These charges may not exceed



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12 those specified in this section, except as provided in s.
13 28.345.

14 (26) (a) For receiving and disbursing all restitution
15 payments, per payment: 3.50, from which the clerk shall remit
16 0.50 per payment to the Department of Revenue for deposit into
17 the General Revenue Fund.

18 ~~(b) For receiving and disbursing all partial payments,~~
19 ~~other than restitution payments, for which an administrative~~
20 ~~processing service charge is not imposed pursuant to s. 28.246,~~
21 ~~per month.....5.00~~

22 ~~(c) For setting up a payment plan, a one-time~~
23 ~~administrative processing charge in lieu of a per month charge~~
24 ~~under paragraph (b).....25.00~~

25 (c) A person may pay the one-time administrative charge in
26 paragraph (b) in no more than five equal monthly payments.

27 Section 2. Present subsections (5) and (6) of section
28 28.246, Florida Statutes, are redesignated as subsections (6)
29 and (7), respectively, a new subsection (5) is added to that
30 section, subsection (4) and present subsection (5) of that
31 section are amended, and subsection (8) is added to that
32 section, to read:

33 28.246 Payment of court-related fines or other monetary
34 penalties, fees, charges, and costs; partial payments;
35 distribution of funds.-

36 (4) Each ~~The~~ clerk of the circuit court shall accept
37 scheduled ~~partial~~ payments for court-related fees, service
38 charges, costs, and fines electronically, by mail, or in person,
39 in accordance with the terms of an established payment plan and
40 shall enroll- an individual seeking to defer payment of fees,



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41 service charges, costs, or fines imposed by operation of law or
42 order of the court under any provision of general law shall
43 apply to the clerk for enrollment in a payment plan no later
44 than 30 calendar days after the date the court enters the order
45 assessing fines, service charge, fees, and costs. If the
46 individual is incarcerated, the defendant shall apply to the
47 clerk for enrollment in a payment plan within 30 calendar days
48 after release. Each clerk shall coordinate with the court to
49 develop a process in which the individual will meet with the
50 clerk upon sentencing or as soon as thereafter as practical. If
51 the clerk enters shall enter into a payment plan with an
52 individual who the court determines is indigent for costs, the-
53 A monthly payment amount, calculated based upon all fees and all
54 anticipated fines, service charge, fees, and costs, is presumed
55 to correspond to the person's ability to pay if the amount does
56 not exceed 2 percent of the person's annual net income, as
57 defined in s. 27.52(1), divided by 12 or \$10, whichever is
58 greater. The clerk shall establish all payment plan terms other
59 than the total amount due and the court may review the
60 reasonableness of the payment plan and may, on its own or by
61 petition, waive, modify or convert the outstanding fees, service
62 charges, costs, or fines to community service if the court
63 determines that the individual is indigent or due to compelling
64 circumstances is unable to comply with the terms of the payment
65 plan.

66 (5) The clerk shall send notice within 5 days to an
67 individual who fails to make a timely payment due under a
68 payment plan. Such notice may be made by mail or electronically.
69 The clerk shall transmit notice to the Department of Highway



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70 Safety and Motor Vehicles if any payment due under a payment
71 plan is not received within 30 days after the due date unless
72 the individual makes alternate payment arrangements or enters
73 into a revised payment plan with the clerk before such date.

74 (6)~~(5)~~ When receiving partial payment of fees, service
75 charges, court costs, and fines, clerks shall distribute funds
76 according to the following order of priority:

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

80 (b) That portion of fees, service charges, court costs, and
81 fines required to be retained by the clerk of the court or
82 deposited into the Clerks of the Court Trust Fund within the
83 Department of Revenue.

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

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

95
96 To offset processing costs, clerks shall impose ~~may impose~~
97 ~~either a per-month service charge pursuant to s. 28.24(26)(b) or~~
98 a one-time administrative processing service charge at the



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99 inception of the payment plan pursuant to s. 28.24(26)(b) ~~s.~~
100 ~~28.24(26)(c)~~.

101 (8) A clerk of court may establish a multi-county
102 intergovernmental authority pursuant to chapter 163 for the
103 administration of payment plans in the various participating
104 counties.

105 Section 3. Section 28.42, Florida Statutes, is amended to
106 read:

107 28.42 Manual of filing fees, charges, costs, and fines;
108 uniform payment plan forms.-

109 (1) The clerks of court, through their association and in
110 consultation with the Office of the State Courts Administrator,
111 shall prepare and disseminate a manual of filing fees, service
112 charges, costs, and fines imposed pursuant to state law, for
113 each type of action and offense, and classified as mandatory or
114 discretionary. The manual also shall classify the fee, charge,
115 cost, or fine as court-related revenue or noncourt-related
116 revenue. The clerks, through their association, shall
117 disseminate this manual to the chief judge, state attorney,
118 public defender, and court administrator in each circuit and to
119 the clerk of the court in each county. The clerks, through their
120 association and in consultation with the Office of the State
121 Courts Administrator, shall at a minimum update and disseminate
122 this manual on July 1 of each year.

123 (2) By October 1, 2020, the clerks of court, through their
124 association, in consultation with the Florida Clerks of Court
125 Operations Corporation, shall develop a uniform payment plan
126 form for use by persons seeking to establish a payment plan in
127 accordance with s. 28.246. The form shall inform the person



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128 about the minimum payment due each month, the term of the plan,
129 acceptable payment methods, and the circumstances under which a
130 case may be sent to collections for nonpayment.

131 (3) Beginning on January 1, 2021, each clerk of the court
132 shall utilize the uniform payment plan form described in
133 subsection (2) when establishing payment plans.

134 Section 4. Paragraph (a) of subsection (1) of section
135 318.15, Florida Statutes, is amended to read:

136 318.15 Failure to comply with civil penalty or to appear;
137 penalty.-

138 (1) (a) If a person fails to comply with the civil penalties
139 provided in s. 318.18 within the time period specified in s.
140 318.14(4), fails to enter into or comply with the terms of a
141 penalty payment plan with the clerk of the court in accordance
142 with ss. 318.14 and 28.246, fails to attend driver improvement
143 school, or fails to appear at a scheduled hearing, the clerk of
144 the court shall notify the Department of Highway Safety and
145 Motor Vehicles of such failure within 10 days after such
146 failure, except as provided herein. Upon receipt of such notice,
147 the department shall immediately issue an order suspending the
148 driver license and privilege to drive of such person effective
149 20 days after the date the order of suspension is mailed in
150 accordance with s. 322.251(1), (2), and (6). The order must also
151 contain information that the person may contact the clerk of the
152 court to establish a payment plan pursuant to s. 28.246(4) to
153 make partial payments for court-related fees, service charges,
154 costs, and fines. Any such suspension of the driving privilege
155 which has not been reinstated, including a similar suspension
156 imposed outside Florida, shall remain on the records of the



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157 department for a period of 7 years from the date imposed and
158 shall be removed from the records after the expiration of 7
159 years from the date it is imposed. The department may not accept
160 the resubmission of such suspension.

161 Section 5. Section 318.20, Florida Statutes, is amended to
162 read:

163 318.20 Notification; duties of department.—The department
164 shall prepare a notification form to be appended to, or
165 incorporated as a part of, the Florida uniform traffic citation
166 issued in accordance with s. 316.650. The notification form
167 shall contain language informing persons charged with
168 infractions to which this chapter applies of the procedures
169 available to them under this chapter. Such notification shall
170 contain a statement that, if the official determines that no
171 infraction has been committed, no costs or penalties shall be
172 imposed and any costs or penalties which have been paid shall be
173 returned. A uniform traffic citation that is produced
174 electronically must also include the information required by
175 this section. The notification form and the uniform traffic
176 citation must include information on paying the civil penalty to
177 the clerk of the court.

178 Section 6. Subsection (1) and paragraph (a) of subsection
179 (5) of section 322.245, Florida Statutes, are amended to read:

180 322.245 Suspension of license upon failure of person
181 charged with specified offense under chapter 316, chapter 320,
182 or this chapter to comply with directives ordered by traffic
183 court or upon failure to pay child support in non-IV-D cases as
184 provided in chapter 61 or failure to pay any financial
185 obligation in any other criminal case.—



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186 (1) If a person charged with a violation of any of the
187 criminal offenses enumerated in s. 318.17 or with the commission
188 of any offense constituting a misdemeanor under chapter 320 or
189 this chapter fails to comply with all of the directives of the
190 court within the time allotted by the court, the clerk of the
191 traffic court shall mail to the person, at the address specified
192 on the uniform traffic citation, a notice of such failure,
193 notifying him or her that, if he or she does not comply with the
194 directives of the court within 30 days after the date of the
195 notice and pay a delinquency fee of up to \$25 to the clerk, from
196 which the clerk shall remit \$10 to the Department of Revenue for
197 deposit into the General Revenue Fund, his or her driver license
198 will be suspended. The notice shall be mailed no later than 5
199 days after such failure, except as provided herein. The
200 delinquency fee may be retained by the office of the clerk to
201 defray the operating costs of the office.

202 (5) (a) When the department receives notice from a clerk of
203 the court that a person licensed to operate a motor vehicle in
204 this state under the provisions of this chapter has failed to
205 pay financial obligations for any criminal offense other than
206 those specified in subsection (1), in full or in part under a
207 payment plan pursuant to s. 28.246(4), the department shall
208 suspend the license of the person named in the notice. The
209 notice must also contain information that the person may contact
210 the clerk of the court to establish a payment plan pursuant to
211 s. 28.246(4) to make partial payments for court-related fees,
212 service charges, costs, and fines.

213 Section 7. Paragraph (i) of subsection (5) of section
214 27.52, Florida Statutes, is amended to read:



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215 27.52 Determination of indigent status.—

216 (5) INDIGENT FOR COSTS.—A person who is eligible to be
217 represented by a public defender under s. 27.51 but who is
218 represented by private counsel not appointed by the court for a
219 reasonable fee as approved by the court or on a pro bono basis,
220 or who is proceeding pro se, may move the court for a
221 determination that he or she is indigent for costs and eligible
222 for the provision of due process services, as prescribed by ss.
223 29.006 and 29.007, funded by the state.

224 (i) A defendant who is found guilty of a criminal act by a
225 court or jury or enters a plea of guilty or nolo contendere and
226 who received due process services after being found indigent for
227 costs under this subsection is liable for payment of due process
228 costs expended by the state.

229 1. The attorney representing the defendant, or the
230 defendant if he or she is proceeding pro se, shall provide an
231 accounting to the court delineating all costs paid or to be paid
232 by the state within 90 days after disposition of the case
233 notwithstanding any appeals.

234 2. The court shall issue an order determining the amount of
235 all costs paid by the state and any costs for which prepayment
236 was waived under this section or s. 57.081. The clerk shall
237 cause a certified copy of the order to be recorded in the
238 official records of the county, at no cost. The recording
239 constitutes a lien against the person in favor of the state in
240 the county in which the order is recorded. The lien may be
241 enforced in the same manner prescribed in s. 938.29.

242 3. If the attorney or the pro se defendant fails to provide
243 a complete accounting of costs expended by the state and



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244 consequently costs are omitted from the lien, the attorney or
245 pro se defendant may not receive reimbursement or any other form
246 of direct or indirect payment for those costs if the state has
247 not paid the costs. The attorney or pro se defendant shall repay
248 the state for those costs if the state has already paid the
249 costs. The clerk of the court may establish a payment plan under
250 s. 28.246 and may charge the attorney or pro se defendant a one-
251 time administrative processing charge under s. 28.24(26)(b) ~~s.~~
252 ~~28.24(26)(e)~~.

253 Section 8. Subsection (1) of section 34.191, Florida
254 Statutes, is amended to read:

255 34.191 Fines and forfeitures; dispositions.—

256 (1) All fines and forfeitures arising from offenses tried
257 in the county court shall be collected and accounted for by the
258 clerk of the court and, other than the charge provided in s.
259 318.1215, disbursed in accordance with ss. 28.2402, 34.045,
260 142.01, and 142.03 and subject to the provisions of s. 28.246(6)
261 and (7) ~~s. 28.246(5) and (6)~~. Notwithstanding the provisions of
262 this section, all fines and forfeitures arising from operation
263 of the provisions of s. 318.1215 shall be disbursed in
264 accordance with that section.

265 Section 9. Subsection (6) of section 57.082, Florida
266 Statutes, is amended to read:

267 57.082 Determination of civil indigent status.—

268 (6) PROCESSING CHARGE; PAYMENT PLANS.—A person who the
269 clerk or the court determines is indigent for civil proceedings
270 under this section shall be enrolled in a payment plan under s.
271 28.246 and shall be charged a one-time administrative processing
272 charge under s. 28.24(26)(b) ~~s. 28.24(26)(e)~~. A monthly payment



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273 amount, calculated based upon all fees and all anticipated
274 costs, is presumed to correspond to the person's ability to pay
275 if it does not exceed 2 percent of the person's annual net
276 income, as defined in subsection (1), divided by 12. The person
277 may seek review of the clerk's decisions regarding a payment
278 plan established under s. 28.246 in the court having
279 jurisdiction over the matter. A case may not be impeded in any
280 way, delayed in filing, or delayed in its progress, including
281 the final hearing and order, due to nonpayment of any fees or
282 costs by an indigent person. Filing fees waived from payment
283 under s. 57.081 may not be included in the calculation related
284 to a payment plan established under this section.

285 Section 10. This act shall take effect July 1, 2020.

286
287 ===== T I T L E A M E N D M E N T =====

288 And the title is amended as follows:

289 Delete everything before the enacting clause
290 and insert:

291 A bill to be entitled
292 An act relating to fines and fees; amending s. 28.24,
293 F.S.; removing the option for a monthly processing
294 charge for certain payment plans established with the
295 clerk of the circuit court; authorizing certain
296 persons to pay partial payments of an existing
297 administrative processing charge; amending s. 28.246
298 F.S.; revising the methods by which the clerk of the
299 circuit court may accept payments for certain fees,
300 costs, and fines; requiring certain persons to apply
301 to the clerk to enroll in a payment plan within a



302 specified timeframe; requiring clerks to coordinate
303 with courts to develop a specified process; providing
304 requirements and court procedures for the payment
305 plan; conforming a cross-reference; authorizing clerks
306 of court to establish multi-county governmental
307 authorities to administer payment plans; amending s.
308 28.42, F.S.; requiring the clerks of court, in
309 consultation with the Florida Clerks of Court
310 Operations Corporation, to develop a uniform payment
311 plan form by a specified date; providing requirements
312 for such form; requiring clerks of court, by a
313 specified date, to utilize such forms when
314 establishing payment plans; amending s. 318.15, F.S.;
315 expanding requirements for specified notice issued by
316 the clerks of court to the Department of Highway
317 Safety and Motor Vehicles to include information
318 related to a person's option to enter into a certain
319 payment plan; amending s. 318.20, F.S.; requiring that
320 a notification form and the uniform traffic citation
321 include certain information about paying a civil
322 penalty; amending s. 322.245, F.S.; expanding
323 requirements for specified notices issued by the
324 clerks of court to the Department of Highway Safety
325 and Motor Vehicles to include information related to a
326 person's option to enter into a certain payment plan;
327 amending ss. 27.52, 34.191, and 57.082, F.S.;
328 conforming cross-references; providing an effective
329 date.