

1 the United States Department of Health and Human Services or
2 if the indigent person is receiving Temporary Assistance for
3 Needy Families-Cash Assistance, poverty-related veteran's
4 benefits, or Supplemental Security Income (SSI).

5 (b) An indigent person enrolled in a payment plan and
6 shall be charged a one-time administrative processing charge
7 under s. 28.24(26)(c). A monthly payment amount, calculated
8 based upon all fees and all anticipated costs, is presumed to
9 correspond to the person's ability to pay if it does not
10 exceed 2 percent of the person's annual net income, as defined
11 in subsection (1), divided by 12. The person may seek review
12 of the clerk's decisions regarding a payment plan established
13 under s. 28.246 in the court having jurisdiction over the
14 matter. A case may not be impeded in any way, delayed in
15 filing, or delayed in its progress, including the final
16 hearing and order, due to nonpayment of any fees by an
17 indigent person.

18 Section 2. Section 57.085, Florida Statutes, is
19 amended to read:

20 57.085 Deferral of prepayment of court costs and fees
21 for indigent prisoners and indigent persons in custody pending
22 trial.--

23 (1) For the purposes of this section, the term
24 "prisoner" means a person who has been convicted of a crime
25 and is incarcerated for that crime or who is being held in
26 custody pending extradition or sentencing.

27 (2) When a prisoner who is intervening in or
28 initiating a judicial proceeding seeks to defer the prepayment
29 of court costs and fees because of indigence, the prisoner
30 must file an affidavit of indigence with the appropriate clerk
31 of the court. The affidavit must contain complete information

1 | about the prisoner's identity; the nature and amount of the
2 | prisoner's income; all real property owned by the prisoner;
3 | all tangible and intangible property worth more than \$100
4 | which is owned by the prisoner; the amount of cash held by the
5 | prisoner; the balance of any checking, savings, or money
6 | market account held by the prisoner; the prisoner's
7 | dependents, including their names and ages; the prisoner's
8 | debts, including the name of each creditor and the amount owed
9 | to each creditor; and the prisoner's monthly expenses. The
10 | prisoner must certify in the affidavit whether the prisoner
11 | has been adjudicated indigent under this section, certified
12 | indigent under s. 57.081, or authorized to proceed as an
13 | indigent under 28 U.S.C. s. 1915 by a federal court. The
14 | prisoner must attach to the affidavit a photocopy of the
15 | prisoner's trust account records for the preceding 6 months or
16 | for the length of the prisoner's incarceration, whichever
17 | period is shorter. The affidavit must contain the following
18 | statements: "I am presently unable to pay court costs and
19 | fees. Under penalty of perjury, I swear or affirm that all
20 | statements in this affidavit are true and complete."

21 | (3) Before a prisoner may receive a deferral of
22 | prepayment of any court costs and fees for an action brought
23 | under this section, the clerk of court must review the
24 | affidavit and determine the prisoner to be indigent.

25 | (4) When the clerk has found the prisoner to be
26 | indigent but concludes the prisoner is able to pay part of the
27 | court costs and fees required by law, the court shall order
28 | the prisoner to make, prior to service of process, an initial
29 | partial payment of those court costs and fees. The initial
30 | partial payment must total at least 20 percent of the average
31 | monthly balance of the prisoner's trust account for the

1 preceding 6 months or for the length of the prisoner's
2 incarceration, whichever period is shorter.

3 (5) When the clerk has found the prisoner to be
4 indigent, the court shall order the prisoner to make monthly
5 payments of no less than 20 percent of the balance of the
6 prisoner's trust account as payment of court costs and fees.
7 When a court orders such payment, the Department of
8 Corrections or the local detention facility shall place a lien
9 on the inmate's trust account for the full amount of the court
10 costs and fees, and shall withdraw money maintained in that
11 trust account and forward the money, when the balance exceeds
12 \$10, to the appropriate clerk of the court until the
13 prisoner's court costs and fees are paid in full.

14 (6) Before an indigent prisoner or indigent person who
15 is being held in custody pending trial may intervene in or
16 initiate any judicial proceeding, the court must review the
17 prisoner's claim or the claim of the indigent person who is
18 being held in custody pending trial to determine whether it is
19 legally sufficient to state a cause of action for which the
20 court has jurisdiction and may grant relief. The court shall
21 dismiss all or part of an indigent prisoner's claim or the
22 claim of an indigent person who is being held in custody
23 pending trial which:

24 (a) Fails to state a claim for which relief may be
25 granted;

26 (b) Seeks monetary relief from a defendant who is
27 immune from such relief;

28 (c) Seeks relief for mental or emotional injury where
29 there has been no related allegation of a physical injury; or

30 (d) Is frivolous, malicious, or reasonably appears to
31 be intended to harass one or more named defendants.

1 (7) A prisoner who has twice in the preceding 3 years
2 been adjudicated indigent under this section, certified
3 indigent under s. 57.081, or authorized to proceed as an
4 indigent under 28 U.S.C. s. 1915 by a federal court may not be
5 adjudicated indigent to pursue a new suit, action, claim,
6 proceeding, or appeal without first obtaining leave of court.
7 In a request for leave of court, the prisoner must provide a
8 complete listing of each suit, action, claim, proceeding, or
9 appeal brought by the prisoner or intervened in by the
10 prisoner in any court or other adjudicatory forum in the
11 preceding 5 years. The prisoner must attach to a request for
12 leave of court a copy of each complaint, petition, or other
13 document purporting to commence a lawsuit and a record of
14 disposition of the proceeding.

15 (8) In any judicial proceeding in which a certificate
16 of indigence has been issued to a prisoner, the court may at
17 any time dismiss the prisoner's action, in whole or in part,
18 upon a finding that:

19 (a) The prisoner's claim of indigence is false or
20 misleading;

21 (b) The prisoner provided false or misleading
22 information regarding another judicial or administrative
23 proceeding in which the prisoner was a party;

24 (c) The prisoner failed to pay court costs and fees
25 under this section despite having the ability to pay; or

26 (d) The prisoner's action or a portion of the action
27 is frivolous or malicious.

28 (9) In determining whether an action is frivolous or
29 malicious, the court may consider whether:

30 (a) The prisoner's claim has no arguable basis in law
31 or fact;

1 (b) The prisoner's claim reasonably appears intended
2 solely to harass a party filed against;

3 (c) The prisoner's claim is substantially similar to a
4 previous claim in that it involves the same parties or arises
5 from the same operative facts as a previous claim;

6 (d) The prisoner's claim has little likelihood of
7 success on its merits; or

8 (e) The allegations of fact in the prisoner's claim
9 are fanciful or not credible.

10 (10) This section does not apply to a criminal
11 proceeding or a collateral criminal proceeding.

12 Section 3. Subsection (13) of section 318.18, Florida
13 Statutes, is amended to read:

14 318.18 Amount of civil penalties.--The penalties
15 required for a noncriminal disposition pursuant to s. 318.14
16 are as follows:

17 (13) In addition to any penalties imposed for
18 noncriminal traffic infractions pursuant to this chapter or
19 imposed for criminal violations listed in s. 318.17, a board
20 of county commissioners or any unit of local government which
21 is consolidated as provided by s. 9, Art. VIII of the State
22 Constitution of 1885, as preserved by s. 6(e), Art. VIII of
23 the Constitution of 1968:

24 (a) May impose by ordinance a surcharge of up to \$15
25 for any infraction or violation to fund state court
26 facilities. The court may ~~shall~~ not waive this surcharge. Up
27 to 25 percent of the revenue from such surcharge may be used
28 to support local law libraries provided that the county or
29 unit of local government provides a level of service equal to
30 that provided prior to July 1, 2004, which shall include the
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1 continuation of library facilities located in or near the
2 county courthouse or annexes.

3 (b) That imposed increased fees or service charges by
4 ordinance under s. 28.2401, s. 28.241, or s. 34.041 for the
5 purpose of securing payment of the principal and interest on
6 bonds issued by the county before July 1, 2003, to finance
7 state court facilities, may impose by ordinance a surcharge
8 for any infraction or violation for the exclusive purpose of
9 securing payment of the principal and interest on bonds issued
10 by the county before July 1, 2003, to fund state court
11 facilities until the date of stated maturity. The court shall
12 not waive this surcharge. Such surcharge may not exceed an
13 amount per violation calculated as the quotient of the maximum
14 annual payment of the principal and interest on the bonds as
15 of July 1, 2003, divided by the number of traffic citations
16 for county fiscal year 2002-2003 certified as paid by the
17 clerk of the court of the county. Such quotient shall be
18 rounded up to the next highest dollar amount. The bonds may be
19 refunded only if savings will be realized on payments of debt
20 service and the refunding bonds are scheduled to mature on the
21 same date or before the bonds being refunded. If the revenues
22 generated as a result of the adoption of ordinance exceed the
23 debt service on the bonds, the surplus revenues may be used
24 to:

- 25 1. Pay down the debt service on the bonds;
- 26 2. Fund other court facility construction projects as
27 may be certified by the chief judge as necessary to address
28 unexpected growth in caseloads, to accommodate public access,
29 or to provide for public safety; or
- 30 3. Support local law libraries located in or near the
31 county courthouse or annexes.

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2 A county may not impose both of the surcharges authorized
3 under paragraphs (a) and (b) concurrently unless the chief
4 judge certifies the need for additional state court facilities
5 due to unexpected growth in caseloads, emergency requirements
6 to accommodate public access, threats to the safety of the
7 public, judges, staff, or litigants, or other exigent
8 circumstances. The clerk of court shall report, no later than
9 30 days after the end of the quarter, the amount of funds
10 collected under this subsection during each quarter of the
11 fiscal year. The clerk shall submit the report, in a format
12 developed by the Office of State Courts Administrator, to the
13 chief judge of the circuit, the Governor, the President of the
14 Senate, and the Speaker of the House of Representatives.

15 Section 4. This act shall take effect July 1, 2007.

16
17 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
18 COMMITTEE SUBSTITUTE FOR
19 SB 914

20 The committee substitute:

- 21 -- Requires a judge to determine whether an indigent
22 pre-trial detainee has a legally sufficient cause of
23 action before a pre-trial detainee's case can proceed;
24 and
25 -- Authorizes counties who meet certain requirements to
26 utilize traffic-infraction surcharge revenue exceeding
27 the debt service on bonds for certain purposes related to
28 court facilities, and to levy the surcharge concurrently
29 with another traffic-infraction surcharge that other
30 counties may levy to fund state-court facilities.
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