

1 A bill to be entitled
2 An act relating to court fiscal administration;
3 amending s. 28.241, F.S.; revising certain filing
4 fees; revising how such filing fees are allocated;
5 amending s. 28.246, F.S.; revising the calculation
6 used to determine the presumed ability to pay certain
7 fees, charges, costs, and fines; providing a formula
8 for determining a specified down payment; providing
9 construction; amending s. 28.35, F.S.; requiring the
10 Florida Clerks of Court Operations Corporation to
11 provide a recommendation on the distribution of
12 specified fees, charges, costs, and fines; providing
13 that the corporation shall complete specified duties
14 under certain circumstances; requiring the corporation
15 to annually prepare a specified budget request;
16 providing that such a request is not subject to change
17 by the Justice Administrative Commission; providing
18 that the Justice Administrative Commission shall
19 submit the request to the Governor for transmittal to
20 the Legislature; amending s. 34.041, F.S.; revising
21 the fund where specified fees are deposited; amending
22 s. 40.29, F.S.; authorizing the clerk of the circuit
23 court to request reimbursement for certain filings at
24 a specified rate and in a certain manner; amending s.
25 57.082, F.S.; authorizing the clerk to conduct a

26 review of specified records; requiring the clerk to
 27 maintain the results of such review in a specified
 28 manner and provide the results in such manner to the
 29 court under specified provisions; authorizing the
 30 clerk to use the results of the review when making a
 31 determination of indigence; amending s. 318.14, F.S.;
 32 providing that a specified civil penalty must meet a
 33 certain minimum amount; amending s. 322.29, F.S.;
 34 requiring the Department of Highway Safety and Motor
 35 Vehicles to work with a specified association to
 36 implement certain technology; providing an effective
 37 date.

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

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 41 Section 1. Paragraph (a) of subsection (1) of section
 42 28.241, Florida Statutes, is amended to read:

43 28.241 Filing fees for trial and appellate proceedings.—

44 (1) Filing fees are due at the time a party files a
 45 pleading to initiate a proceeding or files a pleading for
 46 relief. Reopen fees are due at the time a party files a pleading
 47 to reopen a proceeding if at least 90 days have elapsed since
 48 the filing of a final order or final judgment with the clerk. If
 49 a fee is not paid upon the filing of the pleading as required
 50 under this section, the clerk shall pursue collection of the fee

51 pursuant to s. 28.246.

52 (a)1.a. Except as provided in sub-subparagraph b. and
53 subparagraph 2., the party instituting any civil action, suit,
54 or proceeding in the circuit court shall pay to the clerk of
55 that court a filing fee of up to \$395 in all cases in which
56 there are not more than five defendants and an additional filing
57 fee of up to \$2.50, from which the clerk shall remit \$0.50 to
58 the Department of Revenue for deposit into the General Revenue
59 Fund, for each defendant in excess of five. Of the first \$200 in
60 filing fees, \$195 must be remitted to the Department of Revenue
61 for deposit into the State Courts Revenue Trust Fund, \$4 must be
62 remitted to the Department of Revenue for deposit into the
63 Administrative Trust Fund within the Department of Financial
64 Services and used to fund the contract with the Florida Clerks
65 of Court Operations Corporation created in s. 28.35, and \$1 must
66 be remitted to the Department of Revenue for deposit into the
67 Administrative Trust Fund within the Department of Financial
68 Services to fund audits of individual clerks' court-related
69 expenditures conducted by the Department of Financial Services.
70 By the 10th of each month, the clerk shall submit that portion
71 of the filing fees collected in the previous month which is in
72 excess of one-twelfth of the clerk's total budget to the
73 Department of Revenue for deposit into the Clerks of the Court
74 Trust Fund.

75 b. The party instituting any civil action, suit, or

76 proceeding in the circuit court under chapter 39, chapter 61,
77 chapter 741, chapter 742, chapter 747, chapter 752, or chapter
78 753 shall pay to the clerk of that court a filing fee of up to
79 \$295 in all cases in which there are not more than five
80 defendants and an additional filing fee of up to \$2.50 for each
81 defendant in excess of five. Of the first \$100 in filing fees,
82 \$95 must be remitted to the Department of Revenue for deposit
83 into the State Courts Revenue Trust Fund, \$4 must be remitted to
84 the Department of Revenue for deposit into the Administrative
85 Trust Fund within the Department of Financial Services and used
86 to fund the contract with the Florida Clerks of Court Operations
87 Corporation created in s. 28.35, and \$1 must be remitted to the
88 Department of Revenue for deposit into the Administrative Trust
89 Fund within the Department of Financial Services to fund audits
90 of individual clerks' court-related expenditures conducted by
91 the Department of Financial Services.

92 c. An additional filing fee of \$4 shall be paid to the
93 clerk. The clerk shall remit \$3.50 to the Department of Revenue
94 for deposit into the Court Education Trust Fund and shall remit
95 50 cents to the Department of Revenue for deposit into the
96 Administrative Trust Fund within the Department of Financial
97 Services to fund clerk education provided by the Florida Clerks
98 of Court Operations Corporation. An additional filing fee of up
99 to \$18 shall be paid by the party seeking each severance that is
100 granted, from which the clerk shall remit \$3 to the Department

101 of Revenue for deposit into the General Revenue Fund. The clerk
 102 may impose an additional filing fee of up to \$85, from which the
 103 clerk shall remit \$10 to the Department of Revenue for deposit
 104 into the General Revenue Fund, for all proceedings of
 105 garnishment, attachment, replevin, and distress. Postal charges
 106 incurred by the clerk of the circuit court in making service by
 107 certified or registered mail on defendants or other parties
 108 shall be paid by the party at whose instance service is made.
 109 Additional fees, charges, or costs may not be added to the
 110 filing fees imposed under this section, except as authorized in
 111 this section or by general law.

112 2.a. Notwithstanding the fees prescribed in subparagraph
 113 1., a party instituting a civil action in circuit court relating
 114 to real property or mortgage foreclosure shall pay a graduated
 115 filing fee based on the value of the claim.

116 b. A party shall estimate in writing the amount in
 117 controversy of the claim upon filing the action. For purposes of
 118 this subparagraph, the value of a mortgage foreclosure action is
 119 based upon the principal due on the note secured by the
 120 mortgage, plus interest owed on the note and any moneys advanced
 121 by the lender for property taxes, insurance, and other advances
 122 secured by the mortgage, at the time of filing the foreclosure.
 123 The value shall also include the value of any tax certificates
 124 related to the property. In stating the value of a mortgage
 125 foreclosure claim, a party shall declare in writing the total

126 value of the claim, as well as the individual elements of the
127 value as prescribed in this sub-subparagraph.

128 c. In its order providing for the final disposition of the
129 matter, the court shall identify the actual value of the claim.
130 The clerk shall adjust the filing fee if there is a difference
131 between the estimated amount in controversy and the actual value
132 of the claim and collect any additional filing fee owed or
133 provide a refund of excess filing fee paid.

134 d. The party shall pay a filing fee of:

135 (I) Three hundred and ninety-five dollars in all cases in
136 which the value of the claim is \$50,000 or less and in which
137 there are not more than five defendants. The party shall pay an
138 additional filing fee of up to \$2.50 for each defendant in
139 excess of five. Of the first \$200 in filing fees, \$195 must be
140 remitted by the clerk to the Department of Revenue for deposit
141 into the General Revenue Fund, \$4 must be remitted to the
142 Department of Revenue for deposit into the Administrative Trust
143 Fund within the Department of Financial Services and used to
144 fund the contract with the Florida Clerks of Court Operations
145 Corporation created in s. 28.35, and \$1 must be remitted to the
146 Department of Revenue for deposit into the Administrative Trust
147 Fund within the Department of Financial Services to fund audits
148 of individual clerks' court-related expenditures conducted by
149 the Department of Financial Services;

150 (II) Nine hundred dollars in all cases in which the value

151 of the claim is more than \$50,000 but less than \$250,000 and in
 152 which there are not more than five defendants. The party shall
 153 pay an additional filing fee of up to \$2.50 for each defendant
 154 in excess of five. Of the first \$355 ~~\$705~~ in filing fees, \$350
 155 ~~\$700~~ must be remitted by the clerk to the Department of Revenue
 156 for deposit into the General Revenue Fund, ~~except that the first~~
 157 ~~\$1.5 million in such filing fees remitted to the Department of~~
 158 ~~Revenue and deposited into the General Revenue Fund in fiscal~~
 159 ~~year 2018-2019 shall be distributed to the Miami-Dade County~~
 160 ~~Clerk of Court~~; \$4 must be remitted to the Department of Revenue
 161 for deposit into the Administrative Trust Fund within the
 162 Department of Financial Services and used to fund the contract
 163 with the Florida Clerks of Court Operations Corporation created
 164 in s. 28.35; and \$1 must be remitted to the Department of
 165 Revenue for deposit into the Administrative Trust Fund within
 166 the Department of Financial Services to fund audits of
 167 individual clerks' court-related expenditures conducted by the
 168 Department of Financial Services; or

169 (III) One thousand nine hundred dollars in all cases in
 170 which the value of the claim is \$250,000 or more and in which
 171 there are not more than five defendants. The party shall pay an
 172 additional filing fee of up to \$2.50 for each defendant in
 173 excess of five. Of the first \$1,240 ~~\$1,705~~ in filing fees, \$465
 174 ~~\$930~~ must be remitted by the clerk to the Department of Revenue
 175 for deposit into the General Revenue Fund, \$770 must be remitted

176 to the Department of Revenue for deposit into the State Courts
177 Revenue Trust Fund, \$4 must be remitted to the Department of
178 Revenue for deposit into the Administrative Trust Fund within
179 the Department of Financial Services to fund the contract with
180 the Florida Clerks of Court Operations Corporation created in s.
181 28.35, and \$1 must be remitted to the Department of Revenue for
182 deposit into the Administrative Trust Fund within the Department
183 of Financial Services to fund audits of individual clerks'
184 court-related expenditures conducted by the Department of
185 Financial Services.

186 e. An additional filing fee of \$4 shall be paid to the
187 clerk. The clerk shall remit \$3.50 to the Department of Revenue
188 for deposit into the Court Education Trust Fund and shall remit
189 50 cents to the Department of Revenue for deposit into the
190 Administrative Trust Fund within the Department of Financial
191 Services to fund clerk education provided by the Florida Clerks
192 of Court Operations Corporation. An additional filing fee of up
193 to \$18 shall be paid by the party seeking each severance that is
194 granted. The clerk may impose an additional filing fee of up to
195 \$85 for all proceedings of garnishment, attachment, replevin,
196 and distress. Postal charges incurred by the clerk of the
197 circuit court in making service by certified or registered mail
198 on defendants or other parties shall be paid by the party at
199 whose instance service is made. Additional fees, charges, or
200 costs may not be added to the filing fees imposed under this

201 section, except as authorized in this section or by general law.

202 Section 2. Paragraph (b) of subsection (4) of section
 203 28.246, Florida Statutes, is amended to read:

204 28.246 Payment of court-related fines or other monetary
 205 penalties, fees, charges, and costs; partial payments;
 206 distribution of funds.—

207 (4)

208 (b) An individual seeking to defer payment of fees,
 209 service charges, court costs, or fines imposed by operation of
 210 law or order of the court under any provision of general law
 211 shall apply to the clerk for enrollment in a payment plan. The
 212 clerk shall enter into a payment plan with an individual who the
 213 court determines is indigent for costs. It is the responsibility
 214 of an individual who is released from incarceration and has
 215 outstanding court obligations to contact the clerk within 30
 216 days after release to pay fees, service charges, court costs,
 217 and fines in full, or to apply for enrollment in a payment plan.

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

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

224 b. \$25.

225 2. Any amount required by the clerk as down payment to

226 initially establish a payment plan shall be the lesser of 10
 227 percent of the total amount owed or \$100. The amount does not
 228 include the imposition of a service charge, pursuant to s.
 229 28.24(27)(b) or (c). The clerk shall establish all terms of a
 230 payment plan, and the court may review the reasonableness of the
 231 payment plan.

232 Section 3. Paragraph (c) of subsection (2) of section
 233 28.35, Florida Statutes, is amended, and paragraph (i) is added
 234 to that subsection, to read:

235 28.35 Florida Clerks of Court Operations Corporation.—

236 (2) The duties of the corporation shall include the
 237 following:

238 (c)1. Recommending to the Legislature changes in the
 239 amounts and distribution of the various court-related fines,
 240 fees, service charges, and costs established by law to ensure
 241 reasonable and adequate funding of the clerks of the court in
 242 the performance of their court-related functions.

243 2. If the number of judges under s. 26.031 or s. 34.022 is
 244 increased, the corporation shall:

245 a. Develop a formula to be used to estimate the total cost
 246 associated with clerk support for circuit and county judges
 247 statewide.

248 b. Make a recommendation for consideration by the
 249 Legislature on any need for additional funding using the formula
 250 approved in sub-subparagraph a.

251 (i) Annually preparing a budget request which,
 252 notwithstanding the provisions of chapter 216 and in accordance
 253 with s. 216.351, provides the anticipated amount necessary for
 254 reimbursement pursuant to s. 40.29(6). Such request is not
 255 subject to change by the Justice Administrative Commission, but
 256 shall be submitted by the Justice Administrative Commission to
 257 the Governor for transmittal to the Legislature.

258 Section 4. Paragraph (c) of subsection (1) of section
 259 34.041, Florida Statutes, is amended to read:

260 34.041 Filing fees.—

261 (1)

262 (c) A party in addition to a party described in paragraph
 263 (a) who files a pleading in an original civil action in the
 264 county court for affirmative relief by cross-claim,
 265 counterclaim, counterpetition, or third-party complaint, or who
 266 files a notice of cross-appeal or notice of joinder or motion to
 267 intervene as an appellant, cross-appellant, or petitioner, shall
 268 pay the clerk of court a fee of \$295 if the relief sought by the
 269 party under this paragraph exceeds \$2,500 but is not more than
 270 \$15,000 and \$395 if the relief sought by the party under this
 271 paragraph exceeds \$15,000. The clerk shall deposit ~~remit~~ the fee
 272 if the relief sought by the party under this paragraph exceeds
 273 \$2,500 but is not more than \$15,000 ~~to the Department of Revenue~~
 274 ~~for deposit~~ into the fine and forfeiture fund established
 275 pursuant to s. 142.01 ~~General Revenue Fund~~. This fee does not

276 apply if the cross-claim, counterclaim, counterpetition, or
277 third-party complaint requires transfer of the case from county
278 to circuit court. However, the party shall pay to the clerk the
279 standard filing fee for the court to which the case is to be
280 transferred.

281 Section 5. Subsection (6) is added to section 40.29,
282 Florida Statutes, to read:

283 40.29 Payment of due-process costs; reimbursement for
284 petitions and orders.—

285 (6) Subject to legislative appropriation, the clerk of the
286 circuit court may, on a quarterly basis, submit to the Justice
287 Administrative Commission a certified request for reimbursement
288 for petitions and orders filed under ss. 394.459, 394.463,
289 394.467, 394.917, and 397.6814, at the rate of \$40 per petition
290 or order. The request for reimbursement shall be submitted in
291 the form and manner prescribed by the Justice Administrative
292 Commission.

293 Section 6. Paragraphs (a) and (d) of subsection (2) of
294 section 57.082, Florida Statutes, are amended to read:

295 57.082 Determination of civil indigent status.—

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

300 (a)1. An applicant, including an applicant who is a minor

301 or an adult tax-dependent person, is indigent if the applicant's
302 income is equal to or below 200 percent of the then-current
303 federal poverty guidelines prescribed for the size of the
304 household of the applicant by the United States Department of
305 Health and Human Services.

306 2. There is a presumption that the applicant is not
307 indigent if the applicant owns, or has equity in, any intangible
308 or tangible personal property or real property or the expectancy
309 of an interest in any such property having a net equity value of
310 \$2,500 or more, excluding the value of the person's homestead
311 and one vehicle having a net value not exceeding \$5,000. The
312 clerk may conduct a review of the property records for the
313 county in which the applicant resides and the motor vehicle
314 title records of the state to identify any property interests of
315 the applicant under this subparagraph. The clerk must maintain
316 the results of the review in a file with the application and
317 provide the file to the court if the applicant seeks review
318 under subsection (4).

319 (d) The duty of the clerk in determining whether an
320 applicant is indigent is limited to receiving the application,
321 conducting a review of records under subparagraph (a)2., and
322 comparing the information provided in the application and
323 identified in the review of records to the criteria prescribed
324 in this subsection. The determination of indigent status is a
325 ministerial act of the clerk and ~~may~~ not a decision ~~be~~ based on

326 further investigation or the exercise of independent judgment by
327 the clerk. The clerk may contract with third parties to perform
328 functions assigned to the clerk under this section.

329 Section 7. Subsection (5) of section 318.14, Florida
330 Statutes, is amended to read:

331 318.14 Noncriminal traffic infractions; exception;
332 procedures.—

333 (5) Any person electing to appear before the designated
334 official or who is required so to appear shall be deemed to have
335 waived his or her right to the civil penalty provisions of s.
336 318.18. The official, after a hearing, shall make a
337 determination as to whether an infraction has been committed. If
338 the commission of an infraction has been proven, the official
339 may impose a civil penalty not to exceed \$500, but no less than
340 the amount of the civil penalty provisions of s. 318.18, except
341 that in cases involving unlawful speed in a school zone or
342 involving unlawful speed in a construction zone, the civil
343 penalty may not exceed \$1,000; or require attendance at a driver
344 improvement school, or both. If the person is required to appear
345 before the designated official pursuant to s. 318.19(1) and is
346 found to have committed the infraction, the designated official
347 shall impose a civil penalty of \$1,000 in addition to any other
348 penalties and the person's driver license shall be suspended for
349 6 months. If the person is required to appear before the
350 designated official pursuant to s. 318.19(2) and is found to

351 have committed the infraction, the designated official shall
352 impose a civil penalty of \$500 in addition to any other
353 penalties and the person's driver license shall be suspended for
354 3 months. If the official determines that no infraction has been
355 committed, no costs or penalties shall be imposed and any costs
356 or penalties that have been paid shall be returned. Moneys
357 received from the mandatory civil penalties imposed pursuant to
358 this subsection upon persons required to appear before a
359 designated official pursuant to s. 318.19(1) or (2) shall be
360 remitted to the Department of Revenue and deposited into the
361 Department of Health Emergency Medical Services Trust Fund to
362 provide financial support to certified trauma centers to assure
363 the availability and accessibility of trauma services throughout
364 the state. Funds deposited into the Emergency Medical Services
365 Trust Fund under this section shall be allocated as follows:

366 (a) Fifty percent shall be allocated equally among all
367 Level I, Level II, and pediatric trauma centers in recognition
368 of readiness costs for maintaining trauma services.

369 (b) Fifty percent shall be allocated among Level I, Level
370 II, and pediatric trauma centers based on each center's relative
371 volume of trauma cases as calculated using the hospital
372 discharge data collected pursuant to s. 408.061.

373 Section 8. Subsection (3) is added to section 322.29,
374 Florida Statutes, to read:

375 322.29 Surrender and return of license.—

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376 (3) The department must work with the clerks of court,
377 through their association, to ensure the ability within their
378 technology systems for clerks of court to reinstate suspended
379 driver licenses for failure to pay court obligations.

380 Section 9. This act shall take effect July 1, 2022.