

By Senator Crist

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1 A bill to be entitled

2 An act relating to court fees and penalties; amending s.  
3 57.082, F.S.; providing for an indigent person whose  
4 income is equal to or below a specified threshold to have  
5 court fees waived; amending s. 57.085, F.S.; revising  
6 requirements regarding the deferral of prepayment of court  
7 costs and fees for indigent prisoners to include indigent  
8 persons being held in custody pending trial; amending s.  
9 318.18, F.S.; providing an exception from provisions  
10 prohibiting a county from imposing certain surcharges  
11 concurrently; providing an effective date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

14  
15 Section 1. Subsection (6) of section 57.082, Florida  
16 Statutes, is amended to read:

17 57.082 Determination of civil indigent status.--

18 (6) PROCESSING CHARGE; PAYMENT PLANS; WAIVER.--

19 (a) A person who the clerk or the court determines is  
20 indigent for civil proceedings under this section shall:

21 1. Be enrolled in a payment plan under s. 28.246; or

22 2. Have all costs waived for court services listed in s.  
23 57.081 if the indigent person's income is equal to or below 150  
24 percent of the then-current federal poverty guidelines prescribed  
25 for the size of the household of the applicant by the United  
26 States Department of Health and Human Services or if the indigent  
27 person is receiving Temporary Assistance for Needy Families-Cash  
28 Assistance, poverty-related veteran's benefits, or Supplemental  
29 Security Income (SSI).

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30           **(b) An indigent person enrolled in a payment plan** ~~and~~ shall  
31 be charged a one-time administrative processing charge under s.  
32 28.24(26) (c). A monthly payment amount, calculated based upon all  
33 fees and all anticipated costs, is presumed to correspond to the  
34 person's ability to pay if it does not exceed 2 percent of the  
35 person's annual net income, as defined in subsection (1), divided  
36 by 12. The person may seek review of the clerk's decisions  
37 regarding a payment plan established under s. 28.246 in the court  
38 having jurisdiction over the matter. A case may not be impeded in  
39 any way, delayed in filing, or delayed in its progress, including  
40 the final hearing and order, due to nonpayment of any fees by an  
41 indigent person.

42           Section 2. Section 57.085, Florida Statutes, is amended to  
43 read:

44           57.085 Deferral of prepayment of court costs and fees for  
45 indigent prisoners and indigent persons in custody pending  
46 trial.--

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

51           (2) When a prisoner who is intervening in or initiating a  
52 judicial proceeding seeks to defer the prepayment of court costs  
53 and fees because of indigence, the prisoner must file an  
54 affidavit of indigence with the appropriate clerk of the court.  
55 The affidavit must contain complete information about the  
56 prisoner's identity; the nature and amount of the prisoner's  
57 income; all real property owned by the prisoner; all tangible and  
58 intangible property worth more than \$100 which is owned by the

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59 | prisoner; the amount of cash held by the prisoner; the balance of  
60 | any checking, savings, or money market account held by the  
61 | prisoner; the prisoner's dependents, including their names and  
62 | ages; the prisoner's debts, including the name of each creditor  
63 | and the amount owed to each creditor; and the prisoner's monthly  
64 | expenses. The prisoner must certify in the affidavit whether the  
65 | prisoner has been adjudicated indigent under this section,  
66 | certified indigent under s. 57.081, or authorized to proceed as  
67 | an indigent under 28 U.S.C. s. 1915 by a federal court. The  
68 | prisoner must attach to the affidavit a photocopy of the  
69 | prisoner's trust account records for the preceding 6 months or  
70 | for the length of the prisoner's incarceration, whichever period  
71 | is shorter. The affidavit must contain the following statements:  
72 | "I am presently unable to pay court costs and fees. Under penalty  
73 | of perjury, I swear or affirm that all statements in this  
74 | affidavit are true and complete."

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

79 |       (4) When the clerk has found the prisoner to be indigent  
80 | but concludes the prisoner is able to pay part of the court costs  
81 | and fees required by law, the court shall order the prisoner to  
82 | make, prior to service of process, an initial partial payment of  
83 | those court costs and fees. The initial partial payment must  
84 | total at least 20 percent of the average monthly balance of the  
85 | prisoner's trust account for the preceding 6 months or for the  
86 | length of the prisoner's incarceration, whichever period is  
87 | shorter.

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88 (5) When the clerk has found the prisoner to be indigent,  
89 the court shall order the prisoner to make monthly payments of no  
90 less than 20 percent of the balance of the prisoner's trust  
91 account as payment of court costs and fees. When a court orders  
92 such payment, the Department of Corrections or the local  
93 detention facility shall place a lien on the inmate's trust  
94 account for the full amount of the court costs and fees, and  
95 shall withdraw money maintained in that trust account and forward  
96 the money, when the balance exceeds \$10, to the appropriate clerk  
97 of the court until the prisoner's court costs and fees are paid  
98 in full.

99 (6) Before an indigent prisoner or indigent person who is  
100 being held in custody pending trial may intervene in or initiate  
101 any judicial proceeding, the court must review the prisoner's  
102 claim or the claim of the indigent person who is being held in  
103 custody pending trial to determine whether it is legally  
104 sufficient to state a cause of action for which the court has  
105 jurisdiction and may grant relief. The court shall dismiss all  
106 or part of an indigent prisoner's claim or the claim of an  
107 indigent person who is being held in custody pending trial which:

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

109 (b) Seeks monetary relief from a defendant who is immune  
110 from such relief;

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

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

115 (7) A prisoner who has twice in the preceding 3 years been  
116 adjudicated indigent under this section, certified indigent under

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117 s. 57.081, or authorized to proceed as an indigent under 28  
118 U.S.C. s. 1915 by a federal court may not be adjudicated indigent  
119 to pursue a new suit, action, claim, proceeding, or appeal  
120 without first obtaining leave of court. In a request for leave  
121 of court, the prisoner must provide a complete listing of each  
122 suit, action, claim, proceeding, or appeal brought by the  
123 prisoner or intervened in by the prisoner in any court or other  
124 adjudicatory forum in the preceding 5 years. The prisoner must  
125 attach to a request for leave of court a copy of each complaint,  
126 petition, or other document purporting to commence a lawsuit and  
127 a record of disposition of the proceeding.

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

132 (a) The prisoner's claim of indigence is false or  
133 misleading;

134 (b) The prisoner provided false or misleading information  
135 regarding another judicial or administrative proceeding in which  
136 the prisoner was a party;

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

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

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

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

145 (b) The prisoner's claim reasonably appears intended solely

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146 to harass a party filed against;

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

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

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

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

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

158 318.18 Amount of penalties.--The penalties required for a  
159 noncriminal disposition pursuant to s. 318.14 or a criminal  
160 offense listed in s. 318.17 are as follows:

161 (13) In addition to any penalties imposed for noncriminal  
162 traffic infractions pursuant to this chapter or imposed for  
163 criminal violations listed in s. 318.17, a board of county  
164 commissioners or any unit of local government which is  
165 consolidated as provided by s. 9, Art. VIII of the State  
166 Constitution of 1885, as preserved by s. 6(e), Art. VIII of the  
167 Constitution of 1968:

168 (a) May impose by ordinance a surcharge of up to \$15 for  
169 any infraction or violation to fund state court facilities. The  
170 court may ~~shall~~ not waive this surcharge. Up to 25 percent of the  
171 revenue from such surcharge may be used to support local law  
172 libraries provided that the county or unit of local government  
173 provides a level of service equal to that provided prior to July  
174 1, 2004, which shall include the continuation of library

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175 facilities located in or near the county courthouse or annexes.

176 (b) That imposed increased fees or service charges by  
177 ordinance under s. 28.2401, s. 28.241, or s. 34.041 for the  
178 purpose of securing payment of the principal and interest on  
179 bonds issued by the county before July 1, 2003, to finance state  
180 court facilities, may impose by ordinance a surcharge for any  
181 infraction or violation for the exclusive purpose of securing  
182 payment of the principal and interest on bonds issued by the  
183 county before July 1, 2003, to fund state court facilities until  
184 the date of stated maturity. The court may ~~shall~~ not waive this  
185 surcharge. Such surcharge may not exceed an amount per violation  
186 calculated as the quotient of the maximum annual payment of the  
187 principal and interest on the bonds as of July 1, 2003, divided  
188 by the number of traffic citations for county fiscal year 2002-  
189 2003 certified as paid by the clerk of the court of the county.  
190 Such quotient shall be rounded up to the next highest dollar  
191 amount. The bonds may be refunded only if savings will be  
192 realized on payments of debt service and the refunding bonds are  
193 scheduled to mature on the same date or before the bonds being  
194 refunded. Notwithstanding any ~~of the foregoing~~ provisions of this  
195 paragraph which ~~that~~ limit the use of surcharge revenues, if the  
196 revenues generated as a result of the adoption of this ordinance  
197 exceed the debt service on the bonds, the surplus revenues may be  
198 used to pay down the debt service on the bonds; fund other state-  
199 court-facility construction projects as may be certified by the  
200 chief judge as necessary to address unexpected growth in  
201 caseloads, emergency requirements to accommodate public access,  
202 threats to the safety of the public, judges, staff, and  
203 litigants, or other exigent circumstances; or support local law

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204 libraries in or near the county courthouse or annexes.

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206 A county may not impose both of the surcharges authorized under  
207 paragraphs (a) and (b) concurrently unless the chief judge  
208 certifies the need for additional state court facilities due to  
209 unexpected growth in caseloads; emergency requirements to  
210 accommodate public access; threats to the safety of the public,  
211 judges, staff, or litigants; or other exigent circumstances. The  
212 clerk of court shall report, no later than 30 days after the end  
213 of the quarter, the amount of funds collected under this  
214 subsection during each quarter of the fiscal year. The clerk  
215 shall submit the report, in a format developed by the Office of  
216 State Courts Administrator, to the chief judge of the circuit,  
217 the Governor, the President of the Senate, and the Speaker of the  
218 House of Representatives.

219 Section 4. This act shall take effect July 1, 2008.