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1                   A bill to be entitled  
2           An act relating to court-related assessments; creating  
3           s. 28.2457, F.S.; providing for a monetary assessment  
4           mandated by statute to be imposed regardless of  
5           whether the assessment is announced in open court;  
6           providing guidelines for establishing the amount of a  
7           mandatory assessment under certain conditions;  
8           requiring the clerks of court to develop a uniform  
9           form to be used in identifying and imposing mandatory  
10          assessments; providing for the clerks to consult with  
11          the Office of the State Courts Administrator;  
12          providing for the Supreme Court to approve the form;  
13          defining terms; amending s. 28.246, F.S.; revising  
14          requirements for the clerks of court to report on the  
15          assessment and collection of certain fines or other  
16          monetary penalties, fees, costs, and charges;  
17          prescribing requirements for reporting certain  
18          assessments that are waived, suspended, or reduced;  
19          requiring the clerks to report collection rates;  
20          providing guidelines for calculating the collection  
21          rate; revising the timeframe for submitting the  
22          report; requiring the clerks, rather than the  
23          Department of Financial Services, to develop a  
24          reporting form and guidelines; providing for the  
25          clerks to consult with the Office of the State Courts  
26          Administrator; amending s. 28.42, F.S.; removing an  
27          obsolete date; providing for the clerks of court,  
28          rather than the Office of the State Courts  
29          Administrator, to prepare and disseminate a manual of

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30 filing fees, service charges, costs, and fines;  
31 revising requirements relating to the content and  
32 presentation of information in the manual; providing  
33 for the clerks to consult with the Office of the State  
34 Courts Administrator; providing for applicability of  
35 amendments made by the act; providing an effective  
36 date.

37  
38 Be It Enacted by the Legislature of the State of Florida:

39  
40 Section 1. Section 28.2457, Florida Statutes, is created to  
41 read:

42 28.2457 Mandatory monetary assessments.—

43 (1) (a) Except as otherwise provided by law, a monetary  
44 assessment mandated by statute shall be imposed and included in  
45 the judgment without regard to whether the assessment is  
46 announced in open court.

47 (b) When an assessment mandated by statute prescribes a  
48 minimum assessment and a maximum assessment, or prescribes  
49 solely a minimum assessment, the minimum assessment is presumed  
50 and shall be imposed and included in the judgment, unless the  
51 court specifies a greater amount.

52 (2) The clerks of court, through their association and in  
53 consultation with the Office of the State Courts Administrator,  
54 shall develop by October 1, 2012, a uniform form for the  
55 identification and imposition of all assessments mandated by  
56 statute. The clerks shall submit the form by that date, and by  
57 October 1 every year thereafter if necessary to reflect changes  
58 in the law, to the Supreme Court for approval. Upon approval of

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59 the form by the Supreme Court, all circuit and county courts  
60 shall use the form.

61 (3) As used in this section, the term "monetary assessment"  
62 or "assessment" includes, but is not limited to, a fine or other  
63 monetary penalty, fee, service charge, or cost.

64 Section 2. Section 28.246, Florida Statutes, is amended to  
65 read:

66 28.246 Payment of court-related fines or other monetary  
67 penalties, fees, charges, and costs; partial payments;  
68 distribution of funds.-

69 (1) The clerk of the circuit court shall report the  
70 following information to the Legislature and the Florida Clerks  
71 of Court Operations Corporation on a form, and using guidelines  
72 developed by the clerks of court, through their association and  
73 in consultation with the Office of the State Courts  
74 Administrator Department of Financial Services:

75 (a) The total amount of mandatory fees, service charges,  
76 and costs; ~~the total amount actually assessed;~~ the total amount  
77 underassessed, if any, which is the amount less than the minimum  
78 amount required by law to be discharged, waived, or otherwise  
79 ~~not~~ assessed; and the total amount collected.

80 (b) The total amount of discretionary fees, service  
81 charges, and costs assessed; ~~the total amount discharged;~~ and  
82 the total amount collected.

83 (c) The total amount of mandatory fines and other monetary  
84 penalties; ~~the total amount assessed;~~ the total amount  
85 underassessed, if any, which is the amount less than the minimum  
86 amount required by law to be discharged, waived, or otherwise  
87 ~~not~~ assessed; and the total amount collected.

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88 (d) The total amount of discretionary fines and other  
89 monetary penalties assessed; ~~the amount discharged;~~ and the  
90 total amount collected.

91  
92 ~~If provided to the clerk of court by the judge,~~ The clerk, in  
93 reporting to the Legislature and corporation amount assessed,  
94 shall separately identify the monetary amount assessed and  
95 subsequently discharged or converted pursuant to s. 938.30 as  
96 community service, assessed by reducing the amount to a  
97 judgment or lien, or to satisfied by time served; or other. The  
98 form developed by the clerks Chief Financial Officer shall  
99 include separate entries for recording the amount discharged and  
100 the amount converted these amounts. If a court waives, suspends,  
101 or reduces an assessment as authorized by law, the portion  
102 waived, suspended, or reduced may not be deemed assessed or  
103 underassessed for purposes of the reporting requirements of this  
104 section. The clerk also shall report a collection rate for  
105 mandatory and discretionary assessments. In calculating the  
106 rate, the clerk shall deduct amounts discharged or converted  
107 from the amount assessed. The clerk shall submit the report on  
108 an annual basis 90 ~~60~~ days after the end of the county fiscal  
109 year. The clerks and the courts shall develop by October 1,  
110 2012, the form and guidelines to govern the accurate and  
111 consistent reporting statewide of assessments as provided in  
112 this section. The clerk shall use the new reporting form and  
113 guidelines in submitting the report for the county fiscal year  
114 ending September 30, 2013, and for each year thereafter.

115 (2) The clerk of the circuit court shall establish and  
116 maintain a system of accounts receivable for court-related fees,

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117 charges, and costs.

118 (3) Court costs, fines, and other dispositional assessments  
119 shall be enforced by order of the courts, collected by the  
120 clerks of the circuit and county courts, and disbursed in  
121 accordance with authorizations and procedures as established by  
122 general law.

123 (4) The clerk of the circuit court shall accept partial  
124 payments for court-related fees, service charges, costs, and  
125 fines in accordance with the terms of an established payment  
126 plan. An individual seeking to defer payment of fees, service  
127 charges, costs, or fines imposed by operation of law or order of  
128 the court under any provision of general law shall apply to the  
129 clerk for enrollment in a payment plan. The clerk shall enter  
130 into a payment plan with an individual who the court determines  
131 is indigent for costs. A monthly payment amount, calculated  
132 based upon all fees and all anticipated costs, is presumed to  
133 correspond to the person's ability to pay if the amount does not  
134 exceed 2 percent of the person's annual net income, as defined  
135 in s. 27.52(1), divided by 12. The court may review the  
136 reasonableness of the payment plan.

137 (5) When receiving partial payment of fees, service  
138 charges, court costs, and fines, clerks shall distribute funds  
139 according to the following order of priority:

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

143 (b) That portion of fees, service charges, court costs, and  
144 fines ~~which are~~ required to be retained by the clerk of the  
145 court or deposited into the Clerks of the Court Trust Fund

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146 within the Justice Administrative Commission.

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

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

158  
159 To offset processing costs, clerks may impose either a per-month  
160 service charge pursuant to s. 28.24(26) (b) or a one-time  
161 administrative processing service charge at the inception of the  
162 payment plan pursuant to s. 28.24(26) (c).

163 (6) A clerk of court shall pursue the collection of any  
164 fees, service charges, fines, court costs, and liens for the  
165 payment of attorney ~~attorney's~~ fees and costs pursuant to s.  
166 938.29 which remain unpaid after 90 days by referring the  
167 account to a private attorney who is a member in good standing  
168 of The Florida Bar or collection agent who is registered and in  
169 good standing pursuant to chapter 559. In pursuing the  
170 collection of such unpaid financial obligations through a  
171 private attorney or collection agent, the clerk of the court  
172 must have attempted to collect the unpaid amount through a  
173 collection court, collections docket, or other collections  
174 process, if any, established by the court, find this to be cost-

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175 effective and follow any applicable procurement practices. The  
176 collection fee, including any reasonable attorney's fee, paid to  
177 any attorney or collection agent retained by the clerk may be  
178 added to the balance owed in an amount not to exceed 40 percent  
179 of the amount owed at the time the account is referred to the  
180 attorney or agent for collection. The clerk shall give the  
181 private attorney or collection agent the application for the  
182 appointment of court-appointed counsel regardless of whether the  
183 court file is otherwise confidential from disclosure.

184 Section 3. Section 28.42, Florida Statutes, is amended to  
185 read:

186 28.42 Manual of ~~court-related~~ filing fees, charges, costs,  
187 and fines. ~~No later than July 1, 2004,~~ The clerks of court,  
188 through their association and in consultation with the Office of  
189 the State Courts Administrator, shall prepare and disseminate a  
190 manual of ~~court-related~~ filing fees, service charges, costs, and  
191 fines imposed pursuant to state law, ~~organized by county~~ for  
192 each type of action and offense, and classified as ~~either~~  
193 mandatory or discretionary. The manual also shall classify the  
194 fee, charge, cost, or fine as court-related revenue or noncourt-  
195 related revenue. The clerks, through their association, Office  
196 ~~of the State Courts Administrator~~ shall disseminate this manual  
197 to the chief judge, state attorney, public defender, and court  
198 administrator in each circuit and to the clerk of the court in  
199 each county. The clerks, through their association and in  
200 consultation with the Office of the State Courts Administrator,  
201 shall at a minimum update and disseminate this manual on July 1  
202 of each year ~~thereafter~~.

203 Section 4. Notwithstanding the amendments made by this act

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204 to s. 28.246, Florida Statutes, the clerks of court shall use  
205 the reporting requirements, standards, and form prescribed in  
206 that section before July 1, 2012, for the report due for the  
207 county fiscal year ending September 30, 2012. The amendments  
208 made by this act to s. 28.246, Florida Statutes, apply beginning  
209 with the report for the county fiscal year ending September 30,  
210 2013.

211 Section 5. This act shall take effect July 1, 2012.