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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/03/2022	.	
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Appropriations Subcommittee on Criminal and Civil Justice (Boyd)
recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

(4)



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11 (b) An individual seeking to defer payment of fees, service
12 charges, court costs, or fines imposed by operation of law or
13 order of the court under any provision of general law shall
14 apply to the clerk for enrollment in a payment plan. The clerk
15 shall enter into a payment plan with an individual who the court
16 determines is indigent for costs. It is the responsibility of an
17 individual who is released from incarceration and has
18 outstanding court obligations to contact the clerk within 30
19 days after release to pay fees, service charges, court costs,
20 and fines in full, or to apply for enrollment in a payment plan.

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

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

27 b. \$25.

28 2. Any amount required by the clerk as a down payment to
29 initially establish a payment plan shall be the lesser of 10
30 percent of the total amount owed or \$100. The amount does not
31 include the imposition of a service charge pursuant to s.
32 28.24(27)(b) or (c). The clerk shall establish all terms of a
33 payment plan, and the court may review the reasonableness of the
34 payment plan.

35 Section 2. Paragraph (c) of subsection (2) of section
36 28.35, Florida Statutes, is amended, and paragraph (i) is added
37 to that subsection, to read:

38 28.35 Florida Clerks of Court Operations Corporation.-

39 (2) The duties of the corporation shall include the



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40 following:

41 (c)1. Recommending to the Legislature changes in the
42 amounts and distribution of the various court-related fines,
43 fees, service charges, and costs established by law to ensure
44 reasonable and adequate funding of the clerks of the court in
45 the performance of their court-related functions.

46 2. If the number of judges under s. 26.031 or s. 34.022
47 increases:

48 a. Developing a formula to estimate the total cost
49 associated with clerk support for circuit and county judges
50 statewide.

51 b. Making a recommendation for consideration by the
52 Legislature on any need for additional funding using the formula
53 approved in sub-subparagraph a.

54 (i) Annually preparing a budget request that,
55 notwithstanding chapter 216 and in accordance with s. 216.351,
56 provides the anticipated amount necessary for reimbursement
57 pursuant to s. 40.29(6). The request for the anticipated
58 reimbursement amount must be submitted in the form and manner
59 prescribed by the Justice Administrative Commission. Such
60 request is not subject to change by the Justice Administrative
61 Commission except for technical changes necessary to conform to
62 the legislative budget instructions and must be submitted by the
63 Justice Administrative Commission to the Governor for
64 transmittal to the Legislature.

65 Section 3. Section 40.29, Florida Statutes, is amended to
66 read:

67 40.29 Payment of due-process costs; reimbursement for
68 petitions and orders.-



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69 (1) Each clerk of the circuit court, on behalf of the state
70 attorney, private court-appointed counsel, the public defender,
71 and the criminal conflict and civil regional counsel, shall
72 forward to the Justice Administrative Commission, by county, a
73 quarterly estimate of funds necessary to pay for ordinary
74 witnesses, including, but not limited to, witnesses in civil
75 traffic cases and witnesses of the state attorney, the public
76 defender, criminal conflict and civil regional counsel, private
77 court-appointed counsel, and persons determined to be indigent
78 for costs. Each quarter of the state fiscal year, the
79 commission, based upon the estimates, shall advance funds to
80 each clerk to pay for these ordinary witnesses from state funds
81 specifically appropriated for the payment of ordinary witnesses.

82 (2) Upon receipt of an estimate pursuant to subsection (1),
83 the Justice Administrative Commission shall endorse the amount
84 deemed necessary for payment by the clerk of the court during
85 the quarterly fiscal period and shall submit a request for
86 payment to the Chief Financial Officer.

87 (3) Upon receipt of the funds from the Chief Financial
88 Officer, the clerk of the court shall pay all invoices approved
89 and submitted by the state attorney, the public defender,
90 criminal conflict and civil regional counsel, and private court-
91 appointed counsel for the items enumerated in subsection (1).

92 (4) After review for compliance with applicable rates and
93 requirements, the Justice Administrative Commission shall pay
94 all due process service related invoices, except those
95 enumerated in subsection (1), approved and submitted by the
96 state attorney, the public defender, criminal conflict and civil
97 regional counsel, or private court-appointed counsel in



98 accordance with the applicable requirements of ss. 29.005,
99 29.006, and 29.007.

100 (5) The Justice Administrative Commission shall reimburse
101 funds to the clerks of the court to compensate jurors, to pay
102 for meals or lodging provided to jurors, and to pay for jury-
103 related personnel costs as provided in this section. Each clerk
104 of the court must submit a request for reimbursement to the
105 Florida Clerks of Court Operations Corporation within 20 days
106 after each quarter attesting to the clerk's actual costs to
107 compensate jurors, to pay for meals or lodging provided to
108 jurors, and to pay for jury-related personnel costs. The Florida
109 Clerks of Court Operations Corporation must review the request
110 for reimbursement to ensure that the costs are reasonably and
111 directly related to jury management. The Florida Clerks of Court
112 Operations Corporation must forward to the Justice
113 Administrative Commission the amount necessary to reimburse each
114 clerk of the court for its personnel and other costs related to
115 jury management unless the total request for reimbursement by
116 the clerks exceeds the quarterly funds available to the Justice
117 Administrative Commission, in which case the Florida Clerks of
118 Court Operations Corporation shall adjust the cumulative total
119 to match the available funds before submitting the request to
120 the Justice Administrative Commission. Upon receipt of each
121 request for reimbursement, the Justice Administrative Commission
122 must review the amount deemed necessary for payment to the
123 clerks of the court for the most recently completed quarter,
124 determine if the total payment amount is available, and submit a
125 request for payment to the Chief Financial Officer. The clerks
126 of the court are responsible for any compensation to jurors, for



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127 payments for meals or lodging provided to jurors, and for jury-
128 related personnel costs that exceed the funding provided in the
129 General Appropriations Act for these purposes.

130 (6) Subject to legislative appropriation, the clerk of the
131 circuit court may, on a quarterly basis, submit to the Justice
132 Administrative Commission a certified request for reimbursement
133 for petitions and orders filed under ss. 394.459, 394.463,
134 394.467, 394.917, and 397.6814, at the rate of \$40 per petition
135 or order. Such request for reimbursement must be submitted in
136 the form and manner prescribed by the Justice Administrative
137 Commission pursuant to s. 28.35(2)(i).

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

140 57.082 Determination of civil indigent status.—

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

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

151 2. There is a presumption that the applicant is not
152 indigent if the applicant owns, or has equity in, any intangible
153 or tangible personal property or real property or the expectancy
154 of an interest in any such property having a net equity value of
155 \$2,500 or more, excluding the value of the person's homestead



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

157 3. Notwithstanding the information provided by the
158 applicant, the clerk may conduct a review of the property
159 records for the county in which the applicant resides and the
160 motor vehicle title records of this state to identify any
161 property interests of the applicant under this paragraph. The
162 clerk may evaluate and consider the results of the review in
163 making a determination under this subsection. If a review is
164 conducted, the clerk must maintain the results of the review in
165 a file with the application and provide the file to the court if
166 an applicant seeks a review under subsection (4) of the clerk's
167 determination of indigent status.

168 (d) The duty of the clerk in determining whether an
169 applicant is indigent is limited to receiving the application,
170 conducting a review of records under subparagraph (a)3., and
171 comparing the information provided in the application and
172 identified in the review of records to the criteria prescribed
173 in this subsection. The determination of indigent status is a
174 ministerial act of the clerk and may not a decision be based on
175 further investigation or the exercise of independent judgment by
176 the clerk. The clerk may contract with third parties to perform
177 functions assigned to the clerk under this section.

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

180 322.29 Surrender and return of license.—

181 (3) The department shall work with the clerks of court,
182 through their association, to ensure the ability within their
183 technology systems for clerks of court to reinstate suspended
184 driver licenses for failure to pay court obligations.



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

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187 ===== T I T L E A M E N D M E N T =====

188 And the title is amended as follows:

189 Delete everything before the enacting clause
190 and insert:

191 A bill to be entitled
192 An act relating to clerks of the circuit court;
193 amending s. 28.246, F.S.; revising the calculation
194 used to determine the presumed ability to pay certain
195 fees, charges, costs, and fines; providing a formula
196 for determining a specified down payment; providing
197 construction; amending s. 28.35, F.S.; requiring the
198 Florida Clerks of Court Operations Corporation to
199 provide a recommendation on the distribution of
200 specified fines, fees, charges, and costs; requiring
201 the corporation to complete specified duties under
202 certain circumstances; requiring the corporation to
203 annually prepare a specified budget request; providing
204 that such a request is not subject to change by the
205 Justice Administrative Commission; requiring the
206 commission to submit the request to the Governor for
207 transmittal to the Legislature; amending s. 40.29,
208 F.S.; authorizing clerks of the circuit court to
209 submit, at prescribed intervals, to the commission
210 certified requests for reimbursement of specified
211 petitions and orders at a certain rate per petition or
212 order; amending s. 57.082, F.S.; authorizing clerks of
213 the court to conduct a review of specified records;



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214 requiring the clerks to maintain the results of such
215 review in a specified manner and provide the results
216 to the court under certain circumstances; amending s.
217 322.29, F.S.; requiring the Department of Highway
218 Safety and Motor Vehicles to work with a specified
219 association to ensure that their technology systems
220 have specified capabilities; providing an effective
221 date.