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CS/HB 397

2022 Legislature

1  
 2 An act relating to court fiscal administration;  
 3 amending s. 28.246, F.S.; revising the calculation  
 4 used to determine the presumed ability to pay certain  
 5 fees, charges, costs, and fines; providing a formula  
 6 for determining a specified down payment; providing  
 7 construction; amending s. 28.35, F.S.; requiring the  
 8 Florida Clerks of Court Operations Corporation to  
 9 provide a recommendation on the distribution of  
 10 specified fees, charges, costs, and fines; providing  
 11 that the corporation shall complete specified duties  
 12 under certain circumstances; requiring the corporation  
 13 to annually prepare a specified budget request;  
 14 providing that such a request is not subject to change  
 15 by the Justice Administrative Commission; providing an  
 16 exception; providing that the Justice Administrative  
 17 Commission shall submit the request to the Governor  
 18 for transmittal to the Legislature; amending s. 40.29,  
 19 F.S.; authorizing the clerk of the circuit court to  
 20 request reimbursement for certain filings at a  
 21 specified rate and in a certain manner; amending s.  
 22 57.082, F.S.; authorizing the clerk to conduct a  
 23 review of specified records; requiring the clerk to  
 24 maintain the results of such review in a specified  
 25 manner and provide the results in such manner to the

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26 | court under specified provisions; authorizing the  
 27 | clerk to use the results of the review when making a  
 28 | determination of indigence; amending s. 322.29, F.S.;  
 29 | requiring the Department of Highway Safety and Motor  
 30 | Vehicles to work with a specified association to  
 31 | implement certain technology; providing an effective  
 32 | date.

33 |

34 | Be It Enacted by the Legislature of the State of Florida:

35 |

36 | Section 1. Paragraph (b) of subsection (4) of section  
 37 | 28.246, Florida Statutes, is amended to read:

38 | 28.246 Payment of court-related fines or other monetary  
 39 | penalties, fees, charges, and costs; partial payments;  
 40 | distribution of funds.—

41 | (4)

42 | (b) An individual seeking to defer payment of fees,  
 43 | service charges, court costs, or fines imposed by operation of  
 44 | law or order of the court under any provision of general law  
 45 | shall apply to the clerk for enrollment in a payment plan. The  
 46 | clerk shall enter into a payment plan with an individual who the  
 47 | court determines is indigent for costs. It is the responsibility  
 48 | of an individual who is released from incarceration and has  
 49 | outstanding court obligations to contact the clerk within 30  
 50 | days after release to pay fees, service charges, court costs,

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51 and fines in full, or to apply for enrollment in a payment plan.

52 1. A monthly payment amount, calculated based upon all  
 53 fees and all anticipated fees, service charges, court costs, and  
 54 fines, is presumed to correspond to the person's ability to pay  
 55 if the amount does not exceed the greater of:

56 a. Two ~~2~~ percent of the person's annual net income, as  
 57 defined in s. 27.52(1), divided by 12; or

58 b. Twenty five dollars.

59 2. Any amount required by the clerk as down payment to  
 60 initially establish a payment plan shall be the lesser of 10  
 61 percent of the total amount owed or \$100. The amount does not  
 62 include the imposition of a service charge pursuant to s.  
 63 28.24(27)(b) or (c). The clerk shall establish all terms of a  
 64 payment plan, and the court may review the reasonableness of the  
 65 payment plan.

66 Section 2. Paragraph (c) of subsection (2) of section  
 67 28.35, Florida Statutes, is amended, and paragraph (i) is added  
 68 to that subsection, to read:

69 28.35 Florida Clerks of Court Operations Corporation.—

70 (2) The duties of the corporation shall include the  
 71 following:

72 (c)1. Recommending to the Legislature changes in the  
 73 amounts and distribution of the various court-related fines,  
 74 fees, service charges, and costs established by law to ensure  
 75 reasonable and adequate funding of the clerks of the court in

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76 | the performance of their court-related functions.

77 | 2. If the number of judges under s. 26.031 or s. 34.022 is  
 78 | increased, the corporation shall:

79 | a. Develop a formula to be used to estimate the total cost  
 80 | associated with clerk support for circuit and county judges  
 81 | statewide.

82 | b. Make a recommendation for consideration by the  
 83 | Legislature on any need for additional funding using the formula  
 84 | approved in sub-subparagraph a.

85 | (i) Annually preparing a budget request which,  
 86 | notwithstanding the provisions of chapter 216 and in accordance  
 87 | with s. 216.351, provides the anticipated amount necessary for  
 88 | reimbursement pursuant to s. 40.29(6). The request for the  
 89 | anticipated reimbursement amount shall be submitted in the form  
 90 | and manner prescribed by the Justice Administrative Commission.  
 91 | Such request is not subject to change by the Justice  
 92 | Administrative Commission, except for technical changes  
 93 | necessary to conform to the legislative budget instructions, and  
 94 | shall be submitted to the Governor for transmittal to the  
 95 | Legislature.

96 | Section 3. Subsection (6) is added to section 40.29,  
 97 | Florida Statutes, to read:

98 | 40.29 Payment of due-process costs; reimbursement for  
 99 | petitions and orders.—

100 | (6) Subject to legislative appropriation, the clerk of the

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101 circuit court may, on a quarterly basis, submit to the Justice  
 102 Administrative Commission a certified request for reimbursement  
 103 for petitions and orders filed under ss. 394.459, 394.463,  
 104 394.467, 394.917, and 397.6814, at the rate of \$40 per petition  
 105 or order. Such request for reimbursement shall be submitted in  
 106 the form and manner prescribed by the Justice Administrative  
 107 Commission pursuant to s. 28.35(2)(i).

108 Section 4. Paragraphs (a) and (d) of subsection (2) of  
 109 section 57.082, Florida Statutes, are amended to read:

110 57.082 Determination of civil indigent status.—

111 (2) DETERMINATION BY THE CLERK.—The clerk of the court  
 112 shall determine whether an applicant seeking such designation is  
 113 indigent based upon the information provided in the application  
 114 and the criteria prescribed in this subsection.

115 (a)1. An applicant, including an applicant who is a minor  
 116 or an adult tax-dependent person, is indigent if the applicant's  
 117 income is equal to or below 200 percent of the then-current  
 118 federal poverty guidelines prescribed for the size of the  
 119 household of the applicant by the United States Department of  
 120 Health and Human Services.

121 2. There is a presumption that the applicant is not  
 122 indigent if the applicant owns, or has equity in, any intangible  
 123 or tangible personal property or real property or the expectancy  
 124 of an interest in any such property having a net equity value of  
 125 \$2,500 or more, excluding the value of the person's homestead

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126 and one vehicle having a net value not exceeding \$5,000.

127 3. Notwithstanding the information provided by the  
 128 applicant, the clerk may conduct a review of the property  
 129 records for the county in which the applicant resides and the  
 130 motor vehicle title records of this state to identify any  
 131 property interests of the applicant under this paragraph. The  
 132 clerk may evaluate and consider the results of the review in  
 133 making a determination under this subsection. If a review is  
 134 conducted, the clerk must maintain the results of the review in  
 135 a file with the application and provide the file to the court if  
 136 an applicant seeks review under subsection (4) of the clerk's  
 137 determination of indigent status.

138 (d) The duty of the clerk in determining whether an  
 139 applicant is indigent is limited to receiving the application,  
 140 conducting a review of records under subparagraph (a)3., and  
 141 comparing the information provided in the application and  
 142 identified in the review of records to the criteria prescribed  
 143 in this subsection. The determination of indigent status is a  
 144 ministerial act of the clerk and ~~may~~ not a decision ~~be~~ based on  
 145 further investigation or the exercise of independent judgment by  
 146 the clerk. The clerk may contract with third parties to perform  
 147 functions assigned to the clerk under this section.

148 Section 5. Subsection (3) is added to section 322.29,  
 149 Florida Statutes, to read:

150 322.29 Surrender and return of license.—

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151           (3) The department must work with the clerks of court,  
152 through their association, to ensure the ability within their  
153 technology systems for clerks of court to reinstate suspended  
154 driver licenses for failure to pay court obligations.

155           Section 6. This act shall take effect July 1, 2022.