



385158

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/19/2020	.	
	.	
	.	
	.	

Appropriations Subcommittee on Criminal and Civil Justice
(Wright) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (i) of subsection (5) of section
27.52, Florida Statutes, is amended to read:

27.52 Determination of indigent status.—

(5) INDIGENT FOR COSTS.—A person who is eligible to be
represented by a public defender under s. 27.51 but who is
represented by private counsel not appointed by the court for a



385158

11 reasonable fee as approved by the court or on a pro bono basis,
12 or who is proceeding pro se, may move the court for a
13 determination that he or she is indigent for costs and eligible
14 for the provision of due process services, as prescribed by ss.
15 29.006 and 29.007, funded by the state.

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

21 1. The attorney representing the defendant, or the
22 defendant if he or she is proceeding pro se, shall provide an
23 accounting to the court delineating all costs paid or to be paid
24 by the state within 90 days after disposition of the case
25 notwithstanding any appeals.

26 2. The court shall issue an order determining the amount of
27 all costs paid by the state and any costs for which prepayment
28 was waived under this section or s. 57.081. The clerk shall
29 cause a certified copy of the order to be recorded in the
30 official records of the county, at no cost. The recording
31 constitutes a lien against the person in favor of the state in
32 the county in which the order is recorded. The lien may be
33 enforced in the same manner prescribed in s. 938.29.

34 3. If the attorney or the pro se defendant fails to provide
35 a complete accounting of costs expended by the state and
36 consequently costs are omitted from the lien, the attorney or
37 pro se defendant may not receive reimbursement or any other form
38 of direct or indirect payment for those costs if the state has
39 not paid the costs. The attorney or pro se defendant shall repay



385158

40 the state for those costs if the state has already paid the
41 costs. The clerk of the court may establish a payment plan under
42 s. 28.246 and may charge the attorney or pro se defendant a one-
43 time administrative processing charge under s. 28.24(26)(b) ~~s.~~
44 ~~28.24(26)(c)~~.

45 Section 2. Subsection (26) of section 28.24, Florida
46 Statutes, is amended to read:

47 28.24 Service charges.—The clerk of the circuit court shall
48 charge for services rendered manually or electronically by the
49 clerk’s office in recording documents and instruments and in
50 performing other specified duties. These charges may not exceed
51 those specified in this section, except as provided in s.
52 28.345.

53 (26) (a) For receiving and disbursing all restitution
54 payments, per payment: 3.50, from which the clerk shall remit
55 0.50 per payment to the Department of Revenue for deposit into
56 the General Revenue Fund.

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

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

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

67 Section 3. Subsections (4) and (5) of section 28.246,
68 Florida Statutes, are amended to read:



385158

69 28.246 Payment of court-related fines or other monetary
70 penalties, fees, charges, and costs; partial payments;
71 distribution of funds.—

72 (4) Each ~~The~~ clerk of the circuit court shall accept
73 scheduled partial payments for court-related fees, service
74 charges, costs, and fines electronically, by mail, or in person,
75 in accordance with the terms of an established payment plan and
76 enroll— an individual seeking to defer payment of fees, service
77 charges, costs, or fines imposed by operation of law or order of
78 the court under any provision of general law no later than 30
79 calendar days after the date the court enters the order
80 assessing fines, fees, and costs. If the individual is
81 incarcerated, the individual shall apply to the clerk for
82 enrollment in a payment plan within 30 calendar days after
83 release. The clerk of court may not refer a case to collection
84 or send notice to the department to suspend an individual's
85 driver license for nonpayment or failure to comply with the
86 terms of a payment plan if the individual is still incarcerated.
87 The clerk shall enroll individuals with a deposit or credit card
88 account, or with other means of automatic withdrawal, in an
89 automatic payment plan arrangement to ensure timely payment
90 under the plan. Each clerk shall work with the court to develop
91 a process in which the individual will meet with the clerk upon
92 disposition or as soon thereafter as practicable. If the clerk
93 enters ~~shall enter~~ into a payment plan with an individual who
94 the court determines is indigent for costs, ~~the~~—A monthly
95 payment amount shall be— calculated based upon all fees and all
96 anticipated fines, fees, costs, and service charges owed within
97 the county, and is presumed to correspond to the person's



385158

98 ability to pay if the amount does not exceed 2 percent of the
99 person's annual net income, as defined in s. 27.52(1), divided
100 by 12 or \$10, whichever is greater. The court may review the
101 reasonableness of the payment plan and may, on its own motion or
102 by petition, waive, modify, or convert the outstanding fines,
103 fees, costs, or service charges to community service if the
104 court determines that the individual is indigent or, due to
105 compelling circumstances, is unable to comply with the terms of
106 the payment plan.

107 (5) (a) The clerk may transmit notice to the Department of
108 Highway Safety and Motor Vehicles if any payment due under a
109 payment plan is not received within 30 days after the due date
110 unless the individual is incarcerated, brings the account
111 current, makes alternate payment arrangements, or enters into a
112 revised payment plan with the clerk before the due date. The
113 clerk may send notices, electronically or by mail, to remind an
114 individual of an upcoming or missed payment.

115 (b) When receiving partial payment of fees, service
116 charges, court costs, and fines, clerks shall distribute funds
117 according to the following order of priority:

118 1. (a) That portion of fees, service charges, court costs,
119 and fines to be remitted to the state for deposit into the
120 General Revenue Fund.

121 2. (b) That portion of fees, service charges, court costs,
122 and fines required to be retained by the clerk of the court or
123 deposited into the Clerks of the Court Trust Fund within the
124 Department of Revenue.

125 3. (c) That portion of fees, service charges, court costs,
126 and fines payable to state trust funds, allocated on a pro rata



385158

127 basis among the various authorized funds if the total collection
128 amount is insufficient to fully fund all such funds as provided
129 by law.

130 4.(d) That portion of fees, service charges, court costs,
131 and fines payable to counties, municipalities, or other local
132 entities, allocated on a pro rata basis among the various
133 authorized recipients if the total collection amount is
134 insufficient to fully fund all such recipients as provided by
135 law.

136

137 To offset processing costs, clerks may impose ~~either a per-month~~
138 ~~service charge pursuant to s. 28.24(26) (b) or~~ a one-time
139 administrative processing service charge at the inception of the
140 payment plan pursuant to s. 28.24(26) (b) ~~s. 28.24(26) (e)~~. The
141 clerk of court may waive this fee for any individual who enrolls
142 in an automatic electronic debit payment plan.

143 Section 4. Section 28.42, Florida Statutes, is amended to
144 read:

145 28.42 Manual of filing fees, charges, costs, and fines;
146 uniform payment plan forms.—

147 (1) The clerks of court, through their association and in
148 consultation with the Office of the State Courts Administrator,
149 shall prepare and disseminate a manual of filing fees, service
150 charges, costs, and fines imposed pursuant to state law, for
151 each type of action and offense, and classified as mandatory or
152 discretionary. The manual also shall classify the fee, charge,
153 cost, or fine as court-related revenue or noncourt-related
154 revenue. The clerks, through their association, shall
155 disseminate this manual to the chief judge, state attorney,



385158

156 public defender, and court administrator in each circuit and to
157 the clerk of the court in each county. The clerks, through their
158 association and in consultation with the Office of the State
159 Courts Administrator, shall at a minimum update and disseminate
160 this manual on July 1 of each year.

161 (2) By October 1, 2020, the clerks of court, through their
162 association, in consultation with the Florida Clerks of Court
163 Operations Corporation, shall develop a uniform payment plan
164 form for use by individuals seeking to establish a payment plan
165 in accordance with s. 28.246. The form shall inform the
166 individual about the minimum payment due each month, the term of
167 the plan, acceptable payment methods, and the circumstances
168 under which a case may be sent to collections for nonpayment.

169 (3) By January 1, 2021, each clerk of the court shall use
170 the uniform payment plan form described in subsection (2) when
171 establishing payment plans.

172 Section 5. Subsection (6) of section 57.082, Florida
173 Statutes, is amended to read:

174 57.082 Determination of civil indigent status.—

175 (6) PROCESSING CHARGE; PAYMENT PLANS.—A person who the
176 clerk or the court determines is indigent for civil proceedings
177 under this section shall be enrolled in a payment plan under s.
178 28.246 and shall be charged a one-time administrative processing
179 charge under s. 28.24(26) (b) ~~s. 28.24(26) (c)~~. A monthly payment
180 amount must be ~~7~~ calculated based upon all fines, fees, and all
181 anticipated costs owed within that county and, ~~is presumed to~~
182 correspond to the person's ability to pay. The monthly payment
183 plan amount shall be the greater of \$10 or ~~if it does not exceed~~
184 2 percent of the person's annual net income, as defined in



385158

185 subsection (1), divided by 12. The person may seek review of the
186 clerk's decisions regarding a payment plan established under s.
187 28.246 in the court having jurisdiction over the matter. A case
188 may not be impeded in any way, delayed in filing, or delayed in
189 its progress, including the final hearing and order, due to
190 nonpayment of any fees or costs by an indigent person. Filing
191 fees waived from payment under s. 57.081 may not be included in
192 the calculation related to a payment plan established under this
193 section.

194 Section 6. Paragraph (a) of subsection (1) of section
195 318.15, Florida Statutes, is amended to read:

196 318.15 Failure to comply with civil penalty or to appear;
197 penalty.—

198 (1) (a) If a person who is not incarcerated fails to comply
199 with the civil penalties provided in s. 318.18 within the time
200 period specified in s. 318.14(4), fails to enter into or comply
201 with the terms of a penalty payment plan with the clerk of the
202 court in accordance with ss. 318.14 and 28.246, fails to attend
203 driver improvement school, or fails to appear at a scheduled
204 hearing, the clerk of the court may ~~shall~~ notify the Department
205 of Highway Safety and Motor Vehicles of such failure within 30
206 ~~10~~ days after such failure, except as provided herein. Upon
207 receipt of such notice, the department shall immediately issue
208 an order suspending the driver license and privilege to drive of
209 such person effective 20 days after the date the order of
210 suspension is mailed in accordance with s. 322.251(1), (2), and
211 (6). Any such suspension of the driving privilege which has not
212 been reinstated, including a similar suspension imposed outside
213 Florida, shall remain on the records of the department for a



385158

214 period of 7 years from the date imposed and shall be removed
215 from the records after the expiration of 7 years from the date
216 it is imposed. The department may not accept the resubmission of
217 such suspension.

218 Section 7. Section 318.20, Florida Statutes, is amended to
219 read:

220 318.20 Notification; duties of department.—The department
221 shall prepare a notification form to be appended to, or
222 incorporated as a part of, the Florida uniform traffic citation
223 issued in accordance with s. 316.650. The notification form
224 shall contain language informing persons charged with
225 infractions to which this chapter applies of the procedures
226 available to them under this chapter. Such notification shall
227 contain a statement that, if the official determines that no
228 infraction has been committed, no costs or penalties shall be
229 imposed and any costs or penalties which have been paid shall be
230 returned. A uniform traffic citation that is produced
231 electronically must also include the information required by
232 this section. The notification and the uniform traffic citation
233 must include information on paying the civil penalty to the
234 clerk of the court and information that the person may contact
235 the clerk of the court to establish a payment plan pursuant to
236 s. 28.246(4) to make partial payments for court-related fines,
237 fees, costs, and service charges.

238 Section 8. Subsections (1) and (5) of section 322.245,
239 Florida Statutes, are amended to read:

240 322.245 Suspension of license upon failure of person
241 charged with specified offense under chapter 316, chapter 320,
242 or this chapter to comply with directives ordered by traffic



385158

243 court or upon failure to pay child support in non-IV-D cases as
244 provided in chapter 61 or failure to pay any financial
245 obligation in any other driving-related criminal case.—

246 (1) If a person charged with a violation of any driving-
247 related ~~of the~~ criminal offenses enumerated in s. 318.17 or with
248 the commission of any driving-related offense constituting a
249 misdemeanor under chapter 320 or this chapter fails to comply
250 with all of the directives of the court, within the time
251 allotted by the court, the clerk of the traffic court shall mail
252 to the person, at the address specified on the uniform traffic
253 citation, a notice of such failure, notifying him or her that,
254 if he or she does not comply with the directives of the court
255 within 30 days after the date of the notice and pay a
256 delinquency fee of up to \$25 to the clerk, from which the clerk
257 shall remit \$10 to the Department of Revenue for deposit into
258 the General Revenue Fund, his or her driver license will be
259 suspended. The notice shall be mailed no later than 5 days after
260 such failure. The delinquency fee may be retained by the office
261 of the clerk to defray the operating costs of the office.

262 (5) (a) A person whose driver license was suspended before
263 July 1, 2020, pursuant to this section solely for the nonpayment
264 of fines, fees, or costs in a criminal case not involving
265 operation of a motor vehicle, if otherwise eligible, may apply
266 to have his or her license reinstated upon payment of a
267 reinstatement fee.

268 (b) When the department receives notice from a clerk of the
269 court that a person licensed to operate a motor vehicle in this
270 state under the provisions of this chapter has failed to pay
271 financial obligations, in full or in part under a payment plan



385158

272 established pursuant to s. 28.246(4), for any criminal offense
273 involving operation of a motor vehicle by the person licensed
274 ~~other than those specified in subsection (1), in full or in part~~
275 ~~under a payment plan pursuant to s. 28.246(4),~~ the department
276 shall suspend the license of the person named in the notice.

277 (c) ~~(b)~~ The department must reinstate the driving privilege
278 when the clerk of the court provides an affidavit to the
279 department stating that:

280 1. The person has satisfied the financial obligation in
281 full or made all payments currently due under a payment plan;

282 2. The person has entered into a written agreement for
283 payment of the financial obligation if not presently enrolled in
284 a payment plan; or

285 3. A court has entered an order granting relief to the
286 person ordering the reinstatement of the license.

287 (d) ~~(e)~~ The department shall not be held liable for any
288 license suspension resulting from the discharge of its duties
289 under this section.

290 Section 9. This act shall take effect July 1, 2020.

291
292 ===== T I T L E A M E N D M E N T =====

293 And the title is amended as follows:

294 Delete everything before the enacting clause
295 and insert:

296 A bill to be entitled
297 An act relating to fines and fees; amending s. 27.52,
298 F.S.; conforming a cross-reference; amending s. 28.24,
299 F.S.; providing procedures for payment plans; amending
300 s. 28.246, F.S.; revising the methods by which clerks



385158

301 of the circuit court must accept payments for certain
302 fees, charges, costs, and fines; providing
303 requirements for entering into payment plans;
304 authorizing a court to waive, modify, and convert
305 certain fines and fees into community service under
306 specified circumstances; authorizing clerks of court
307 to transmit and send specified notices relating to
308 payment plans; amending s. 28.42, F.S.; requiring the
309 clerks of court, in consultation with the Florida
310 Clerks of Court Operations Corporation, to develop a
311 uniform payment plan form by a specified date;
312 providing minimum criteria for the form; requiring
313 clerks of court to use such forms by a specified date;
314 amending s. 57.082, F.S.; conforming a cross-reference
315 and provisions to changes made by the act; amending s.
316 318.15, F.S.; authorizing rather than requiring clerks
317 of court to notify the Department of Highway Safety
318 and Motor Vehicles under certain circumstances;
319 extending the timeframe for issuing certain notices;
320 amending s. 318.20, F.S.; requiring that a
321 notification form and the uniform traffic citation
322 include certain information about paying a civil
323 penalty; amending s. 322.245, F.S.; authorizing
324 certain persons to apply for reinstatement of their
325 suspended licenses under certain circumstances;
326 providing an effective date.