

<b>Tab 1</b>	<b>SB 1130 by Hutson (CO-INTRODUCERS) Thompson;</b> (Compare to CS/H 00977) Clerks of the Court					
607156	D	S	RCS	ACJ, Hutson	Delete everything after	04/19 03:32 PM
<b>Tab 2</b>	<b>CS/SB 1624 by BI, Brodeur;</b> (Similar to CS/H 01353) Commercial Financing Transaction Brokers and Providers					
599280	A	S	RCS	ACJ, Brodeur	Delete L.54 - 171:	04/19 03:32 PM
<b>Tab 3</b>	<b>CS/SB 174 by CJ, Polsky (CO-INTRODUCERS) Torres;</b> (Similar to CS/CS/H 00067) Protection of Specified Personnel					
890214	A	S	RCS	ACJ, Polsky	Delete L.36 - 47:	04/19 03:32 PM

The Florida Senate  
**COMMITTEE MEETING EXPANDED AGENDA**  
**APPROPRIATIONS COMMITTEE ON CRIMINAL AND CIVIL JUSTICE**  
**Senator Bradley, Chair**  
**Senator Powell, Vice Chair**

**MEETING DATE:** Tuesday, April 18, 2023

**TIME:** 12:00 noon—3:00 p.m.

**PLACE:** Mallory Horne Committee Room, 37 Senate Building

**MEMBERS:** Senator Bradley, Chair; Senator Powell, Vice Chair; Senators Baxley, Burgess, Hooper, Ingoglia, Martin, Pizzo, Rouson, Torres, Wright, and Yarborough

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 1130</b> Hutson (Compare CS/H 977)	Clerks of the Court; Requiring the clerk to deposit a certain portion of the filing fee for dissolution of marriage into the fine and forfeiture fund; deleting the requirement that the clerk remit a portion of a certain filing fee in probate matters to the Department of Revenue for deposit into the General Revenue Fund; deleting the requirement that the clerk submit portions of filing fees collected in excess of the clerk's total monthly budget for deposit into the Clerks of the Court Trust Fund; requiring the Florida Clerks of Court Operations Corporation to annually prepare a budget request to fund increases in employer contributions to the Florida Retirement System for court-related employees, etc.  JU 03/29/2023 Favorable ACJ 04/18/2023 Fav/CS AP	Fav/CS Yeas 10 Nays 0
2	<b>CS/SB 1624</b> Banking and Insurance / Brodeur (Similar H 1353)	Commercial Financing Transaction Brokers and Providers; Citing this act as the "Florida Commercial Financing Disclosure Law"; requiring providers that consummate commercial financing transactions to provide specified written disclosures; prohibiting brokers from taking specified actions; providing exclusive authority of the Attorney General to enforce specified provisions, etc.  BI 03/29/2023 Fav/CS ACJ 04/18/2023 Fav/CS FP	Fav/CS Yeas 10 Nays 0
3	<b>CS/SB 174</b> Criminal Justice / Polsky (Identical CS/H 67)	Protection of Specified Personnel; Providing that threats committed with specified intent are specified violations of the act; prohibiting specified threats against a justice or judicial assistant or a family member of such person; providing criminal penalties, etc.  CJ 04/04/2023 Fav/CS ACJ 04/18/2023 Fav/CS FP	Fav/CS Yeas 10 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Appropriations Committee on Criminal and Civil Justice  
Tuesday, April 18, 2023, 12:00 noon—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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Other Related Meeting Documents

18 April 2023

Meeting Date

Appropriations Committee on Criminal and Civil Justice

Committee

Name

Clerk Billy Washington, Madison County Clerk of Court

Phone

(850) 973-1500

Address

125 SW Range Ave

Email

grbwashington@madisonclerk.com

Street

Madison

City

Florida

State

32341

Zip

The Florida Senate  
**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 1130

Bill Number or Topic

Amendment Barcode (if applicable)

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☒

In Support

☐

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐

I am appearing without  
compensation or sponsorship.

☐

I am a registered lobbyist,  
representing:

☐

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

This form is part of the public record for this meeting.

S-001 (08/10/2021)

18 April 2023

Meeting Date

Appropriations Committee on Criminal and Civil Justice

Committee

Name

Clerk Jay Swisher, Columbia County Clerk of Court

Phone

386-758-1342

Address

173 NE Hernando Avenue

Street

Lake City

City

Florida

State

32055

Zip

Email

jswisher@columbiaclerk.com

The Florida Senate  
**APPEARANCE RECORD**

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SB 1130

Bill Number or Topic

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S-001 (08/10/2021)

18 April 2023

Meeting Date

Appropriations Committee on Criminal and Civil Justice

Committee

The Florida Senate

## APPEARANCE RECORD

Deliver both copies of this form to  
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SB 1130

Bill Number or Topic

Amendment Barcode (if applicable)

Name Clerk Laura Roth, Volusia County Clerk of Court

Phone 386-736-5915

Address 101 North Alabama Ave

Email lroth@clerk.org

Street

DeLand

Florida

32724

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

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S-001 (08/10/2021)

The Florida Senate

4/18/2023

**APPEARANCE RECORD**

SB 1130

Meeting Date

Appropriations Committee on Criminal and Civil Justice

Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Bill Number or Topic

Amendment Barcode (if applicable)

Name Clerk Matt Reynolds, Putnam County Clerk of Court

Phone 386.326.7600

Address 312 Oak Street  
Street

Email matt.reynolds@putnam-fl.com

Palatka  
City

FL  
State

32177  
Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

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S-001 (08/10/2021)

18 April 2023

Meeting Date

Appropriations Committee on Criminal and Civil Justice

Committee

The Florida Senate

## APPEARANCE RECORD

Deliver both copies of this form to  
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SB 1130

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Clerk Carolyn Timmann, Martin County Clerk of Court

Phone

772-288-5576

Address

100 SE Ocean BLVD

Email

ctimmann@martinclerk.com

Street

Stuart

City

Florida

State

34994

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☒

In Support

☐

Against

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S-001 (08/10/2021)



18 April 2023

Meeting Date

Appropriations Committee on Criminal and Civil Justice

Committee

The Florida Senate

## APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 1130

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Clerk Tara Green, Clay County Clerk of Court

Phone

904-284-6302

Address

825 North Orange Ave

Email

greent@clayclerk.com

Street

Green Cove Springs Florida

32043

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☒

In Support

☐

Against

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This form is part of the public record for this meeting.

S-001 (08/10/2021)



607156

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/19/2023	.	
	.	
	.	
	.	

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The Appropriations Committee on Criminal and Civil Justice  
(Hutson) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (c) of subsection (1) of section  
28.101, Florida Statutes, is amended to read:

28.101 Petitions and records of dissolution of marriage;  
additional charges.—

(1) When a party petitions for a dissolution of marriage,  
in addition to the filing charges in s. 28.241, the clerk shall



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collect and receive:

(c) A charge of \$37.50. ~~On a monthly basis,~~ The clerk shall deposit the moneys collected pursuant to this paragraph in the fine and forfeiture fund established pursuant to s. 142.01 ~~transfer the moneys collected pursuant to this paragraph to the Department of Revenue for deposit in the General Revenue Fund.~~

Section 2. Subsection (1) of section 28.2401, Florida Statutes, is amended to read:

28.2401 Service charges and filing fees in probate matters.—

(1) Except when otherwise provided, the clerk may impose service charges or filing fees for the following services or filings, not to exceed the following amounts:

(a) Fee for the opening of any estate of one document or more, including, but not limited to, petitions and orders to approve settlement of minor's claims; to open a safe-deposit box; to enter rooms and places; for the determination of heirs, if not formal administration; and for a foreign guardian to manage property of a nonresident; but not to include issuance of letters or order of summary administration.....\$230

(b) Charge for caveat.....\$40

(c) Fee for petition and order to admit foreign wills, authenticated copies, exemplified copies, or transcript to record.....\$230

(d) Fee for disposition of personal property without administration.....\$230

(e) Fee for summary administration—estates valued at \$1,000 or more.....\$340

(f) Fee for summary administration—estates valued at less



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than \$1,000.....\$230  
    (g) Fee for formal administration, guardianship, ancillary,  
curatorship, or conservatorship proceedings.....\$395  
    (h) Fee for guardianship proceedings of person only.....\$230  
    (i) Fee for veterans' guardianship pursuant to chapter  
744.....\$230  
    (j) Charge for exemplified certificates.....\$7  
    (k) Fee for petition for determination of incompetency..\$230

The clerk shall remit \$115 of each filing fee collected under  
paragraphs (a), (c)-(i), and (k) to the Department of Revenue  
for deposit into the State Courts Revenue Trust Fund ~~and shall~~  
~~remit \$15 of each filing fee collected under paragraphs (a),~~  
~~(c), (d), (f), (h), (i), and (k), \$1 of each filing fee~~  
~~collected under paragraph (j), \$5 of each filing fee collected~~  
~~under paragraph (b), \$25 of each filing fee collected under~~  
~~paragraph (c), and \$30 of each filing fee collected under~~  
~~paragraph (g) to the Department of Revenue for deposit into the~~  
~~General Revenue Fund.~~

Section 3. Paragraphs (a) and (d) of subsection (1) of  
section 28.241, Florida Statutes, are amended to read:

28.241 Filing fees for trial and appellate proceedings.—

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



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pursuant to s. 28.246.

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

b. The party instituting any civil action, suit, or proceeding in the circuit court under chapter 39, chapter 61, chapter 741, chapter 742, chapter 747, chapter 752, or chapter 753 shall pay to the clerk of that court a filing fee of up to \$295 in all cases in which there are not more than five



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defendants and an additional filing fee of up to \$2.50 for each defendant in excess of five. Of the first \$100 in filing fees, \$95 must be remitted to the Department of Revenue for deposit into the State Courts Revenue Trust Fund, \$4 must be remitted to the Department of Revenue for deposit into the Administrative Trust Fund within the Department of Financial Services and used to fund the contract with the Florida Clerks of Court Operations Corporation created in s. 28.35, and \$1 must be remitted to the Department of Revenue for deposit into the Administrative Trust Fund within the Department of Financial Services to fund audits of individual clerks' court-related expenditures conducted by the Department of Financial Services.

c. An additional filing fee of \$4 shall be paid to the clerk. The clerk shall remit \$3.50 to the Department of Revenue for deposit into the Court Education Trust Fund and shall remit 50 cents to the Department of Revenue for deposit into the Administrative Trust Fund within the Department of Financial Services to fund clerk education provided by the Florida Clerks of Court Operations Corporation. An additional filing fee of up to \$18 shall be paid by the party seeking each severance that is granted, from which the clerk shall remit \$3 to the Department of Revenue for deposit into the General Revenue Fund. The clerk may impose an additional filing fee of up to \$85, from which the clerk shall remit \$10 to the Department of Revenue for deposit into the General Revenue Fund, for all proceedings of garnishment, attachment, replevin, and distress. Postal charges incurred by the clerk of the circuit court in making service by certified or registered mail on defendants or other parties shall be paid by the party at whose instance service is made.



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Additional fees, charges, or costs may not be added to the filing fees imposed under this section, except as authorized in this section or by general law.

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

b. A party shall estimate in writing the amount in controversy of the claim upon filing the action. For purposes of this subparagraph, the value of a mortgage foreclosure action is based upon the principal due on the note secured by the mortgage, plus interest owed on the note and any moneys advanced by the lender for property taxes, insurance, and other advances secured by the mortgage, at the time of filing the foreclosure. The value shall also include the value of any tax certificates related to the property. In stating the value of a mortgage foreclosure claim, a party shall declare in writing the total value of the claim, as well as the individual elements of the value as prescribed in this sub-subparagraph.

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

d. The party shall pay a filing fee of:

(I) Three hundred and ninety-five dollars in all cases in which the value of the claim is \$50,000 or less and in which there are not more than five defendants. The party shall pay an



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additional filing fee of up to \$2.50 for each defendant in excess of five. Of the first \$200 in filing fees, \$195 must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, \$4 must be remitted to the Department of Revenue for deposit into the Administrative Trust Fund within the Department of Financial Services and used to fund the contract with the Florida Clerks of Court Operations Corporation created in s. 28.35, and \$1 must be remitted to the Department of Revenue for deposit into the Administrative Trust Fund within the Department of Financial Services to fund audits of individual clerks' court-related expenditures conducted by the Department of Financial Services;

(II) Nine hundred dollars in all cases in which the value of the claim is more than \$50,000 but less than \$250,000 and in which there are not more than five defendants. The party shall pay an additional filing fee of up to \$2.50 for each defendant in excess of five. Of the first \$355 ~~\$705~~ in filing fees, \$350 ~~\$700~~ must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, ~~except that the first \$1.5 million in such filing fees remitted to the Department of Revenue and deposited into the General Revenue Fund in fiscal year 2018-2019 shall be distributed to the Miami-Dade County Clerk of Court;~~ \$4 must be remitted to the Department of Revenue for deposit into the Administrative Trust Fund within the Department of Financial Services and used to fund the contract with the Florida Clerks of Court Operations Corporation created in s. 28.35, ~~+~~ and \$1 must be remitted to the Department of Revenue for deposit into the Administrative Trust Fund within the Department of Financial Services to fund audits of





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individual clerks' court-related expenditures conducted by the  
Department of Financial Services; or

(III) One thousand nine hundred dollars in all cases in  
which the value of the claim is \$250,000 or more and in which  
there are not more than five defendants. The party shall pay an  
additional filing fee of up to \$2.50 for each defendant in  
excess of five. Of the first \$1,705 in filing fees, \$930 must be  
remitted by the clerk to the Department of Revenue for deposit  
into the General Revenue Fund, \$770 must be remitted to the  
Department of Revenue for deposit into the State Courts Revenue  
Trust Fund, \$4 must be remitted to the Department of Revenue for  
deposit into the Administrative Trust Fund within the Department  
of Financial Services to fund the contract with the Florida  
Clerks of Court Operations Corporation created in s. 28.35, and  
\$1 must be remitted to the Department of Revenue for deposit  
into the Administrative Trust Fund within the Department of  
Financial Services to fund audits of individual clerks' court-  
related expenditures conducted by the Department of Financial  
Services.

e. An additional filing fee of \$4 shall be paid to the  
clerk. The clerk shall remit \$3.50 to the Department of Revenue  
for deposit into the Court Education Trust Fund and shall remit  
50 cents to the Department of Revenue for deposit into the  
Administrative Trust Fund within the Department of Financial  
Services to fund clerk education provided by the Florida Clerks  
of Court Operations Corporation. An additional filing fee of up  
to \$18 shall be paid by the party seeking each severance that is  
granted. The clerk may impose an additional filing fee of up to  
\$85 for all proceedings of garnishment, attachment, replevin,



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and distress. Postal charges incurred by the clerk of the circuit court in making service by certified or registered mail on defendants or other parties shall be paid by the party at whose instance service is made. Additional fees, charges, or costs may not be added to the filing fees imposed under this section, except as authorized in this section or by general law.

(d) The clerk of court shall collect a service charge of \$10 for issuing an original, a certified copy, or an electronic certified copy of a summons, which the clerk shall deposit into the fine and forfeiture fund established pursuant to s. 142.01 ~~remit to the Department of Revenue for deposit into the General Revenue Fund~~. The clerk shall assess the fee against the party seeking to have the summons issued.

Section 4. Subsection (3) of section 28.37, Florida Statutes, is amended to read:

28.37 Fines, fees, service charges, and costs remitted to the state.—

(3) The portion of all fines, fees, service charges, and costs collected by the clerks of the court for the previous quarter ~~month~~ which is in excess of one-fourth ~~one-twelfth~~ of the clerks' total budget for the performance of court-related functions must be remitted to the Department of Revenue for deposit into the Clerks of the Court Trust Fund. Such collections do not include funding received for the operation of the Title IV-D child support collections and disbursement program. The clerk of the court shall remit the revenues collected during the previous quarter ~~month~~ due to the state on or before the 10th day of the next preceding month immediately ~~following the quarterly calculation each month~~.



607156

Section 5. This act shall take effect July 1, 2023.

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

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled  
An act relating to clerks of court; amending s.  
28.101, F.S.; revising the collections requirements of  
a clerk of court when a party petitions for a  
dissolution of marriage; amending s. 28.2401, F.S.;  
revising the collections requirements of a clerk of  
court in probate matters; amending s. 28.241, F.S.;  
revising the collections requirements of a clerk of  
court in trial and appellate proceedings; revising the  
allocation of filing fees in trial and appellate  
proceedings in certain instances; amending s. 28.37,  
F.S.; revising the collections requirements of a clerk  
of court as it relates to fines, fees, service  
charges, and costs remitted to the state; providing an  
effective date.

By Senator Hutson

7-00687A-23

20231130\_\_

1 A bill to be entitled  
 2 An act relating to clerks of the court; amending s.  
 3 28.101, F.S.; requiring the clerk to deposit a certain  
 4 portion of the filing fee for dissolution of marriage  
 5 into the fine and forfeiture fund; amending s.  
 6 28.2401, F.S.; deleting the requirement that the clerk  
 7 remit a portion of a certain filing fee in probate  
 8 matters to the Department of Revenue for deposit into  
 9 the General Revenue Fund; amending s. 28.241, F.S.;  
 10 deleting the requirement that the clerk submit  
 11 portions of filing fees collected in excess of the  
 12 clerk's total monthly budget for deposit into the  
 13 Clerks of the Court Trust Fund; revising the portions  
 14 of certain filing fees the clerk must remit to the  
 15 department for deposit into the General Revenue Fund;  
 16 requiring the clerk to deposit the service charge for  
 17 an original or certified or electronic copy of a  
 18 summons into the fine and forfeiture fund; amending s.  
 19 28.35, F.S.; requiring the Florida Clerks of Court  
 20 Operations Corporation to annually prepare a budget  
 21 request to fund increases in employer contributions to  
 22 the Florida Retirement System for court-related  
 23 employees; requiring that the request conform to the  
 24 form and manner prescribed by the Justice  
 25 Administrative Commission; authorizing the commission  
 26 to make technical changes under specified  
 27 circumstances; requiring that the request be submitted  
 28 to the Governor for transmittal to the Legislature;  
 29 conforming a provision to changes made by the act;

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

7-00687A-23

20231130\_\_

30 amending s. 28.37, F.S.; revising the portion of all  
 31 fines, fees, service charges, and costs collected by  
 32 the clerk which must be remitted to the Department of  
 33 Revenue for deposit into the Clerks of Court Trust  
 34 Fund; requiring the clerk of the court to submit such  
 35 revenues quarterly rather than monthly; amending s.  
 36 34.041, F.S.; requiring the court to deposit the  
 37 filing fee associated with certain pleadings in civil  
 38 actions into the fine and forfeiture fund under  
 39 specified circumstances; amending s. 40.29, F.S.;  
 40 revising the petitions and orders for which a clerk  
 41 may request the reimbursement of filing fees from the  
 42 Justice Administrative Commission; requiring the clerk  
 43 to pay a law enforcement agency serving an injunction  
 44 a specified fee if the agency requests the payment;  
 45 authorizing the clerk to seek reimbursement from the  
 46 commission for specified petitions for civil indigent  
 47 status, subject to an appropriation; requiring the  
 48 Florida Clerks of Court Operations Corporation to  
 49 submit to the commission a certified request for  
 50 reimbursement for the amount required for each county  
 51 to fund the employer contribution rate increases  
 52 required by the Florida Retirement System for  
 53 applicable court-related employees, subject to an  
 54 appropriation; amending s. 318.18, F.S.; revising the  
 55 portions of a civil penalty the clerk must remit to  
 56 the department to deposit into the General Revenue  
 57 Fund; requiring the clerk to retain a portion of the  
 58 civil penalty to be deposited into the Public Records

Page 2 of 20

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

7-00687A-23

20231130\_\_

Modernization Trust Fund for a specified purpose; deleting a prohibition against using a specified assessment for all noncriminal moving and nonmoving violations as revenue to establish the budget of the clerk; amending s. 741.30, F.S.; deleting a provision authorizing the clerk of the circuit court to request reimbursement for filing fees for petitions for protection against domestic violence; amending s. 784.046, F.S.; deleting a provision authorizing the clerk of the circuit court to request reimbursement for filing fees for petitions for protection against repeat violence, sexual violence, or dating violence; amending s. 784.0485, F.S.; deleting a provision authorizing the clerk of the circuit court to request reimbursement for filing fees for petitions for protection against stalking; providing an effective date.

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

Section 1. Paragraph (c) of subsection (1) of section 28.101, Florida Statutes, is amended to read:

28.101 Petitions and records of dissolution of marriage; additional charges.—

(1) When a party petitions for a dissolution of marriage, in addition to the filing charges in s. 28.241, the clerk shall collect and receive:

(c) A charge of \$37.50. ~~On a monthly basis,~~ The clerk shall deposit ~~transfer~~ the moneys collected pursuant to this paragraph

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into the fine and forfeiture fund established by s. 142.01 ~~to the Department of Revenue for deposit in the General Revenue Fund.~~

Section 2. Subsection (1) of section 28.2401, Florida Statutes, is amended to read:

28.2401 Service charges and filing fees in probate matters.—

(1) Except when otherwise provided, the clerk may impose service charges or filing fees for the following services or filings, not to exceed the following amounts:

(a) Fee for the opening of any estate of one document or more, including, but not limited to, petitions and orders to approve settlement of minor's claims; to open a safe-deposit box; to enter rooms and places; for the determination of heirs, if not formal administration; and for a foreign guardian to manage property of a nonresident; but not to include issuance of letters or order of summary administration.....\$230

(b) Charge for caveat.....\$40

(c) Fee for petition and order to admit foreign wills, authenticated copies, exemplified copies, or transcript to record.....\$230

(d) Fee for disposition of personal property without administration.....\$230

(e) Fee for summary administration—estates valued at \$1,000 or more.....\$340

(f) Fee for summary administration—estates valued at less than \$1,000.....\$230

(g) Fee for formal administration, guardianship, ancillary, curatorship, or conservatorship proceedings.....\$395

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(h) Fee for guardianship proceedings of person only.....\$230

(i) Fee for veterans' guardianship pursuant to chapter

744.....\$230

(j) Charge for exemplified certificates.....\$7

(k) Fee for petition for determination of incompetency..\$230

The clerk shall remit \$115 of each filing fee collected under paragraphs (a), (c)-(i), and (k) to the Department of Revenue for deposit into the State Courts Revenue Trust Fund ~~and shall remit \$15 of each filing fee collected under paragraphs (a), (c), (d), (f), (h), (i), and (k), \$1 of each filing fee collected under paragraph (j), \$5 of each filing fee collected under paragraph (b), \$25 of each filing fee collected under paragraph (e), and \$30 of each filing fee collected under paragraph (g) to the Department of Revenue for deposit into the General Revenue Fund.~~

Section 3. Paragraphs (a) and (d) of subsection (1) of section 28.241, Florida Statutes, are amended to read:

28.241 Filing fees for trial and appellate proceedings.-

(1) Filing fees are due at the time a party files a pleading to initiate a proceeding or files a pleading for relief. Reopen fees are due at the time a party files a pleading to reopen a proceeding if at least 90 days have elapsed since the filing of a final order or final judgment with the clerk. If a fee is not paid upon the filing of the pleading as required under this section, the clerk shall pursue collection of the fee pursuant to s. 28.246.

(a)1.a. Except as provided in sub-subparagraph b. and subparagraph 2., the party instituting any civil action, suit,

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or proceeding in the circuit court shall pay to the clerk of that court a filing fee of up to \$395 in all cases in which there are not more than five defendants and an additional filing fee of up to \$2.50, from which the clerk shall remit \$0.50 to the Department of Revenue for deposit into the General Revenue Fund, for each defendant in excess of five. Of the first \$200 in filing fees, \$195 must be remitted to the Department of Revenue for deposit into the State Courts Revenue Trust Fund, \$4 must be remitted to the Department of Revenue for deposit into the Administrative Trust Fund within the Department of Financial Services and used to fund the contract with the Florida Clerks of Court Operations Corporation created in s. 28.35, and \$1 must be remitted to the Department of Revenue for deposit into the Administrative Trust Fund within the Department of Financial Services to fund audits of individual clerks' court-related expenditures conducted by the Department of Financial Services. ~~By the 10th of each month, the clerk shall submit that portion of the filing fees collected in the previous month which is in excess of one-twelfth of the clerk's total budget to the Department of Revenue for deposit into the Clerks of the Court Trust Fund.~~

b. The party instituting any civil action, suit, or proceeding in the circuit court under chapter 39, chapter 61, chapter 741, chapter 742, chapter 747, chapter 752, or chapter 753 shall pay to the clerk of that court a filing fee of up to \$295 in all cases in which there are not more than five defendants and an additional filing fee of up to \$2.50 for each defendant in excess of five. Of the first \$100 in filing fees, \$95 must be remitted to the Department of Revenue for deposit

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

c. An additional filing fee of \$4 shall be paid to the clerk. The clerk shall remit \$3.50 to the Department of Revenue for deposit into the Court Education Trust Fund and shall remit 50 cents to the Department of Revenue for deposit into the Administrative Trust Fund within the Department of Financial Services to fund clerk education provided by the Florida Clerks of Court Operations Corporation. An additional filing fee of up to \$18 shall be paid by the party seeking each severance that is granted, from which the clerk shall remit \$3 to the Department of Revenue for deposit into the General Revenue Fund. The clerk may impose an additional filing fee of up to \$85, from which the clerk shall remit \$10 to the Department of Revenue for deposit into the General Revenue Fund, for all proceedings of garnishment, attachment, replevin, and distress. Postal charges incurred by the clerk of the circuit court in making service by certified or registered mail on defendants or other parties shall be paid by the party at whose instance service is made. Additional fees, charges, or costs may not be added to the filing fees imposed under this section, except as authorized in this section or by general law.

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

b. A party shall estimate in writing the amount in controversy of the claim upon filing the action. For purposes of this subparagraph, the value of a mortgage foreclosure action is based upon the principal due on the note secured by the mortgage, plus interest owed on the note and any moneys advanced by the lender for property taxes, insurance, and other advances secured by the mortgage, at the time of filing the foreclosure. The value shall also include the value of any tax certificates related to the property. In stating the value of a mortgage foreclosure claim, a party shall declare in writing the total value of the claim, as well as the individual elements of the value as prescribed in this sub-subparagraph.

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

d. The party shall pay a filing fee of:

(I) Three hundred and ninety-five dollars in all cases in which the value of the claim is \$50,000 or less and in which there are not more than five defendants. The party shall pay an additional filing fee of up to \$2.50 for each defendant in excess of five. Of the first \$200 in filing fees, \$195 must be remitted by the clerk to the Department of Revenue for deposit

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233 into the General Revenue Fund, \$4 must be remitted to the  
 234 Department of Revenue for deposit into the Administrative Trust  
 235 Fund within the Department of Financial Services and used to  
 236 fund the contract with the Florida Clerks of Court Operations  
 237 Corporation created in s. 28.35, and \$1 must be remitted to the  
 238 Department of Revenue for deposit into the Administrative Trust  
 239 Fund within the Department of Financial Services to fund audits  
 240 of individual clerks' court-related expenditures conducted by  
 241 the Department of Financial Services;

242 (II) Nine hundred dollars in all cases in which the value  
 243 of the claim is more than \$50,000 but less than \$250,000 and in  
 244 which there are not more than five defendants. The party shall  
 245 pay an additional filing fee of up to \$2.50 for each defendant  
 246 in excess of five. Of the first \$355 ~~\$705~~ in filing fees, \$350  
 247 ~~\$700~~ must be remitted by the clerk to the Department of Revenue  
 248 for deposit into the General Revenue Fund, ~~except that the first~~  
 249 ~~\$1.5 million in such filing fees remitted to the Department of~~  
 250 ~~Revenue and deposited into the General Revenue Fund in fiscal~~  
 251 ~~year 2018-2019 shall be distributed to the Miami-Dade County~~  
 252 ~~Clerk of Court~~; \$4 must be remitted to the Department of Revenue  
 253 for deposit into the Administrative Trust Fund within the  
 254 Department of Financial Services and used to fund the contract  
 255 with the Florida Clerks of Court Operations Corporation created  
 256 in s. 28.35; and \$1 must be remitted to the Department of  
 257 Revenue for deposit into the Administrative Trust Fund within  
 258 the Department of Financial Services to fund audits of  
 259 individual clerks' court-related expenditures conducted by the  
 260 Department of Financial Services; or

261 (III) One thousand nine hundred dollars in all cases in

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262 which the value of the claim is \$250,000 or more and in which  
 263 there are not more than five defendants. The party shall pay an  
 264 additional filing fee of up to \$2.50 for each defendant in  
 265 excess of five. Of the first \$1,240 ~~\$1,705~~ in filing fees, \$465  
 266 ~~\$930~~ must be remitted by the clerk to the Department of Revenue  
 267 for deposit into the General Revenue Fund, \$770 must be remitted  
 268 to the Department of Revenue for deposit into the State Courts  
 269 Revenue Trust Fund, \$4 must be remitted to the Department of  
 270 Revenue for deposit into the Administrative Trust Fund within  
 271 the Department of Financial Services to fund the contract with  
 272 the Florida Clerks of Court Operations Corporation created in s.  
 273 28.35, and \$1 must be remitted to the Department of Revenue for  
 274 deposit into the Administrative Trust Fund within the Department  
 275 of Financial Services to fund audits of individual clerks'  
 276 court-related expenditures conducted by the Department of  
 277 Financial Services.

278 e. An additional filing fee of \$4 shall be paid to the  
 279 clerk. The clerk shall remit \$3.50 to the Department of Revenue  
 280 for deposit into the Court Education Trust Fund and shall remit  
 281 50 cents to the Department of Revenue for deposit into the  
 282 Administrative Trust Fund within the Department of Financial  
 283 Services to fund clerk education provided by the Florida Clerks  
 284 of Court Operations Corporation. An additional filing fee of up  
 285 to \$18 shall be paid by the party seeking each severance that is  
 286 granted. The clerk may impose an additional filing fee of up to  
 287 \$85 for all proceedings of garnishment, attachment, replevin,  
 288 and distress. Postal charges incurred by the clerk of the  
 289 circuit court in making service by certified or registered mail  
 290 on defendants or other parties shall be paid by the party at



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whose instance service is made. Additional fees, charges, or costs may not be added to the filing fees imposed under this section, except as authorized in this section or by general law.

(d) The clerk of court shall collect a service charge of \$10 for issuing an original, a certified copy, or an electronic certified copy of a summons, which the clerk shall deposit into the fine and forfeiture fund established pursuant to s. 142.01 ~~shall remit to the Department of Revenue for deposit into the General Revenue Fund~~. The clerk shall assess the fee against the party seeking to have the summons issued.

Section 4. Paragraph (i) of subsection (2) of section 28.35, Florida Statutes, is amended, and paragraph (j) is added to that subsection, to read:

28.35 Florida Clerks of Court Operations Corporation.—

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

(i) Annually preparing a budget request that which, notwithstanding the provisions of chapter 216 and in accordance with s. 216.351, provides the anticipated amount necessary for reimbursement pursuant to s. 40.29(6) and (7). The request for the anticipated reimbursement amount must ~~shall~~ be submitted in the form and manner prescribed by the Justice Administrative Commission. Such request is not subject to change by the Justice Administrative Commission, except for technical changes necessary to conform to the legislative budget instructions, and must ~~shall~~ be submitted to the Governor for transmittal to the Legislature.

(j) Annually preparing a budget request that, notwithstanding the provisions of chapter 216 and in accordance

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with s. 216.351, provides the anticipated amount necessary to fund increases in employer contribution rates pursuant to ss. 121.71 and 121.72 for court-related employees participating in the Florida Retirement System. The request for the anticipated appropriation must be submitted in the form and manner prescribed by the Justice Administrative Commission. The request is not subject to change by the Justice Administrative Commission, except for technical changes necessary to conform to the legislative budget instruction, and must be submitted to the Governor for transmittal to the Legislature.

Section 5. Subsection (3) of section 28.37, Florida Statutes, is amended to read:

28.37 Fines, fees, service charges, and costs remitted to the state.—

(3) The portion of all fines, fees, service charges, and costs collected by the clerks of the court for the previous quarter month which is in excess of one-fourth ~~one-twelfth~~ of the clerks' total budget for the performance of court-related functions must be remitted to the Department of Revenue for deposit into the Clerks of the Court Trust Fund. Such collections do not include funding received for the operation of the Title IV-D child support collections and disbursement program. The clerk of the court shall remit the revenues collected during the previous quarter month ~~due~~ to the state on or before the 10th day of the month after each quarterly calculation ~~each month~~.

Section 6. Paragraph (c) of subsection (1) of section 34.041, Florida Statutes, is amended to read:

34.041 Filing fees.—

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(1)

(c) A party in addition to a party described in paragraph (a) who files a pleading in an original civil action in the county court for affirmative relief by cross-claim, counterclaim, counterpetition, or third-party complaint, or who files a notice of cross-appeal or notice of joinder or motion to intervene as an appellant, cross-appellant, or petitioner, shall pay the clerk of court a fee of \$295 if the relief sought by the party under this paragraph exceeds \$2,500 but is not more than \$15,000 and \$395 if the relief sought by the party under this paragraph exceeds \$15,000. The clerk shall deposit ~~remit~~ the fee if the relief sought by the party under this paragraph exceeds \$2,500 but is not more than \$15,000 ~~to the Department of Revenue for deposit~~ into the fine and forfeiture fund established pursuant to s. 142.01 General Revenue Fund. This fee does not apply if the cross-claim, counterclaim, counterpetition, or third-party complaint requires transfer of the case from county to circuit court. However, the party shall pay to the clerk the standard filing fee for the court to which the case is to be transferred.

Section 7. Section 40.29, Florida Statutes, is amended to read:

40.29 Payment of due-process costs; reimbursement for petitions and orders; waived civil filing fees for indigency; payment of Florida Retirement System costs for court-related employees.-

(1) Each clerk of the circuit court, on behalf of the state attorney, private court-appointed counsel, the public defender, and the criminal conflict and civil regional counsel, shall

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forward to the Justice Administrative Commission, by county, a quarterly estimate of funds necessary to pay for ordinary witnesses, including, but not limited to, witnesses in civil traffic cases and witnesses of the state attorney, the public defender, criminal conflict and civil regional counsel, private court-appointed counsel, and persons determined to be indigent for costs. Each quarter of the state fiscal year, the commission, based upon the estimates, shall advance funds to each clerk to pay for these ordinary witnesses from state funds specifically appropriated for the payment of ordinary witnesses.

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

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

(4) After review for compliance with applicable rates and requirements, the Justice Administrative Commission shall pay all due process service related invoices, except those enumerated in subsection (1), approved and submitted by the state attorney, the public defender, criminal conflict and civil regional counsel, or private court-appointed counsel in accordance with the applicable requirements of ss. 29.005-29.007.

(5) The Justice Administrative Commission shall reimburse

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407 funds to the clerks of the court to compensate jurors, to pay  
 408 for meals or lodging provided to jurors, and to pay for jury-  
 409 related personnel costs as provided in this section. Each clerk  
 410 of the court must submit a request for reimbursement to the  
 411 Florida Clerks of Court Operations Corporation within 20 days  
 412 after each quarter attesting to the clerk's actual costs to  
 413 compensate jurors, to pay for meals or lodging provided to  
 414 jurors, and to pay for jury-related personnel costs. The Florida  
 415 Clerks of Court Operations Corporation must review the request  
 416 for reimbursement to ensure that the costs are reasonably and  
 417 directly related to jury management. The Florida Clerks of Court  
 418 Operations Corporation must forward to the Justice  
 419 Administrative Commission the amount necessary to reimburse each  
 420 clerk of the court for its personnel and other costs related to  
 421 jury management unless the total request for reimbursement by  
 422 the clerks exceeds the quarterly funds available to the Justice  
 423 Administrative Commission, in which case the Florida Clerks of  
 424 Court Operations Corporation shall adjust the cumulative total  
 425 to match the available funds before submitting the request to  
 426 the Justice Administrative Commission. Upon receipt of each  
 427 request for reimbursement, the Justice Administrative Commission  
 428 must review the amount deemed necessary for payment to the  
 429 clerks of the court for the most recently completed quarter,  
 430 determine if the total payment amount is available, and submit a  
 431 request for payment to the Chief Financial Officer. The clerks  
 432 of the court are responsible for any compensation to jurors, for  
 433 payments for meals or lodging provided to jurors, and for jury-  
 434 related personnel costs that exceed the funding provided in the  
 435 General Appropriations Act for these purposes.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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436 (6) Subject to legislative appropriation, the clerk of the  
 437 circuit court may, on a quarterly basis, submit to the Justice  
 438 Administrative Commission a certified request for reimbursement  
 439 for petitions and orders filed under ss. 394.459, 394.463,  
 440 394.467, 394.917, and 397.6814, at the rate of \$40 per petition  
 441 or order and, for petitions and orders filed under ss. 741.30,  
 442 784.046, and 784.0485, the clerk may, on a quarterly basis,  
 443 submit a request for reimbursement at the rate of \$60 per  
 444 petition or order. From this reimbursement, the clerk shall pay  
 445 any law enforcement agency serving the injunction a fee of up  
 446 to, but not exceeding, \$20, if so requested by the law  
 447 enforcement agency. Such request for reimbursement ~~must~~ shall be  
 448 submitted in the form and manner prescribed by the Justice  
 449 Administrative Commission pursuant to s. 28.35(2)(i).

450 (7) Subject to legislative appropriation, the clerk of the  
 451 circuit court may, on a quarterly basis, submit to the Justice  
 452 Administrative Commission a certified request for reimbursement  
 453 for approved applications for civil indigent status pursuant to  
 454 s. 57.082, in which the filing fee for civil indigent status has  
 455 been waived, at the rate of \$195 per approved application. Such  
 456 request for reimbursement must be submitted in the form and  
 457 manner prescribed by the Justice Administrative Commission  
 458 pursuant to s. 28.35(2)(i).

459 (8) Subject to legislative appropriation, the Florida  
 460 Clerks of Court Operations Corporation shall submit to the  
 461 Justice Administrative Commission a certified request for  
 462 reimbursement for the amounts required by each county to fund  
 463 the employer contribution rate increases required by the Florida  
 464 Retirement System for any applicable court-related employees.

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Section 8. Paragraph (a) of subsection (8) and subsection (19) of section 318.18, Florida Statutes, are amended to read:

318.18 Amount of penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14 or a criminal offense listed in s. 318.17 are as follows:

(8) (a) Any person who fails to comply with the court's requirements or who fails to pay the civil penalties specified in this section within the 30-day period provided for in s. 318.14 must pay an additional civil penalty of \$16, \$1.50 ~~\$6.50~~ of which must be remitted to the Department of Revenue for deposit in the General Revenue Fund, ~~and~~ \$9.50 of which must be remitted to the Department of Revenue for deposit in the Highway Safety Operating Trust Fund, and \$5 of which must be retained by the clerk to be deposited in the Public Records Modernization Trust Fund and used exclusively for funding court-related technology needs of the clerk as described in s. 29.008(1)(f)2. and (h). ~~Of this additional civil penalty of \$16, \$4 is not revenue for purposes of s. 28.36 and may not be used in establishing the budget of the clerk of the court under that section or s. 28.35.~~ The department shall contract with the Florida Association of Court Clerks, Inc., to design, establish, operate, upgrade, and maintain an automated statewide Uniform Traffic Citation Accounting System to be operated by the clerks of the court which shall include, but not be limited to, the accounting for traffic infractions by type, a record of the disposition of the citations, and an accounting system for the fines assessed and the subsequent fine amounts paid to the clerks of the court. The clerks of the court must provide the information required by this chapter to be transmitted to the

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department by electronic transmission pursuant to the contract.

(19) In addition to any penalties imposed, an Article V assessment of \$10 must be paid for all noncriminal moving and nonmoving violations under chapters 316, 320, and 322. ~~The assessment is not revenue for purposes of s. 28.36 and may not be used in establishing the budget of the clerk of the court under that section or s. 28.35.~~ Of the funds collected under this subsection:

(a) The sum of \$5 shall be deposited in the State Courts Revenue Trust Fund for use by the state courts system;

(b) The sum of \$3.33 shall be deposited in the State Attorneys Revenue Trust Fund for use by the state attorneys; and

(c) The sum of \$1.67 shall be deposited in the Indigent Criminal Defense Trust Fund for use by the public defenders.

Section 9. Paragraph (a) of subsection (2) of section 741.30, Florida Statutes, is amended to read:

741.30 Domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement; public records exemption.—

(2) (a) Notwithstanding any other law, the assessment of a filing fee for a petition for protection against domestic violence is prohibited. ~~However, subject to legislative appropriation, the clerk of the circuit court may, on a quarterly basis, submit to the Office of the State Courts Administrator a certified request for reimbursement for petitions for protection against domestic violence issued by the court, at the rate of \$40 per petition. The request for reimbursement must be submitted in the form and manner~~

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~~prescribed by the Office of the State Courts Administrator. From this reimbursement, the clerk shall pay any law enforcement agency serving the injunction the fee requested by the law enforcement agency; however, this fee may not exceed \$20.~~

Section 10. Paragraph (b) of subsection (3) of section 784.046, Florida Statutes, is amended to read:

784.046 Action by victim of repeat violence, sexual violence, or dating violence for protective injunction; dating violence investigations, notice to victims, and reporting; pretrial release violations; public records exemption.-

(3)

(b) Notwithstanding any other law, the clerk of the court may not assess a fee for filing a petition for protection against repeat violence, sexual violence, or dating violence. ~~However, subject to legislative appropriation, the clerk of the court may, each quarter, submit to the Office of the State Courts Administrator a certified request for reimbursement for petitions for protection issued by the court under this section at the rate of \$40 per petition. The request for reimbursement shall be submitted in the form and manner prescribed by the Office of the State Courts Administrator. From this reimbursement, the clerk shall pay the law enforcement agency serving the injunction the fee requested by the law enforcement agency; however, this fee may not exceed \$20.~~

Section 11. Paragraph (a) of subsection (2) of section 784.0485, Florida Statutes, is amended to read:

784.0485 Stalking; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system;

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enforcement.-

(2) (a) Notwithstanding any other law, the clerk of court may not assess a filing fee to file a petition for protection against stalking. ~~However, subject to legislative appropriation, the clerk of the circuit court may, on a quarterly basis, submit to the Office of the State Courts Administrator a certified request for reimbursement for petitions for protection against stalking issued by the court, at the rate of \$40 per petition. The request for reimbursement shall be submitted in the form and manner prescribed by the Office of the State Courts Administrator. From this reimbursement, the clerk shall pay any law enforcement agency serving the injunction the fee requested by the law enforcement agency; however, this fee may not exceed \$20.~~

Section 12. This act shall take effect July 1, 2023.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Committee on Criminal and Civil Justice

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BILL: CS/SB 1130

INTRODUCER: Appropriations Committee on Criminal and Civil Justice; and Senators Hutson and Thompson

SUBJECT: Clerks of the Court

DATE: April 20, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bond	Cibula	JU	<b>Favorable</b>
2.	Kolich	Harkness	ACJ	<b>Fav/CS</b>
3.			AP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1130 increases funding of the clerks of court by allowing the clerks to retain certain civil filing fees and service charges that are currently directed to the General Revenue Fund. The bill also changes the requirement for transfer of a clerk's budget overage from monthly to quarterly.

The bill will redirect an estimated \$24.1 million in revenues from General Revenue Fund to the Clerks' Fine and Forfeiture Trust Fund starting in Fiscal Year 2023-24. See Section V. Fiscal Impact Statement.

The effective date of the bill is July 1, 2023.

**II. Present Situation:**

**Clerk of the Circuit Court**

The clerk of the circuit court is a constitutional officer. Each of Florida's 67 counties are required to elect a clerk of the circuit court<sup>1</sup> to serve as both the clerk of court, completing judiciary functions, and as the "*ex officio*"<sup>2</sup> clerk of the board of county commissioners, auditor,

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<sup>1</sup> FLA. CONST. art. V, s. 16; FLA. CONST. art. VIII, s. 1.

<sup>2</sup> See BLACK'S LAW DICTIONARY (10th ed. 2014) ("*ex officio*" means "By virtue or because of an office; by virtue of the authority implied by office.").

recorder, and custodian of all county funds.”<sup>3</sup> In other words, the clerk of the circuit court wears approximately five hats. In wearing the auditor and custodian of county funds hats, the clerk may also be referred to as the comptroller.<sup>4</sup>

### **Funding for the Clerks’ Court-Related Functions**

In its capacity as the clerk of the circuit and county courts, the clerk is required to perform various court-related, administrative and ministerial functions. Court funding is governed by Art. V, s. 14 of the Florida Constitution. For the clerks of the circuit courts, Art. V, s. 14(b) provides that the clerks are self-sustaining and fund their court-related functions through the collection of filing fees, service charges, and other costs. Specifically, Art. V, s. 14(b) states:

All funding for the offices of the clerks of the circuit and county courts performing court-related functions, except as otherwise provided in this subsection and subsection (c), shall be provided by adequate and appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions as required by general law. Selected salaries, costs, and expenses of the state courts system may be funded from appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions, as provided by general law. Where the requirements of either the United States Constitution or the Constitution of the State of Florida preclude the imposition of filing fees for judicial proceedings and service charges and costs for performing court-related functions sufficient to fund the court-related functions of the offices of the clerks of the circuit and county courts, the state shall provide, as determined by the Legislature, adequate and appropriate supplemental funding from state revenues appropriated by general law.<sup>5</sup>

The court-related functions authorized by law or court rule which must be funded by the clerk’s collection of filing fees, service charges, costs, and fines, include the following:

- Case maintenance.
- Records management.
- Court preparation and attendance.
- Processing the assignment, reopening, and reassignment of cases.
- Processing appeals.
- Collection and distribution of fines, fees, service charges, and court costs.
- Data collection and reporting.
- Determinations of indigent status.

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<sup>3</sup> FLA. CONST. art. V, s. 16. This provision also provides that two officials may split the position, one serving as clerk of court and one serving in the *ex officio* position. Additionally, this provision permits the election of a county clerk of court when authorized by general or special law. *Id.*

<sup>4</sup> See generally Florida Court Clerks & Comptrollers, *About Us, Clerks Duties & Services*, available at <https://www.flclerks.com/page/ClerksDuties> (last visited Nov. 24, 2021). See also BLACK’S LAW DICTIONARY (10th ed. 2014) (“comptroller” means, “[a]n officer of a business or a private, state, or municipal corporation who is charged with duties usu. relating to fiscal affairs, including auditing and examining accounts and reporting the financial status periodically.”).

<sup>5</sup> FLA. CONST. art. V, s. 14(b) (emphasis added).

- Paying reasonable administrative support costs to enable the clerks to carry out court-related functions.<sup>6</sup>

### III. Effect of Proposed Changes:

This bill makes fiscally related changes regarding the clerks of court as follows.

#### Retention of Certain Filing Fees

Any funds collected by a clerk that are not directed to a particular fund are retained by the clerk for use in operating the office of the clerk. Because a direction of monies collected is in statute and not in the state budget, a change in direction stays in effect until changed by a future Legislature. The bill changes the directions listed below from their current payment into the state General Revenue Fund to be retained instead for the benefit of the clerks of court in performing their court-related duties:

- \$37.50 per case from the filing fee for dissolution of marriage
- \$15 to \$30 per case from the filing fee of various probate proceedings
- \$350 per case from the filing fee for foreclosures
- \$10 per issuance of a summons in a civil action

#### Clerk Budgeting

The bill changes the payment of a clerk's excess collections over their budget authority from monthly to quarterly. Calculation of the excess is also moved from a monthly basis to a quarterly basis. This change appears to lower administrative burdens without change in net fiscal effect.

The bill is effective July 1, 2023.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

The bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Art. VII, s. 18 of the Florida Constitution.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

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<sup>6</sup> Section 28.35(3)(a), F.S. *See also* Florida Court Clerks & Comptrollers, *About Us, Clerks Duties & Services*, available at <https://www.flclerks.com/page/ClerksDuties> (last visited Nov. 24, 2021).



**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Article V Revenue Estimating Conference met on March 24, 2023 and determined the fiscal impact of the individual fee categories as follows:

- Dissolution of Marriage - \$2.5 million
- Probate - \$2.0 million
- Foreclosure Filing Fee (\$350 per case) - \$7.3 million
- Issuance of a Summons - \$12.3 million<sup>7</sup>

The bill will redirect approximately \$24.1 million in recurring funds from the General Revenue Fund to the Clerks of Court.<sup>8</sup> The annual general revenue reduction and amount accruing to the trust fund is expected to grow each fiscal year thereafter; the impact in Fiscal Year 2027-28 is expected to be \$26.7 million.<sup>9</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 28.101, 28.2401, 28.241, 28.35, 28.37, 34.041, 40.29, 318.18, 741.30, 784.046, and 784.0485.

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<sup>7</sup> Office of Economic and Demographic Research, Article V Revenue Estimating Conference, March 24, 2023, SB 1130 and HB 977.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Appropriations Committee on Criminal and Civil Justice on April 18, 2023:**

The committee substitute removes the redirect of funds from the General Revenue Fund to the clerks of court for performing their court-related duties:

- \$465 per case from the filing fee for certain foreclosures; and,
- \$295 or \$395 per case from the filing fee to file a cross-claim or counterclaim in a county civil case.

The committee substitute also removes the redirect of \$5 from certain traffic infraction charges from the General Revenue Fund to the Public Records Modernization Trust Fund to be used exclusively for funding court-related technology needs to the clerks.

In addition, the committee substitute removes the following:

- Authorizing the clerks of court to submit an annual budget request, subject to legislative appropriations, for reimbursement of the anticipated amount necessary to fund increases in the employer contribution rate for the Florida Retirement System.
- Authorizing the clerks of court to submit a quarterly request for reimbursement, subject to legislative appropriation, for payment of \$195 per approved application for an indigency waiver of a civil case filing.
- Amending the provision for reimbursement of the costs of a domestic violence injunction from \$40 per petition to \$60 per petition.

**B. Amendments:**

None.

4/18/23

Meeting Date

Civil Justice Approps  
Committee

The Florida Senate  
**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 1024 1624

Bill Number or Topic

Amendment Barcode (if applicable)

Name Abby Vail Phone 850-577-0444  
Address 201 E. Park Ave., 5th Floor Email abby@ballardpartners.com  
Tallahassee FL 32301  
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

Revenue Based Finance  
Coalition

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/19/2023	.	
	.	
	.	
	.	

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The Appropriations Committee on Criminal and Civil Justice  
(Brodeur) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 54 - 171  
and insert:

(5) "Commercial financing facility" means a provider's plan  
for purchasing multiple accounts receivable from the recipient  
over a period of time pursuant to an agreement that sets forth  
the terms and conditions governing the use of the facility.

(6) "Commercial financing transaction" means a commercial  
loan, an accounts receivable purchase transaction, or a



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commercial open-end credit plan to the extent the transaction is also a business purpose transaction. As used in this subsection, the term "business purpose transaction" means a transaction the proceeds of which are provided to a business or are intended to be used to carry on a business and not to be used for personal, family, or household purposes. For purposes of determining whether a transaction is a business purpose transaction, the provider may rely on any written statement of intended purpose signed by the business. The statement may be a separate statement or may be contained in an application, agreement, or other document signed by the business or the business owner.

(7) "Commercial loan" means a loan to a business, whether secured or unsecured.

(8) "Commercial open-end credit plan" means commercial financing extended by any provider under a plan in which:

(a) The provider reasonably contemplates repeat transactions.

(b) The amount of financing that may be extended to the business during the term of the plan, up to any limit set by the provider, is generally made available to the extent that any outstanding balance is repaid.

(9) "Depository institution" means a Florida state-chartered bank, savings bank, credit union, or trust company, or a federal savings or thrift association, bank, credit union, savings bank, or thrift.

(10) "Provider" means a person who consummates more than five commercial financing transactions with a business located in this state in any calendar year. The term also includes a person who enters into a written agreement with a depository



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institution to arrange a commercial financing transaction  
between the depository institution and a business via an online  
lending platform administered by the person. The fact that a  
provider extends a specific offer for a commercial financing  
transaction on behalf of a depository institution may not be  
construed to mean that the provider engaged in lending or  
financing or originated that loan or financing.

559.9612 Scope of this part.—This part applies to any  
commercial financing transaction consummated on or after January  
1, 2024. This part does not apply to:

(1) A provider that is:

(a) A federally insured depository institution or an  
affiliate or holding company of such institution; or

(b) A subsidiary or service corporation that is owned and  
controlled by a federally insured depository institution or  
under common ownership with such institution.

(2) A provider that is a lender regulated under the Farm  
Credit Act of 1971, 12 U.S.C. ss. 2001 et seq.

(3) A commercial financing transaction that is:

(a) Secured by real property;

(b) A lease; or

(c) A purchase money obligation that is incurred as all or  
part of the price of the collateral or for value given to enable  
the business to acquire rights in or the use of the collateral  
if the value is in fact so used.

(4) A commercial financing transaction in which the  
recipient is a motor vehicle dealer or an affiliate of such a  
dealer, or a vehicle rental company or an affiliate of such a  
company, pursuant to a commercial loan or commercial open-end



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credit plan of at least \$50,000 or a commercial financing transaction offered by a person in connection with the sale or lease of products or services that such person manufactures, licenses, or distributes, or whose parent company or any of its directly or indirectly owned and controlled subsidiaries manufactures, licenses, or distributes.

(5) A provider that is licensed as a money transmitter under chapter 560 or licensed as a money transmitter by any other state, district, territory, or commonwealth of the United States.

(6) A provider that consummates no more than five commercial financing transactions in this state in a 12-month period.

(7) A commercial financing transaction of more than \$500,000.

559.9613 Disclosures.—

(1) A provider that consummates a commercial financing transaction shall provide a written disclosure of the terms of the commercial financing transaction as required by this part. The disclosure must be provided at or before consummation of the transaction. Only one disclosure must be provided for each commercial financing transaction, and a disclosure is not required as result of a modification, forbearance, or change to a consummated commercial financing transaction.

(2) A provider shall provide a written disclosure of the following information in connection with each commercial financing transaction:

(a) The total amount of funds provided to the business under the terms of the agreement.



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(b) The total amount of funds disbursed to the business if less than the amount specified in paragraph (a) as a result of any fees deducted or withheld at disbursement, any amount paid to the provider to satisfy a prior balance, and any amount paid to a third party on behalf of the business.

(c) The total amount to be paid to the provider under the terms of the agreement.

(d) The total dollar cost under the terms of the agreement, calculated by finding the difference between the amount specified in paragraph (a) and the amount specified in paragraph (c).

(e) 1. The manner, frequency, and amount of each payment; or  
2. If the amount of the payments may vary, the provider must instead disclose the manner and frequency of the payments, the estimated amount of the initial payment, a description of the methodology for calculating any variable payment, and the circumstances under which payments may vary.

(f) Whether there are any costs or discounts associated with prepayment, including a reference to the provision in the agreement which creates the contractual rights of the parties related to prepayment.

(3) A provider that consummates a commercial financing facility may provide disclosures required by subsection (2) which are based on an example of a transaction that could occur under the agreement. The example must be based on an account receivable total face amount owed of \$10,000. Only one disclosure is required for each commercial financing facility, and a disclosure is not required as result of a modification, forbearance, or change to the facility. A new disclosure is not





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required each time accounts receivable are purchased under the  
facility.

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

And the title is amended as follows:

Between lines 10 and 11

insert:

authorizing providers to provide specified required  
disclosures when consummating a commercial financing  
facility based on an example of a transaction;  
specifying that disclosures are not required under  
certain circumstances;

By the Committee on Banking and Insurance; and Senator Brodeur

597-03294-23

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A bill to be entitled

An act relating to commercial financing transaction brokers and providers; creating part XIII of ch. 559, F.S., entitled "Florida Commercial Financing Disclosure Law"; creating s. 559.961, F.S.; providing a short title; creating s. 559.9611, F.S.; defining terms; creating s. 559.9612, F.S.; providing applicability; creating s. 559.9613, F.S.; requiring providers that consummate commercial financing transactions to provide specified written disclosures; creating s. 559.9614, F.S.; prohibiting brokers from taking specified actions; creating s. 559.9615, F.S.; providing exclusive authority of the Attorney General to enforce specified provisions; providing civil penalties; providing construction; providing an effective date.

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

Section 1. Part XIII of chapter 559, Florida Statutes, consisting of sections 559.961, 559.9611, 559.9612, 559.9613, 559.9614, and 559.9615, Florida Statutes, is created to read:

PART XIII

FLORIDA COMMERCIAL FINANCING DISCLOSURE LAW

559.961 Short title.—This part may be cited as the "Florida Commercial Financing Disclosure Law."

559.9611 Definitions.—As used in this part, the term:

(1) "Accounts receivable purchase transaction" means a transaction in which a business forwards or otherwise sells to a

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person all or a portion of the business's accounts or payment intangibles as those terms are defined in s. 679.1021 at a discount to the expected value of the account or payment intangibles. For purposes of this part, the provider's characterization of an accounts receivable purchase transaction as a purchase is conclusive that the accounts receivable purchase transaction is not a loan or a transaction for the use, forbearance, or detention of money.

(2) "Advance fee" means any consideration that is assessed or collected by a broker before the closing of a commercial financing transaction.

(3) "Broker" means a person who, for compensation or the expectation of compensation, arranges a commercial financing transaction or an offer between a third party and a business in this state which would, if executed, be binding upon that third party. The term excludes a provider and any individual or entity whose compensation is not based or dependent upon the terms of the specific commercial financing transaction obtained or offered.

(4) "Business" means an individual or a group of individuals, a sole proprietorship, a corporation, a limited liability company, a trust, an estate, a cooperative, an association, or a limited or general partnership engaged in a business activity.

(5) "Commercial financing transaction" means a commercial loan, an accounts receivable purchase transaction, or a commercial open-end credit plan to the extent the transaction is also a business purpose transaction. As used in this subsection, the term "business purpose transaction" means a transaction the

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proceeds of which are provided to a business or are intended to be used to carry on a business and not to be used for personal, family, or household purposes. For purposes of determining whether a transaction is a business purpose transaction, the provider may rely on any written statement of intended purpose signed by the business. The statement may be a separate statement or may be contained in an application, agreement, or other document signed by the business or the business owner.

(6) "Commercial loan" means a loan to a business, whether secured or unsecured.

(7) "Commercial open-end credit plan" means commercial financing extended by any provider under a plan in which:

(a) The provider reasonably contemplates repeat transactions.

(b) The amount of financing that may be extended to the business during the term of the plan, up to any limit set by the provider, is generally made available to the extent that any outstanding balance is repaid.

(8) "Depository institution" means:

(a) A bank, a trust company, or an industrial loan company doing business under the authority of, or in accordance with, a license, certificate, or charter issued by the United States, this state, or any other state, district, territory, or commonwealth of the United States which is authorized to transact business in this state;

(b) A federally chartered savings and loan association, federal savings bank, or federal credit union that is authorized to transact business in this state; or

(c) A savings and loan association, savings bank, or credit

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union organized under the laws of this or any other state which is authorized to transact business in this state.

(9) "Provider" means a person who consummates more than five commercial financing transactions with a business located in this state in any calendar year. The term also includes a person who enters into a written agreement with a depository institution to arrange a commercial financing transaction between the depository institution and a business via an online lending platform administered by the person. The fact that a provider extends a specific offer for a commercial financing transaction on behalf of a depository institution may not be construed to mean that the provider engaged in lending or financing or originated that loan or financing.

559.9612 Scope of this part.—This part applies to any commercial financing transaction consummated on or after January 1, 2024. This part does not apply to:

(1) A provider that is:

(a) A federally insured depository institution or an affiliate or holding company of such institution; or

(b) A subsidiary or service corporation that is owned and controlled by a federally insured depository institution.

(2) A provider that is a lender regulated under the Farm Credit Act of 1971, 12 U.S.C. ss. 2001 et seq.

(3) A commercial financing transaction that is:

(a) Secured by real property;

(b) A lease; or

(c) A purchase money obligation that is incurred as all or part of the price of the collateral or for value given to enable the business to acquire rights in or the use of the collateral

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117 if the value is in fact so used.

118 (4) A commercial financing transaction in which the  
 119 recipient is a motor vehicle dealer or an affiliate of such a  
 120 dealer, or a vehicle rental company or an affiliate of such a  
 121 company, pursuant to a commercial loan or commercial open-end  
 122 credit plan of at least \$50,000 or a commercial financing  
 123 transaction offered by a person in connection with the sale or  
 124 lease of products or services that such person manufactures,  
 125 licenses, or distributes, or whose parent company or any of its  
 126 directly or indirectly owned and controlled subsidiaries  
 127 manufactures, licenses, or distributes.

128 (5) A provider that is licensed as a money transmitter in  
 129 accordance with a license, certificate, or charter issued by  
 130 this state or any other state, district, territory, or  
 131 commonwealth of the United States.

132 (6) A provider that consummates no more than five  
 133 commercial financing transactions in this state in a 12-month  
 134 period.

135 (7) A commercial financing transaction of more than  
 136 \$500,000.

137 559.9613 Disclosures.—

138 (1) A provider that consummates a commercial financing  
 139 transaction shall provide a written disclosure of the terms of  
 140 the commercial financing transaction as required by this part.  
 141 The disclosures must be provided at or before consummation of  
 142 the transaction. Only one disclosure must be provided for each  
 143 commercial financing transaction, and a disclosure is not  
 144 required as result of a modification, forbearance, or change to  
 145 a consummated commercial financing transaction.

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146 (2) A provider shall provide a written disclosure of the  
 147 following information in connection with each commercial  
 148 financing transaction:

149 (a) The total amount of funds provided to the business  
 150 under the terms of the agreement.

151 (b) The total amount of funds disbursed to the business if  
 152 less than the amount specified in paragraph (a) as a result of  
 153 any fees deducted or withheld at disbursement, any amount paid  
 154 to the provider to satisfy a prior balance, and any amount paid  
 155 to a third party on behalf of the business.

156 (c) The total amount to be paid to the provider under the  
 157 terms of the agreement.

158 (d) The total dollar cost under the terms of the agreement,  
 159 calculated by finding the difference between the amount  
 160 specified in paragraph (a) and the amount specified in paragraph  
 161 (c).

162 (e) 1. The manner, frequency, and amount of each payment; or  
 163 2. If the amount of the payments may vary, the provider  
 164 must instead disclose the manner and frequency of the payments,  
 165 the estimated amount of the initial payment, a description of  
 166 the methodology for calculating any variable payment, and the  
 167 circumstances under which payments may vary.

168 (f) Whether there are any costs or discounts associated  
 169 with prepayment, including a reference to the provision in the  
 170 agreement which creates the contractual rights of the parties  
 171 related to prepayment.

172 559.9614 Prohibited acts.—A broker may not do any of the  
 173 following:

174 (1) Assess, collect, or solicit an advance fee from a

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business to provide services as a broker. However, this subsection does not preclude a broker from soliciting a business to pay for, or preclude a business from paying for, actual services necessary to apply for a commercial financing transaction, including, but not limited to, a credit check or an appraisal of security, if such payment is made by check or money order payable to a party independent of the broker.

(2) Make or use any false or misleading representation or omit any material fact in the offer or sale of the services of a broker or engage, directly or indirectly, in any act that operates or would operate as fraud or deception upon any person in connection with the offer or sale of the services of a broker, notwithstanding the absence of reliance by the business.

(3) Make or use any false or deceptive representation in its business dealings.

(4) Offer the services of a broker in any advertisement without disclosing the actual address and telephone number of the business of the broker and the address and telephone number of any forwarding service the broker may use, if any.

559.9615 Enforcement.—

(1) The Attorney General has exclusive authority to enforce this part. The Attorney General may:

(a) Receive and act on complaints.

(b) Take action designed to obtain voluntary compliance with this part.

(c) Commence administrative or judicial proceedings to enforce compliance with this part.

(2) (a) A violation of this part is punishable by a fine of \$500 per incident, not to exceed \$20,000 for all aggregated

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violations arising from the use of the transaction documentation or materials found to be in violation of this part.

(b) A violation of this part after receipt of a written notice of a prior violation from the Attorney General is punishable by a fine of \$1,000 per incident, not to exceed \$50,000 for all aggregated violations arising from the use of the transaction documentation or materials found to be in violation of this part.

(c) A violation of this part does not affect the enforceability or validity of the underlying commercial financing transaction.

(3) This part does not create a private right of action against any person or entity based upon compliance or noncompliance with this part.

Section 2. This act shall take effect July 1, 2023.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Committee on Criminal and Civil Justice

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BILL: CS/CS/SB 1624

INTRODUCER: Appropriations Committee on Criminal and Civil Justice; Banking and Insurance Committee; and Senator Brodeur

SUBJECT: Commercial Financing Transaction Brokers and Providers

DATE: April 20, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	<b>Fav/CS</b>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Fav/CS</b>
3.	_____	_____	<u>FP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1624 creates the “Florida Commercial Financing Disclosure Law.” The bill requires a provider that extends an offer of commercial financing transaction of \$500,000 or less to give the business certain written disclosures regarding the total cost of the transaction, and the manner, frequency, and amount of each payment. The bill provides that a provider’s characterization of accounts receivable purchase transaction as a purchase is conclusive that the transaction is not a loan or a transaction for the use, forbearance, or detention of money. The commercial financing disclosures will assist small businesses in comparing the types and cost of financial products available in the marketplace.

**Disclosures.** The provider is required to disclose in writing the following at or before consummation of a commercial financing product transaction:

- The total amount of funds provided to the business under the terms of the commercial financing transaction agreement;
- The total amount of funds disbursed to the business under the terms of the commercial financing transaction agreement, if less than the total amount of funds provided, as a result of any fees deducted or withheld at disbursement and any amount paid to a third party on behalf of the business;
- The total amount to be paid to the provider pursuant to terms of the commercial financing transaction agreement;

- The total dollar cost of the commercial financing transaction under the terms of the agreement, derived by subtracting the total amount of funds provided from the total of payments;
- The manner, frequency and amount of each payment; and
- A statement of whether there are any costs or discounts associated with prepayment of the commercial financing transaction including a reference to the provision in the agreement that creates the contractual rights of the parties related to prepayment.

A provider that consummates a commercial financing facility may provide the required disclosures described above that are based on an example of an accounts receivable purchase with a total face amount of \$10,000. Only one disclosure is required for each commercial financing facility, and a disclosure is not required as a result of a modification, forbearance, or change to the facility.

**Prohibited Acts.** The bill prohibits a broker from engaging in any of the following acts:

- Assessing, collecting, or soliciting an advance fee from a business to provide services to a broker. However, this prohibition would not preclude a broker from soliciting a business to pay for, or a preclude a business from paying for, actual services necessary to apply for commercial financial product, such as a credit check or an appraisal of security, if certain conditions are met.
- Making or using any false or misleading representation or omitting any material fact in the offer or sale of the services of a broker or engage in any act that would operate as fraud or deception upon any person in connection with the offer or sale of the services of the broker, notwithstanding the absence the absence of reliance by the business.
- Making or using any false or deceptive representation in its business dealings.
- Offering the services of a broker by any advertisement without disclosing the actual address and telephone number of the business of the broker.

**Enforcement.** The bill provides that violations of this act is punishable by a fine of \$500 per incident, not to exceed \$20,000 for all aggregated violations arising from the use of the transaction documentation or materials found to be in violation of this act. Any person who violates any provision of this act after receiving written notice of a prior violation from the Attorney General shall be punishable by a fine of \$1,000 per incident, not to exceed \$50,000 for all aggregated violations arising from the use of the transaction documentation or materials found to be in violation of this act. The Attorney General has exclusive authority to impose fines for noncompliance with the disclosure requirements and prohibited acts.

## **II. Present Situation:**

### **Revenue Based Financing Transaction**

In a revenue based financing transaction, a business sells a fixed sum of its future receipts in exchange for an agreed-upon purchase price. In such an agreement:

- The business remits a contractually specified percentage of its revenue. If revenue decreases, then the business has the right to correspondingly decrease its remittances.

- The financing company or provider takes the risk that the business's revenue will be generated slower than expected and the risk that the business will fail or go bankrupt.<sup>1</sup>

Revenue based finance factoring products allow small businesses to access funds for unanticipated events such as a major equipment failure or a seasonal inventory surge. Some finance companies offering these products provide financing between \$10,000 and \$500,000 to small businesses.<sup>2</sup> The fees associated with a revenue-based financing arrangement may range from 1 percent to 3 percent of monthly revenues of a business.<sup>3</sup>

As an example of a transaction, if a financing company purchases 10 percent of a business's future revenue up to a purchased amount of \$10,000, the transaction would be completed whenever the business succeeded in generating \$100,000 in revenue, and remitted 10 percent of that revenue to the financing company.<sup>4</sup> This milestone could be achieved in a month, a year, or never.

### **Accounts Receivable Financing**

A company may seek accounts receivable financing (i.e., a bank loan against the value of the accounts receivable) when they exhaust other financing options and use the cash value of accounts receivable as collateral for the loan.<sup>5</sup> Accounts receivable financing agreements can be structured in multiple ways usually with the basis as either an asset sale or a loan.<sup>6</sup> Since there is a risk for the bank, the loan may only be 80 percent to 90 percent of the value of the customer's accounts receivable.<sup>7</sup> In an accounts receivable purchase program, a bank typically purchases a corporation's receivables as soon as the company delivers goods to its customer and issues an invoice.<sup>8</sup> Advantages of such a program can include less expensive financing, favorable off-balance sheet treatment of receivables assets, and reduced credit risk related to the particular obligor.<sup>9</sup> The bank has recourse back to the seller for any dilution items, such as any non-credit reductions to the receivable, which could include discounts, billing errors, commercial disputes, returns, etc.<sup>10</sup>

### **Merchant Cash Advances<sup>11</sup>**

A merchant cash advance, or MCA, is an alternative type of business financing, and is not considered a loan. In this transaction, a company gives a business an upfront sum of cash that the business repays using a percentage of future debit and credit card sales, plus a fee. Repayment periods are based on sales and can range anywhere from three to 18 months; the higher the credit

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<sup>1</sup> [About Us – RBFC \(revenuebasedfinancecoalition.com\)](#) (last visited Mar. 20, 2023).

<sup>2</sup> *Id.*

<sup>3</sup> [Revenue-Based Financing Versus AR Financing And Factoring \(forbes.com\)](#) (Sep. 8, 2022) (last visited March 18, 2023).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> [What Is Accounts Receivable Financing? Definition and Structuring \(investopedia.com\)](#) (Oct. 29, 2020) (last visited Mar. 25, 2023).

<sup>7</sup> *Supra* at ft. 4

<sup>8</sup> [TreasuryPulse \(fpssc.com\)](#) (last visited Mar. 20, 2023).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> [Is a Merchant Cash Advance Right for Your Business? - NerdWallet](#)



card revenues, the faster the repayment of the advance. As an alternative, MCA companies can also withdraw funds directly from a business bank account. In this case, fixed repayments are made daily or weekly from the account regardless of how much the business earns in sales, and the fixed repayment amount is determined based on an estimate of the monthly revenue of the business.

In 2021, a Florida appellate court<sup>12</sup> held that a MCA purchase and sale agreement is not a loan where the “repayment obligation is not absolute, but rather contingent on or dependent upon the success of the underlying venture.” Therefore, it was not subject to Florida’s usury statute. The court also cites authority recognizing that a transaction is not a loan where “a portion of the investment is at speculative risk.”

### **Commercial Financing Disclosure Laws**

California<sup>13</sup>, Utah<sup>14</sup>, New York<sup>15</sup>, and Virginia<sup>16</sup> have enacted commercial financing disclosure laws. Virginia’s law focuses solely on sales based financing disclosures and registration of providers. Sales based financing are transactions repaid as a percentage of sales or revenue, in which the payment amount is dependent upon the recipient’s sales volume or revenue. The Virginia law exempts transactions of more than \$500,000 and those originated by depository institutions.<sup>17</sup> Additionally, providers and brokers that enter into no more than five covered transactions in a twelve-month period are not covered.<sup>18</sup> Further, providers of covered sales-based transactions are subject to registration.<sup>19</sup>

### **Proposed Federal Rule Relating to Commercial Lending Disclosures<sup>20</sup>**

In 2021, the CFPB proposed a rule that is designed to help small businesses gain access to credit by increasing transparency in the lending marketplace. The proposed rule would require lenders to disclose information about their lending to small businesses, allowing community organizations, researchers, lenders, and others to better support small business and community development needs. Under the proposal, lenders would be required to report the amount and type of small business credit applied for and extended, demographic information about small business credit applicants, and key elements of the price of the credit offered.

## **III. Effect of Proposed Changes:**

**Section 1** creates Part XIII of ch. 559, F.S. This part consists of ss. 559.961, 559.9611, 559.9612, 559.9613, 559.9614, and 559.9615, F.S.

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<sup>12</sup> Craton Entertainment, LLC vs. Merchant Capital Group, LLC, No. 3D19-1643 (Jan. 6, 2021).

<sup>13</sup> Cal. Fin. Code ss. 22800 to 22805.

<sup>14</sup> Utah Code Ann. Ss. 7-27-101 to 7-27-301. Utah’s law requires registration of specified commercial financiers.

<sup>15</sup> N.Y. Fin. Serv. Law ss. 801 *et seq.*; 23 NYCRR ss. 600 *et seq.*

<sup>16</sup> Va. Code Ann. ss. 6.2-2228 to 6.2-2238; 10 Va. Admin. Code ss. 5-240-10 to 5-240-40.

<sup>17</sup> Va. Code Ann. s. 6.2-2229.

<sup>18</sup> *Id.*

<sup>19</sup> Va. Code Ann. s. 6.2-2230.

<sup>20</sup> [CFPB Proposes Rule to Shine New Light on Small Businesses’ Access to Credit | Consumer Financial Protection Bureau \(consumerfinance.gov\)](https://consumerfinance.gov) (Sep. 1, 2021) (last visited Mar. 20, 2023). Comments must be received on or before January 20, 2023.

Section 559.961, F.S. provides this part may be cited as the, “Florida Commercial Financing Disclosure Law.”

**Definitions (s. 559.9611, F.S.)**

The bill defines the following terms as follows:

“Accounts receivable purchase transaction,” means a transaction in which a business forwards or otherwise sells to a person all or a portion of the business’s accounts or payment intangibles, as those terms are defined in s. 679.1021, F.S., at a discount to the expected value of the account or payment intangibles. For purposes of this part, the provider’s characterization of an accounts receivable purchase transaction as a purchase is conclusive that the accounts receivable purchase transaction is not a loan or a transaction for the use, forbearance, or detention of money.

Advance fee” means any consideration that is assessed or collected by a broker before the closing of a commercial financing product transaction.

“Broker” means a person who, for compensation or the expectation of compensation, arranges a commercial financing product transaction or an offer between a third party and a business in the state which would, if executed, be binding upon that third party. The term excludes a provider and any individual or entity whose compensation is not based or dependent upon on the terms of the specific commercial financing product transaction obtained or offered.

“Business” means an individual or group of individuals, a sole proprietorship, a corporation, a limited liability company, a trust, an estate, a cooperative, an association, or a limited or general partnership engaged in a business activity.

“Commercial financing facility” means a provider’s plan for purchasing multiple accounts receivable from the recipient over a period of time pursuant to an agreement that sets forth the terms and conditions governing the use of the facility.

“Commercial financing transaction” means a commercial loan, accounts receivable purchase transaction, commercial open-end credit plan, or each to the extent the transaction is a business purpose transaction. As used in the definition of commercial financing transaction, the term “business purpose transaction” means a transaction the proceeds of which are provided to a business or are intended to be used to carry on a business and not for personal, family, or household purposes. For purposes of determining whether a transaction is a business purpose transaction, the provider may rely on any written statement of intended purpose signed by the business. The statement may be a separate statement or may be contained in an application, agreement, or other document signed by the business or the business owner.

“Commercial loan” means a loan to a business, whether secured or unsecured.

“Commercial open-end credit plan” means commercial financing extended by any provider under a plan in which the provider reasonably contemplates repeat transactions and the amount

of financing that may be extended to the business during the term of the plan, up to any limit set by the provider, is generally made available to the extent that any outstanding balance is repaid.

“Depository institution” means a Florida state-chartered bank, savings bank, credit union, or trust company, or a federal savings or thrift association, bank, credit union, savings bank, or thrift.

“Provider” means a person who consummates more than five commercial financing product transactions to a business located in the state in any calendar year. The term also includes a person who enters into a written agreement with a depository institution to arrange for the extension of a commercial financing product by the depository institution to a business via an online lending platform administered by the person. The fact that a provider extends a specific offer for a commercial financing product on behalf of a depository institution may not be construed to mean that the provider engaged in lending or financing or originated that loan or financing.

### **Scope of Part XIII (s. 559.9612, F.S.)**

This part applies to any commercial financing transaction consummated on or after January 1, 2024. This part does not apply to:

- A provider that is a federally insured depository institution or an affiliate or holding company of such institution; or a subsidiary or service corporation that is owned and controlled by a federally insured depository institution or under common ownership with such institution.
- A provider that is a lender regulated under the Farm Credit Act of 1971, 12 U.S.C. ss. 2001 et seq.
- A commercial financing product transaction that is:
  - Secured by real property;
  - A lease; or
  - A purchase money obligation that is incurred as all or part of the price of the collateral or for value given to enable the business to acquire rights in or the use of the collateral if the value is in fact so used.
- A commercial financing transaction in which the recipient is a motor vehicle dealer or an affiliate of such a dealer, or a vehicle rental company or an affiliate of such a company, pursuant to a commercial loan or commercial open-end credit plan of at least \$50,000 or a commercial financing transaction offered by a person in connection with the sale or lease of products or services that such person manufactures, licenses, or distributes, or whose parent company or any of its directly or indirectly owned and controlled subsidiaries manufactures, licenses, or distributes.
- A provider that is licensed as a money transmitter under chapter 560 or licensed as a money transmitter by any other state, district, territory, or commonwealth of the United States.
- A provider that consummates no more than five commercial financing transactions in this state in a 12-month period.
- A commercial financing transaction of more than \$500,000.

### **Disclosures (s. 559.9613, F.S.)**

The provider must provide the following written disclosures at or before consummation of the commercial financing transaction:

- The total amount of funds provided to the business under the terms of the commercial financing transaction agreement;
- The total amount of funds disbursed to the business under the terms of the commercial financing transaction agreement, if less than the total amount of funds provided, as a result of any fees deducted or withheld at disbursement, any amount paid to the provider to satisfy a prior balance, and any amount paid to a third party on behalf of the business;
- The total amount to be paid to the provider pursuant to terms of the commercial financing transaction agreement;
- The total dollar cost under the terms of the agreement, calculated by finding the difference between the total amount of funds provided from the total of amount of funds disbursed;
- The manner, frequency and amount of each payment; and
- Whether there are any costs or discounts associated with prepayment of the commercial financing transaction including a reference to the provision in the agreement that creates the contractual rights of the parties related to prepayment.

The bill requires only one disclosure is required for each commercial financing facility, and does not require a disclosure for any modification, forbearance, or change to the facility. The bill clarifies that a new disclosure is not required each time accounts receivable are purchased under the facility.

#### **Prohibited Acts (s. 559.9614, F.S.)**

A broker may not:

- Assess, collect, or solicit an advance fee from a business to provide services to a broker. However, this prohibition would not preclude a broker from soliciting a business to pay for, or a preclude a business from paying for, actual services necessary to apply for commercial financial transaction, such as a credit check or an appraisal of security, if certain conditions are met.
- Make or use any false or misleading representation or omit any material fact in the offer or sale of the services of a broker or engage in any act that would operate as fraud or deception upon any person in connection with the offer or sale of the services of the broker, notwithstanding the absence the absence of reliance by the business.
- Make or use any false or deceptive representation in its business dealings.
- Offer the services of a broker by any advertisement without disclosing the actual address and telephone number of the business of the broker.

#### **Enforcement (s. 559.9615, F.S.)**

The bill provides that the Attorney General has exclusive authority to enforce part XIII of ch. 559, F.S. Further, the bill provides that a person who violates this act is subject to a fine of \$500 per incident, not to exceed \$20,000 for all aggregated violations. A person who violates any provision of this act subsequent to the receipt of a written notice of a prior violation from the Attorney General is subject to a fine of \$1,000 per incident, not to exceed \$50,000 for all

aggregated violations arising from the use of the transaction documentation or materials found to be in violation of this act.

The section also provides that a violation of any provision of part XIII of ch. 559, F.S., does not affect the enforceability or validity of the underlying commercial financing transaction. Lastly, this part does not create a private right of action against any person or entity based upon compliance or noncompliance with the provisions of this part.

**Section 2** provides the bill takes effect July 1, 2023.

#### **IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

#### **V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The required disclosures will assist small businesses in comparing the types and cost of financial products available in the marketplace.

Providers subject to the disclosure requirements would be subject to investigation and fines for noncompliance.

C. Government Sector Impact:

Indeterminate. It is unclear how many providers would be subject to the requirements of the bill and what the potential investigation and enforcement costs are for the Department of Legal Affairs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 559.961, 559.9611, 559.9612, 559.9613, 559.9614, and 559.9615.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS by Appropriations Committee on Criminal and Civil Justice on April 18, 2023:**

The committee substitute adds the definition of a “commercial financing facility” and amends the definition of a “depository institution” and also adds the following provisions:

- Only one disclosure is required for each commercial financing facility and a disclosure is not required as a result of a modification or change to the facility; and
- A new disclosure is not required each time accounts receivable are purchased under the facility.
- 

The bill provides a statutory reference relating to the licensure of money transmitters.

**CS by Banking and Insurance on March 29, 2023:**

The CS specifies that disclosures must be in writing and provides technical changes.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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The Florida Senate

# APPEARANCE RECORD

4/18/23

Meeting Date

Criminal - Civil Justice Approp

Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

CS/SB 174

Bill Number or Topic

890214

Amendment Barcode (if applicable)

Name Alison Dudley

Phone 850/559-1139

Address 1085 Monroe St

Street

Tall

City

Fl

State

32301

Zip

Email alison@dudleyandassociates.com

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

## PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)



4/18/2023

Meeting Date

Appropriations Committee on Criminal and Civil Justice

Committee

The Florida Senate

## APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 174

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Jason Harrell**

Phone **850.345.6835**

Address **215 S Monroe St**

Email **jasonharrell@flclerks.com**

Street

**Tallahassee**

**FL**

**32301**

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☒ In Support ☐ Against

### PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

**Florida Court Clerks and  
Comptroller Association**

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

# APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

4/18/23

Meeting Date

CS/SB 174

Bill Number or Topic

Crim - Civil Justice Approp

Committee

Amendment Barcode (if applicable)

Name Alison Dudley

Phone 850/559-7139

Address 108 S Monroe St

Street

Email alison@dudleyandassociates.com

Tall

City

FL

State

32301

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

## PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

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This form is part of the public record for this meeting.

S-001 (08/10/2021)



890214

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/19/2023	.	
	.	
	.	
	.	

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The Appropriations Committee on Criminal and Civil Justice  
(Polsky) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 36 - 47  
and insert:  
judge, a justice, a judicial assistant, a clerk of the circuit  
court, clerk of the circuit court personnel, or an elected  
official, or a family member of any such person ~~persons~~, with  
death or serious bodily harm commits a misdemeanor of the first  
degree, punishable as provided in s. 775.082 or s. 775.083.  
(b) ~~(3)~~ A person who commits a second or subsequent



890214

violation of paragraph (a) ~~subsection (2)~~ commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any person who knowingly and willfully harasses a law enforcement officer, a state attorney, an assistant state attorney, a firefighter, a judge, a justice, a judicial assistant, a clerk of the circuit court, clerk of the circuit court personnel, or an elected official, with the intent to intimidate

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

And the title is amended as follows:

Delete lines 6 - 7

and insert:

prohibiting specified threats against a justice, a judicial assistant, a clerk of the circuit court, clerk of the circuit court personnel, or a family member of such person;

By the Committee on Criminal Justice; and Senator Polsky

591-03489-23

2023174c1

1 A bill to be entitled  
 2 An act relating to protection of specified personnel;  
 3 amending s. 836.12, F.S.; defining the term "judicial  
 4 assistant"; providing that threats committed with  
 5 specified intent are specified violations of the act;  
 6 prohibiting specified threats against a justice or  
 7 judicial assistant or a family member of such person;  
 8 prohibiting specified harassment of certain personnel  
 9 with the intent to intimidate or coerce such person to  
 10 perform or refrain from performing a lawful duty;  
 11 providing criminal penalties; providing an effective  
 12 date.  
 13  
 14 Be It Enacted by the Legislature of the State of Florida:  
 15  
 16 Section 1. Section 836.12, Florida Statutes, is amended to  
 17 read:  
 18 836.12 Threats or harassment.—  
 19 (1) As used in this section, the term:  
 20 (a) "Family member" means:  
 21 1. An individual related to another individual by blood or  
 22 marriage; or  
 23 2. An individual who stands in loco parentis to another  
 24 individual.  
 25 (b) "Judicial assistant" means a court employee assigned to  
 26 the office of a specific judge or justice responsible for  
 27 providing administrative, secretarial, and clerical support to  
 28 the assigned judge or justice.  
 29 (c) (b) "Law enforcement officer" means:

Page 1 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

591-03489-23

2023174c1

30 1. A law enforcement officer as defined in s. 943.10; or  
 31 2. A federal law enforcement officer as defined in s.  
 32 901.1505.  
 33 (2) (a) Except as provided in paragraph (b), any person who  
 34 knowingly and willfully threatens a law enforcement officer, a  
 35 state attorney, an assistant state attorney, a firefighter, a  
 36 judge, a justice, a judicial assistant, or an elected official,  
 37 or a family member of any such person ~~persons~~, with death or  
 38 serious bodily harm commits a misdemeanor of the first degree,  
 39 punishable as provided in s. 775.082 or s. 775.083.  
 40 (b) (3) A person who commits a second or subsequent  
 41 violation of paragraph (a) subsection (2) commits a felony of  
 42 the third degree, punishable as provided in s. 775.082, s.  
 43 775.083, or s. 775.084.  
 44 (3) Any person who knowingly and willfully harasses a law  
 45 enforcement officer, a state attorney, an assistant state  
 46 attorney, a firefighter, a judge, a justice, a judicial  
 47 assistant, or an elected official, with the intent to intimidate  
 48 or coerce such a person to perform or refrain from performing a  
 49 lawful duty, commits a misdemeanor of the first degree,  
 50 punishable as provided in s. 775.082 or s. 775.083.  
 51 Section 2. This act shall take effect October 1, 2023.

Page 2 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Committee on Criminal and Civil Justice

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BILL: CS/CS/SB 174

INTRODUCER: Appropriations Committee on Criminal and Civil Justice; Criminal Justice Committee;  
and Senator Polsky

SUBJECT: Protection of Specified Personnel

DATE: April 20, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Stokes</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Fav/CS</u>
3.	_____	_____	<u>FP</u>	_____

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 174 amends s. 836.12, F.S., to:

- Add justices, judicial assistants, clerk of the circuit court, clerk of the circuit court personnel, and a family member of any of these officials or professionals, to the list of persons protected from threats of serious bodily harm or death under s. 836.12(2), F.S.;
- Require a violation of s. 836.12(2), F.S., to be committed “knowingly and willfully”; and
- Create a new first-degree misdemeanor offense in s. 836.12(3), F.S., to prohibit a person from knowingly and willfully harassing a law enforcement officer, a state attorney, an assistant state attorney, a firefighter, a judge, a justice, a judicial assistant, a clerk of the circuit court, clerk of the circuit court personnel, or an elected official, with the intent to intimidate or coerce such a person to perform or refrain from performing a lawful duty.

The bill also defines the term “judicial assistant.”

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined that the bill will have a positive insignificant impact on state prison beds and jail beds (an increase of ten or fewer beds). See Section V. Fiscal Impact Statement.

The bill takes effect on October 1, 2023.

## II. Present Situation:

### Threat Against a Law Enforcement Officer and Others –Section 836.12, F.S.

Section 836.12, F.S., provides that it is first degree misdemeanor<sup>1</sup> for any person to threaten a law enforcement officer,<sup>2</sup> a state attorney, an assistant state attorney, a firefighter, a judge, or an elected official, or a family member<sup>3</sup> of any such person, with death or serious bodily harm.<sup>4</sup>

A person who commits a second or subsequent violation of s. 836.12, F.S., commits a third-degree felony.<sup>5</sup>

## III. Effect of Proposed Changes:

The bill amends s. 836.12, F.S., to:

- Add justice, judicial assistant, clerk of the circuit court, clerk of the circuit court personnel, and a family member of any of these officials or professionals, to the list of persons protected from threats of serious bodily harm or death under s. 836.12(2), F.S.;
- Require a violation of s. 836.12(2), F.S., to be committed “knowingly and willfully”; and
- Create a new first-degree misdemeanor offense in s. 836.12(3), F.S., to prohibit a person from knowingly and willfully harassing a law enforcement officer, a state attorney, an assistant state attorney, a firefighter, a judge, a justice, a judicial assistant, a clerk of the circuit court, clerk of the circuit court personnel, or an elected official, with the intent to intimidate or coerce such a person to perform or refrain from performing a lawful duty.

The bill defines a “judicial assistant” as a court employee assigned to the office of a specific judge or justice responsible for providing administrative, secretarial, and clerical support to the assigned judge or justice.

The bill takes effect October 1, 2023.

## IV. Constitutional Issues:

### A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

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<sup>1</sup> A first-degree misdemeanor is punishable by not more than one year in county jail and fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

<sup>2</sup> “Law enforcement officer” means a law enforcement officer as defined in s. 943.10, F.S.; or a federal law enforcement officer as defined in s. 901.1505, F.S. Section 836.12(1)(b), F.S.

<sup>3</sup> “Family member” means an individual related to another individual by blood or marriage; or an individual who stands in loco parentis to another individual. Section 836.12(1)(a), F.S.

<sup>4</sup> Section 836.12(2), F.S.

<sup>5</sup> Section 836.12(3), F.S. A third-degree felony is generally punishable by not more than five years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined that the bill will have a positive insignificant prison bed impact (an increase of ten or fewer beds).

Under current s. 836.12(2), F.S., a second or subsequent violation of that subsection would be a third degree felony.<sup>6</sup> Since the bill amends s. 836.12(2), F.S., to include certain threats to judges, judicial assistants, and their families, it has the potential to not only expand the number of misdemeanor violations of subsection (2), but also repeat violations of subsection (2), which would trigger third degree felony penalties. However, at present, the impact on state prison beds is expected to be insignificant. There have been no new commitments to prison under s. 836.12, F.S., in the last four fiscal years.

**VI. Technical Deficiencies:**

None.

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<sup>6</sup> The third degree felony is not ranked in the Criminal Punishment Code offense severity ranking level chart (s. 921.0022, F.S.), and therefore, the offense defaults to a level 1 third degree felony under s. 921.0023, F.S.



**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 836.12 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS by Appropriations Committee on Criminal and Civil Justice on April 18, 2023:**

The committee substitute adds a clerk of the circuit court and clerk of the circuit court personnel to the list of officials or professionals protected from threats of serious bodily harm or death under s. 836.12(2), F.S., and from knowing and willful harassment under s. 836.12(3), F.S.

**CS by Criminal Justice on April 4, 2023:**

The committee substitute:

- Removes original bill language amending s. 365.16, F.S. (obscene or harassing telephone calls);
- Amends s. 836.12, F.S., to punish threats of serious bodily harm to justices, judicial assistants, and their family members;
- Requires the threat violation to be committed “knowingly and willfully”;
- Creates a new first-degree misdemeanor offense to prohibit a person from knowingly and willfully harassing a law enforcement officer, a state attorney, an assistant state attorney, a firefighter, a judge, a justice, a judicial assistant, or an elected official, with the intent to intimidate or coerce such a person to perform or refrain from performing a lawful duty; and
- Defines the term “judicial assistant.”

**B. Amendments:**

None.

# CourtSmart Tag Report

**Room:** KB 412

**Case No.:** -

**Type:**

**Caption:** Senate Appropriations Committee on Health and Human Services

**Judge:**

**Started:** 4/18/2023 8:32:37 AM

**Ends:** 4/18/2023 10:30:41 AM

**Length:** 01:58:05

8:32:42 AM	Sen. Harrell (Chair)
8:33:54 AM	S 1084
8:33:57 AM	Sen. Trumbull
8:34:13 AM	Am. 650886
8:34:19 AM	Sen. Trumbull
8:36:39 AM	S 1084 (Cont.)
8:36:50 AM	Sen. Davis
8:37:31 AM	Sen. Trumbull
8:38:46 AM	Sen. Davis
8:39:46 AM	Sen. Trumbull
8:41:45 AM	Sen. Davis
8:42:07 AM	Sen. Harrell
8:43:56 AM	Sen. Davis
8:44:20 AM	Sen. Trumbull
8:44:44 AM	Sen. Book
8:44:59 AM	Sen. Trumbull
8:45:42 AM	Sen. Book
8:46:08 AM	Sen. Trumbull
8:47:22 AM	Sen. Burton
8:48:05 AM	Sen. Trumbull
8:48:25 AM	Ryan Chandler
8:50:28 AM	Olivia Babis, Disability Rights FL
8:53:22 AM	Anay Abraham (waives in support)
8:53:56 AM	JJ Holmes
8:57:06 AM	Alison Holmes
9:00:07 AM	Sen. Baxley
9:04:18 AM	Sen. Book
9:05:57 AM	Sen. Burton
9:07:51 AM	Sen. Brodeur
9:09:53 AM	Sen. Davis
9:11:27 AM	Sen. Harrell
9:14:04 AM	Sen. Trumbull
9:17:02 AM	S 858
9:17:10 AM	Sen. Torres
9:18:12 AM	Bob Aszatlus, Florida Department of Veteran Affairs (waives in support)
9:18:35 AM	Sen. Torres
9:19:34 AM	S 272
9:19:38 AM	Sen. Garcia
9:20:57 AM	Am. 633058
9:21:03 AM	Sen. Garcia
9:21:29 AM	Am. 415676
9:22:56 AM	Am. 633058 (cont.)
9:23:36 AM	Rebekka Behr, Florida Youth SHINE
9:26:17 AM	Lavarian Ouma, Florida Youth SHINE
9:28:27 AM	Taylor Woodruff, Embrace Families (waives in support)
9:28:46 AM	Sen. Harrell
9:29:51 AM	Sen. Garcia
9:30:31 AM	S 1540
9:30:37 AM	Sen. Garcia
9:32:42 AM	Jason Hand, Florida Senior Living Association (waives in support)
9:33:01 AM	Greg Black, Elder Law Section of the Florida Bar (waives in support)
9:33:20 AM	Karen Murillo, AARP (waives in support)

9:33:30 AM	Sen. Garcia
9:33:51 AM	S 1542
9:33:58 AM	Sen. Garcia
9:34:44 AM	Karen Murillo, AARP (waives in support)
9:35:01 AM	Sen. Garcia
9:35:43 AM	S 1548
9:35:47 AM	Sen. Bradley
9:36:49 AM	Alba-Harper Fisher-Dinu
9:36:50 AM	Audrey-Carissa Fisher-Dinu
9:38:18 AM	Sen. Book
9:39:09 AM	Lihana Dinu
9:39:22 AM	Theresa Bulger, Deaf Kids Can (waives in support)
9:40:21 AM	S 366
9:40:44 AM	Sen. Burgess
9:41:50 AM	Bob Asztalus, Florida Department of Veteran Affairs (waives in support)
9:42:17 AM	Alexandra Abboud, Florida Dental Association (waives in support)
9:42:30 AM	Sen. Burgess
9:43:05 AM	S 1338
9:43:10 AM	Sen. Martin
9:43:50 AM	Am. 265348
9:43:57 AM	Sen. Martin
9:44:35 AM	Am. 258224
9:45:09 AM	S 1338 (cont.)
9:45:30 AM	Laura Donaldson, Collier County Sheriff's Office (waives in support)
9:45:51 AM	Erin Ballas, American Massage Therapy Association (waives in support)
9:46:17 AM	Sen. Martin
9:46:44 AM	S 344
9:46:47 AM	Sen. Brodeur
9:47:40 AM	Dr. Tyron Hoover
9:57:15 AM	Sen. Burton
9:58:37 AM	T. Hoover
9:59:16 AM	Sen. Garcia
10:00:17 AM	T. Hoover
10:00:54 AM	Sen. Garcia
10:01:25 AM	Sen. Osgood
10:01:41 AM	T. Hoover
10:01:56 AM	Sen. Osgood
10:02:25 AM	T. Hoover
10:02:30 AM	Sen. Davis
10:03:10 AM	T. Hoover
10:04:27 AM	Sen. Garcia
10:04:34 AM	T. Hoover
10:04:54 AM	Sen. Martin
10:05:00 AM	T. Hoover
10:05:10 AM	Sen. Harrell
10:05:16 AM	Ron Watson, Muv Dispensary (waives in support)
10:05:44 AM	Barton Hershfield
10:14:31 AM	Cathyann Hershfield
10:19:17 AM	Dr. Asay Desai
10:21:09 AM	Sen. Book
10:22:21 AM	Sen. Davis
10:23:36 AM	Sen. Garcia
10:24:36 AM	Sen. Harrell
10:26:32 AM	Sen. Brodeur
10:29:26 AM	S 268
10:29:33 AM	Sen. Brodeur
10:29:51 AM	Sen. Rouson
10:30:10 AM	Sen. Harrell

# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

## COMMITTEES:

Military and Veterans Affairs, Space,  
and Domestic Security, *Chair*  
Commerce and Tourism, *Vice Chair*  
Appropriations Committee on Criminal and Civil Justice  
Appropriations Committee on Transportation,  
Tourism, and Economic Development  
Environment and Natural Resources  
Fiscal Policy  
Governmental Oversight and Accountability

## SELECT COMMITTEE:

Select Committee on Resiliency

## SENATOR TOM A. WRIGHT

8th District

April 18, 2023

The Honorable Jennifer Bradley  
Chair  
Appropriations Committee on Criminal and Civil Justice  
The Florida Senate  
410 The Capitol  
404 South Monroe Street  
Tallahassee, FL 32399-1300

Dear Chair Bradley:

I request that I am marked excused from the April 18<sup>th</sup> meeting of the Senate Appropriations Committee on Criminal and Civil Justice. I was unable to make it due to being present in two other committees for bill presentations.

Respectfully;



Tom A. Wright  
State Senator, District 08

## REPLY TO:

- ☐ 4606 Clyde Morris Blvd., Suite 2-J, Port Orange, Florida 32129 (386) 304-7630
- ☐ 416 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5008

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

KATHLEEN PASSIDOMO  
President of the Senate

DENNIS BAXLEY  
President Pro Tempore



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Ethics and Elections, *Chair*  
Education Pre-K -12, *Vice Chair*  
Appropriations  
Appropriations Committee on Criminal and  
Civil Justice  
Appropriations Committee on Health and  
Human Services  
Banking and Insurance  
Health Policy  
Rules

### JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

### SENATOR DANNY BURGESS

23rd District

April 18, 2023

The Honorable Jennifer Bradley  
Chairwoman  
Appropriations Committee on Health and Human Services  
404 South Monroe St.  
Tallahassee, FL 32399-1100

Madam Chair,

I respectfully request an excused absence from the April 18<sup>th</sup> meeting of the Appropriations Committee on Criminal and Civil Justice.

Sincerely,

A handwritten signature in blue ink that reads "Danny".

Cc:

Marti Harkness, Staff Director  
Rebecca Henderson, CAA

### REPLY TO:

- 38507 Fifth Avenue, Zephyrhills, FL 33542 (813) 779-7059
- 412 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**KATHLEEN PASSIDOMO**  
President of the Senate

**DENNIS BAXLEY**  
President Pro Tempore