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COMMITTEE/SUBCOMMITTEE	ACTION
ADOPTED	(Y/N)
ADOPTED AS AMENDED	(Y/N)
ADOPTED W/O OBJECTION	(Y/N)
FAILED TO ADOPT	(Y/N)
WITHDRAWN	(Y/N)
OTHER	

Committee/Subcommittee hearing bill: Judiciary Committee Representative Barnaby offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert: Section 1. Subsection (4) of section 28.246, Florida Statutes, is amended to read:

8 28.246 Payment of court-related fines or other monetary
9 penalties, fees, charges, and costs; partial payments;
10 distribution of funds.-

(4) (a) Each The clerk of the circuit court shall accept partial payments for each case type for court-related fees, service charges, <u>court</u> costs, and fines in accordance with the terms of an established payment plan <u>developed by the clerk</u>.

15 (b) An individual seeking to defer payment of fees, 16 service charges, <u>court</u> costs, or fines imposed by operation of 771525 - h0903-strikeall.docx

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17 law or order of the court under any provision of general law shall apply to the clerk for enrollment in a payment plan. The 18 19 clerk shall enter into a payment plan with an individual who the 20 court determines is indigent for costs. It is the responsibility 21 of an individual who is released from incarceration and has 22 outstanding court obligations to contact the clerk within 30 days after release to pay fees, service charges, court costs, 23 24 and fines in full, or to apply for enrollment in a payment plan. A monthly payment amount, calculated based upon all fees and all 25 26 anticipated fees, service charges, court costs, and fines, is 27 presumed to correspond to the person's ability to pay if the amount does not exceed 2 percent of the person's annual net 28 29 income, as defined in s. 27.52(1), divided by 12. The clerk shall establish all terms of a payment plan and the court may 30 31 review the reasonableness of the payment plan.

32 Section 2. Effective upon this act becoming a law, 33 paragraph (f) of subsection (2) and paragraph (a) of subsection 34 (3) of section 28.35, Florida Statutes, are amended to read:

28.35 Florida Clerks of Court Operations Corporation.-

36 (2) The duties of the corporation shall include the 37 following:

(f) Approving the proposed budgets submitted by clerks of the court pursuant to s. 28.36. The corporation must ensure that the total combined budgets of the clerks of the court do not exceed the total estimated revenues from fees, service charges,

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42 court costs, and fines for court-related functions available for court-related expenditures as determined by the most recent 43 44 Revenue Estimating Conference, plus the total of unspent 45 budgeted funds for court-related functions carried forward by 46 the clerks of the court from the previous county fiscal year, 47 and plus the balance of funds remaining in the Clerks of the 48 Court Trust Fund after the transfer of funds to the General Revenue Fund required pursuant to s. 28.37(4)(b), and plus any 49 50 appropriations for court-related functions s. 28.37(3)(b). The corporation may amend any individual clerk of the court budget 51 to ensure compliance with this paragraph and must consider 52 53 performance measures, workload performance standards, workload 54 measures, and expense data before modifying the budget. As part 55 of this process, the corporation shall:

1. Calculate the minimum amount of revenue necessary for each clerk of the court to efficiently perform the list of court-related functions specified in paragraph (3) (a). The corporation shall apply the workload measures appropriate for determining the individual level of review required to fund the clerk's budget.

2. Prepare a cost comparison of similarly situated clerks
of the court, based on county population and numbers of filings,
using the standard list of court-related functions specified in
paragraph (3)(a).

66 3. Conduct an annual base budget review and an annual 771525 - h0903-strikeall.docx

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budget exercise examining the total budget of each clerk of the 67 court. The review shall examine revenues from all sources, 68 69 expenses of court-related functions, and expenses of noncourt-70 related functions as necessary to determine that court-related 71 revenues are not being used for noncourt-related purposes. The 72 review and exercise shall identify potential targeted budget 73 reductions in the percentage amount provided in Schedule VIII-B of the state's previous year's legislative budget instructions, 74 as referenced in s. 216.023(3), or an equivalent schedule or 75 76 instruction as may be adopted by the Legislature.

4. Identify those proposed budgets containing funding for
items not included on the standard list of court-related
functions specified in paragraph (3)(a).

5. Identify those clerks projected to have court-related
revenues insufficient to fund their anticipated court-related
expenditures.

6. Use revenue estimates based on the official estimate 83 84 for funds from fees, service charges, court costs, and fines for 85 court-related functions accruing to the clerks of the court made 86 by the Revenue Estimating Conference, as well as any unspent 87 budgeted funds for court-related functions carried forward by the clerks of the court from the previous county fiscal year and 88 the balance of funds remaining in the Clerks of the Court Trust 89 Fund after the transfer of funds to the General Revenue Fund 90 required pursuant to s. 28.37(4)(b), plus any appropriations for 91

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92 the purpose of funding court-related functions s. 28.37(3)(b). 93 Identify pay and benefit increases in any proposed 7. 94 clerk budget, including, but not limited to, cost of living increases, merit increases, and bonuses. 95 96 8. Identify increases in anticipated expenditures in any 97 clerk budget that exceeds the current year budget by more than 3 98 percent. Identify the budget of any clerk which exceeds the 99 9. average budget of similarly situated clerks by more than 10 100 101 percent. 102 103 For the purposes of this paragraph, the term "unspent budgeted 104 funds for court-related functions" means undisbursed funds included in the clerks of the courts budgets for court-related 105 106 functions established pursuant to this section and s. 28.36. 107 (3)(a) The list of court-related functions that clerks may 108 fund from filing fees, service charges, court costs, and fines 109 is limited to those functions expressly authorized by law or 110 court rule. Those functions include the following: case 111 maintenance; records management; court preparation and 112 attendance; processing the assignment, reopening, and 113 reassignment of cases; processing of appeals; collection and distribution of fines, fees, service charges, and court costs; 114 processing of bond forfeiture payments; data collection and 115 reporting; determinations of indigent status; and paying 116 771525 - h0903-strikeall.docx

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117 reasonable administrative support costs to enable the clerk of 118 the court to carry out these court-related functions.

Section 3. Effective upon this act becoming a law, present subsections (3) and (4) of section 28.36, Florida Statutes, are redesignated as subsections (4) and (5), a new subsection (3) is added to that section, and subsection (1), paragraph (b) of subsection (2), and present subsection (4) of that section are amended, to read:

125 28.36 Budget procedure.—There is established a budget 126 procedure for the court-related functions of the clerks of the 127 court.

(1) Only those functions listed in s. 28.35(3)(a) may be
funded from fees, service charges, <u>court</u> costs, and fines
retained by the clerks of the court.

131 (2) Each proposed budget shall further conform to the132 following requirements:

133 (b) The proposed budget must be balanced such that the total of the estimated revenues available equals or exceeds the 134 135 total of the anticipated expenditures. Such revenues include 136 revenue projected to be received from fees, service charges, 137 court costs, and fines for court-related functions during the 138 fiscal period covered by the budget, plus the total of unspent budgeted funds for court-related functions carried forward by 139 140 the clerk of the court from the previous county fiscal year and 141 plus the portion of the balance of funds remaining in the Clerks 771525 - h0903-strikeall.docx

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142 of the Court Trust Fund after the transfer of funds to the 143 General Revenue Fund required pursuant to s. 28.37(4)(b) s. 144 28.37(3) (b) which has been allocated to each respective clerk of the court by the Florida Clerks of Court Operations Corporation. 145 146 For the purposes of this paragraph, the term "unspent budgeted 147 funds for court-related functions" means undisbursed funds included in the clerk of the courts' budget for court related 148 functions established pursuant to s. 28.35 and this section. The 149 150 anticipated expenditures must be itemized as required by the 151 corporation.

152 (3) (a) The Florida Clerks of Court Operations Corporation 153 shall establish and manage a reserve for contingencies within 154 the Clerks of the Court Trust Fund which must consist of an 155 amount not to exceed 16 percent of the total budget authority 156 for the clerks of court during the current county fiscal year, 157 to be carried forward at the end of the fiscal year. Funds to be 158 held in reserve include transfers of cumulative excess, as 159 provided in s. 28.37(4)(b), from the Clerks of the Court Trust 160 Fund and may also include revenues provided by law or moneys 161 appropriated by the Legislature.

(b) The corporation shall provide a reporting of the balance and use of these funds during each county fiscal year as part of the corporation's annual report submitted under s. 28.35(2)(h).

166 (c) The corporation may use the reserve to ensure the 771525 - h0903-strikeall.docx

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167 clerks of court can perform the court-related functions as 168 provided in s. 28.35(3)(a). Moneys in the Clerks of the Court 169 Trust Fund which are held in reserve may be used by the corporation under the following circumstances: 170 171 1. To offset a current deficit between the revenue 172 available and the original budget authority. A deficit is deemed 173 to occur when the revenue available to the clerks of court falls 174 below the original revenue projection for that county fiscal 175 year. 176 2. To provide funding for an emergency, as defined in s. 177 252.34(4). The emergency must have been declared by the 178 Governor, pursuant to s. 252.36, or otherwise declared by law. 179 3. To provide funds in the development of the total 180 aggregate budget of the clerks of court to ensure that a minimum 181 continuation budget is met. For purposes of this subparagraph, a minimum continuation budget is the budget approved for the 182 183 current county fiscal year or some lesser amount adopted by the 184 corporation. 185 To use the reserve, the corporation must request a (d) 186 budget amendment pursuant to s. 216.292. (5) (4) The corporation may approve increases or decreases 187 188 to the previously authorized budgets approved for individual clerks of the court pursuant to s. 28.35 for court-related 189 functions, if: 190 191 (a) The additional budget authority is necessary to pay 771525 - h0903-strikeall.docx Published On: 3/26/2021 7:23:19 PM

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192	the cost of performing new or additional functions required by	
193	changes in law or court rule; or	
194	(b) The additional budget authority is necessary to pay	
195	the cost of supporting increases in the number of judges or	
196	magistrates authorized by the Legislature, or for increases in	
197	the use of hearing officers and senior judges assigned by the	
198	courts.	
199	Section 4. Effective upon this act becoming a law, section	
200	28.37, Florida Statutes, is amended to read:	
201	28.37 Fines, fees, service charges, and costs remitted to	
202	the state	
203	(1) Pursuant to s. 14(b), Art. V of the State	
204	Constitution, selected salaries, costs, and expenses of the	
205	state courts system and court-related functions shall be funded	
206	from a portion of the revenues derived from statutory fines,	
207	fees, service charges, and $\underline{\operatorname{court}}$ costs collected by the clerks	
208	of the court, and from adequate and appropriate supplemental	
209	funding from state revenues as appropriated by the Legislature.	
210	(2) DEFINITIONSAs used in this section, the term:	
211	(a) "Cumulative excess" means revenues derived from fines,	
212	fees, service charges, and court costs collected by the clerks	
213	of the court which are greater than the original revenue	
214	projection.	
215	(b) "Original revenue projection" means the official	
216	estimate, as determined by the Revenue Estimating Conference, of	
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217 revenues from fines, fees, service charges, and court costs 218 available for court-related functions for the county fiscal year 219 covered by the projection.

The Beginning November 1, 2013, that portion of all 220 (3) 221 fines, fees, service charges, and costs collected by the clerks 222 of the court for the previous month which is in excess of onetwelfth of the clerks' total budget for the performance of 223 224 court-related functions must shall be remitted to the Department of Revenue for deposit into the Clerks of the Court Trust Fund. 225 Such collections do not include funding received for the 226 227 operation of the Title IV-D child support collections and 228 disbursement program. The clerk of the court shall remit the 229 revenues collected during the previous month due to the state on 230 or before the 10th day of each month.

231 (4) (a) $\frac{(3)}{(a)}$ Each year, no later than January 25, for the 232 previous county fiscal year, the clerks of court, in 233 consultation with the Florida Clerks of Court Operations Corporation, shall remit to the Department of Revenue for 234 235 deposit in the Clerks of the Court Trust Fund the cumulative 236 excess of all fines, fees, service charges, and court costs 237 retained by the clerks of the court, plus any funds received by 238 the clerks of the court from the Clerks of the Court Trust Fund under s. $28.36(4) = \frac{28.36(3)}{5.28.36(3)}$, which exceed the amount needed to 239 meet their authorized budget amounts established under s. 28.35. 240

241 (b) <u>No later than February 1, 2022, and each February 1</u> 771525 - h0903-strikeall.docx Published On: 3/26/2021 7:23:19 PM

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242 thereafter, the Department of Revenue shall transfer 50 percent 243 of the cumulative excess of the original revenue projection from 244 the Clerks of the Court Trust Fund to the General Revenue Fund. The remaining 50 percent in the Clerks of the Court Trust Fund 245 246 may be used in the development of the total combined budgets of 247 the clerks of the court as provided in s. 28.35(2)(f)6. However, a minimum of 10 percent of the clerk-retained portion of the 248 249 cumulative excess amount must be held in reserve until such 250 funds reach an amount equal to at least 16 percent of the total 251 budget authority from the current county fiscal year, as 252 provided in s. 28.36(3)(a)

253 1. No later than February 1, 2020, the Department of 254 Revenue shall transfer from the Clerks of the Court Trust Fund 255 to the General Revenue Fund the sum of the cumulative excess of 256 all fines, fees, service charges, and costs submitted by the 257 clerks of court pursuant to subsection (2) and the cumulative 258 excess of all fines, fees, service charges, and costs remitted 259 by the clerks of court pursuant to paragraph (a) in excess of 260 \$10 million.

261 2. No later than February 1, 2021, the Department of Revenue shall transfer from the Clerks of the Court Trust Fund to the General Revenue Fund not less than 50 percent of the sum of the cumulative excess of all fines, fees, service charges, and costs submitted by the clerks of court pursuant to subsection (2) and the cumulative excess of all fines, fees, 771525 - h0903-strikeall.docx

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267 service charges, and costs remitted by the clerks of court 268 pursuant to paragraph (a); provided however, the balance 269 remaining in the Clerks of Courts Trust Fund after such transfer 270 may not be more than \$20 million.

271 3. No later than February 1, 2022, the Department of 272 Revenue shall transfer from the Clerks of the Court Trust Fund to the General Revenue Fund not less than 50 percent of the sum 273 274 of the cumulative excess of all fines, fees, service charges, and costs submitted by the clerks of court pursuant to 275 276 subsection (2) and the cumulative excess of all fines, fees, 277 service charges, and costs remitted by the clerks of court 278 pursuant to paragraph (a); provided however, the balance 279 remaining in the Clerks of Courts Trust Fund after such transfer 280 may not be more than \$20 million.

281 4. No later than February 1, 2023, and each February 1 282 thereafter, the Department of Revenue shall transfer from the 283 Clerks of the Court Trust Fund to the General Revenue Fund the 284 cumulative excess of all fines, fees, service charges, and costs 285 submitted by the clerks of court pursuant to subsection (2) and 286 the cumulative excess of all fines, fees, service charges, and 287 costs remitted by the clerks of court pursuant to paragraph (a).

288 <u>(5)(4)</u> The Department of Revenue shall collect any funds 289 that the Florida Clerks of Court Operations Corporation 290 determines upon investigation were due but not remitted to the 291 Department of Revenue. The corporation shall notify the clerk of 771525 - h0903-strikeall.docx

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the court and the Department of Revenue of the amount due to the Department of Revenue. The clerk of the court shall remit the amount due no later than the 10th day of the month following the month in which notice is provided by the corporation to the clerk of the court.

297 <u>(6) (5)</u> Ten percent of all court-related fines collected by 298 the clerk, except for penalties or fines distributed to counties 299 or municipalities under s. 316.0083(1)(b)3. or s. 318.18(15)(a), 300 <u>must shall</u> be deposited into the fine and forfeiture fund to be 301 used exclusively for clerk court-related functions, as provided 302 in s. 28.35(3)(a).

303 Section 5. Section 28.42, Florida Statutes, is amended to 304 read:

305 28.42 Manual of filing fees, charges, costs, and fines; 306 payment plan form.-

307 The clerks of court, through their association and in (1) 308 consultation with the Office of the State Courts Administrator, shall prepare and disseminate a manual of filing fees, service 309 310 charges, costs, and fines imposed pursuant to state law, for 311 each type of action and offense, and classified as mandatory or 312 discretionary. The manual also shall classify the fee, charge, 313 cost, or fine as court-related revenue or noncourt-related revenue. The clerks, through their association, shall 314 315 disseminate this manual to the chief judge, state attorney, public defender, and court administrator in each circuit and to 316 771525 - h0903-strikeall.docx

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317 the clerk of the court in each county. The clerks, through their 318 association and in consultation with the Office of the State 319 Courts Administrator, shall at a minimum update and disseminate 320 this manual on July 1 of each year.

321 (2) By October 1, 2021, the clerks of court, through the 322 Florida Clerks of Court Operations Corporation, shall develop a 323 uniform payment plan form for use by persons seeking to 324 establish a payment plan in accordance with s. 28.246(4). The 325 form must inform the person of the minimum payment due each month, the term of the plan, acceptable payment methods, and the 326 327 circumstances under which a case may be sent to collections for 328 nonpayment.

329 (3) By January 1, 2022, each clerk of court shall use the 330 uniform payment plan form developed pursuant to subsection (2) 331 when establishing payment plans.

332 Section 6. Paragraph (a) of subsection (1) of section333 318.15, Florida Statutes, is amended to read:

334 318.15 Failure to comply with civil penalty or to appear; 335 penalty.-

(1) (a) If a person fails to comply with the civil penalties provided in s. 318.18 within the time period specified in s. 318.14(4), fails to enter into or comply with the terms of a penalty payment plan with the clerk of the court in accordance with ss. 318.14 and 28.246, fails to attend driver improvement school, or fails to appear at a scheduled hearing, the clerk of 771525 - h0903-strikeall.docx Published On: 3/26/2021 7:23:19 PM

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342 the court must shall notify the Department of Highway Safety and 343 Motor Vehicles of such failure within 10 days after such 344 failure. Upon receipt of such notice, the department must shall 345 immediately issue an order suspending the driver license and 346 privilege to drive of such person effective 20 days after the 347 date the order of suspension is mailed in accordance with s. 348 322.251(1), (2), and (6). The order also must inform the person 349 that he or she may contact the clerk of the court to establish a payment plan pursuant to s. 28.246(4) to make partial payments 350 351 for court-related fines, fees, service charges, and court costs. 352 Any such suspension of the driving privilege which has not been 353 reinstated, including a similar suspension imposed outside of 354 this state Florida, must shall remain on the records of the 355 department for a period of 7 years from the date imposed and 356 must shall be removed from the records after the expiration of 7 357 years from the date it is imposed. The department may not accept 358 the resubmission of such suspension.

359 Section 7. Section 318.20, Florida Statutes, is amended to 360 read:

361 318.20 Notification; duties of department.—The department 362 shall prepare a notification form to be appended to, or 363 incorporated as a part of, the Florida uniform traffic citation 364 issued in accordance with s. 316.650. The notification form <u>must</u> 365 shall contain language informing persons charged with 366 infractions to which this chapter applies of the procedures

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367 available to them under this chapter. Such notification form 368 must shall contain a statement that, if the official determines 369 that no infraction has been committed, no costs or penalties may 370 shall be imposed and any costs or penalties that which have been 371 paid will shall be returned. Additionally, the notification form 372 must include information on paying the civil penalty to the 373 clerk of the court and the ability to establish a payment plan pursuant to s. 28.246(4). A uniform traffic citation that is 374 produced electronically must also include the information 375 376 required by this section.

377 Section 8. Subsections (1) and (3) and paragraph (a) of 378 subsection (5) of section 322.245, Florida Statutes, are amended 379 to read:

380 322.245 Suspension of license upon failure of person 381 charged with specified offense under chapter 316, chapter 320, 382 or this chapter to comply with directives ordered by traffic 383 court or upon failure to pay child support in non-IV-D cases as 384 provided in chapter 61 or failure to pay any financial 385 obligation in any other criminal case.-

(1) If a person charged with a violation of any of the criminal offenses enumerated in s. 318.17 or with the commission of any offense constituting a misdemeanor under chapter 320 or this chapter fails to comply with all of the directives of the court within the time allotted by the court, the clerk of the traffic court must provide shall mail to the person, either

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392 electronically or by mail sent to at the address specified on 393 the uniform traffic citation, a notice of such failure, 394 notifying him or her that, if he or she does not comply with the 395 directives of the court within 30 days after the date of the 396 notice and pay a delinquency fee of up to \$25 to the clerk, from 397 which the clerk shall remit \$10 to the Department of Revenue for deposit into the General Revenue Fund, his or her driver license 398 399 will be suspended. The notice must shall be sent mailed no later than 5 days after such failure. The delinquency fee may be 400 401 retained by the office of the clerk to defray the operating 402 costs of the office.

403 (3) If the person fails to comply with the directives of 404 the court within the 30-day period, or, in non-IV-D cases, fails to comply with the requirements of s. 61.13016 within the period 405 406 specified in that statute, the depository or the clerk of the 407 court must shall electronically notify the department of such failure within 10 days. Upon electronic receipt of the notice, 408 409 the department shall immediately issue an order suspending the 410 person's driver license and privilege to drive effective 20 days 411 after the date the order of suspension is mailed in accordance 412 with s. 322.251(1), (2), and (6). The order of suspension must 413 also contain information specifying that the person may contact the clerk of the court to establish a payment plan pursuant to 414 415 s. 28.246(4) to make partial payments for fines, fees, service 416 charges, and court costs.

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417	(5)(a) When the department receives notice from a clerk of
418	the court that a person licensed to operate a motor vehicle in
419	this state under the provisions of this chapter has failed to
420	pay financial obligations for any criminal offense other than
421	those specified in subsection (1), in full or in part under a
422	payment plan pursuant to s. 28.246(4), the department must shall
423	suspend the license of the person named in the notice. The
424	department shall mail an order of suspension in accordance with
425	s. 322.251(1), (2), and (6), which must also contain information
426	specifying that the person may contact the clerk of the court to
427	establish a payment plan pursuant to s. 28.246(4) to make
428	partial payments for fines, fees, service charges, and court
429	costs.
430	Section 9. Present subsection (3) of section 775.083,
431	Florida Statutes, is redesignated as subsection (4), and a new
432	subsection (3) is added to that section, to read:
433	775.083 Fines
434	(3) The clerk of the court of each county is the entity
435	responsible for collecting payment of fines, fees, service
436	charges, and court costs. Unless otherwise designated by the
437	court, a person who has been ordered to pay court obligations
438	under this section shall immediately contact the clerk to pay
439	fines, fees, service charges, and court costs in full, or to
440	apply for enrollment in a payment plan, pursuant to s.
441	28.246(4).
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Section 10. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect October 1, 2021.

446 447

TITLE AMENDMENT

448 Remove everything before the enacting clause and insert: 449 An act relating to clerks of the circuit court; amending s. 450 28.246, F.S.; clarifying the responsibility of an individual 451 released from incarceration regarding enrolling in a payment 452 plan for any outstanding court obligations; modifying the manner 453 of calculating a monthly payment amount under a payment plan; 454 requiring the clerk to establish all terms of a payment plan; 455 amending s. 28.35, F.S.; conforming provisions to changes made 456 by the act; amending s. 28.36, F.S.; conforming a cross-457 reference; requiring the corporation to establish and manage a 458 contingency reserve within the Clerks of the Court Trust Fund 459 for specified purposes; prescribing reporting requirements; 460 specifying circumstances under which moneys held in reserve may be used; prescribing procedures for the release of such funds; 461 462 amending s. 28.37, F.S.; modifying a provision regarding state court system funding; defining terms; conforming a cross-463 reference; revising provisions governing the transfer of certain 464 funds from the Clerks of the Court Trust Fund to the General 465 466 Revenue Fund by the Department of Revenue; amending s. 28.42, 771525 - h0903-strikeall.docx

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467 F.S.; requiring the clerks to develop a uniform payment plan 468 form by a specified date; prescribing requirements for the form; 469 requiring the clerks to use such form by a specified date; amending ss. 318.15, 318.20, and 322.245, F.S.; requiring orders 470 and notifications for certain traffic citations and suspensions 471 472 to include information regarding payment plans; amending s. 775.083, F.S.; designating the clerk as the entity responsible 473 for collecting payment of certain court obligations; requiring a 474 person ordered to pay such obligations to contact the clerk in 475 476 order to pay or establish a payment plan, unless otherwise 477 provided; providing effective dates.

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