

1 A bill to be entitled
 2 An act relating to disposition of court fees; providing
 3 legislative intent; creating s. 28.002, F.S.; requiring
 4 the Legislature to provide for transfer of court-related
 5 services from clerks of the court to the state courts
 6 system; specifying applicable court-related services;
 7 providing for future repeal; amending ss. 28.101, 28.241,
 8 34.041, and 35.22, F.S.; revising allocations of certain
 9 court fees; providing for deposit of certain fees or
 10 portions of fees into the State Courts Revenue Trust Fund;
 11 providing an effective date.

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

14
 15 Section 1. It is the intent of the Legislature that, in
 16 order to enable greater access to justice and bring appropriate
 17 efficiencies to the administration of justice, a thorough review
 18 be conducted of the business processes by which the clerk of
 19 court provides court-related services. In this time of curtailed
 20 state resources, it is the further intent of the Legislature to
 21 eliminate bureaucracy and the duplication of effort by providing
 22 additional legislative and judicial oversight of the provision
 23 of court-related services.

24 Section 2. Section 28.002, Florida Statutes, is created to
 25 read:

26 28.002 Transfer of court-related services performed by
 27 clerks of court.--

28 (1) Notwithstanding the provisions of this chapter to the

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29 contrary, each fiscal year, beginning with the 2009-2010 fiscal
30 year, the Legislature shall designate up to five judicial
31 circuits in which court-related services currently imposed by
32 law upon the clerks of the court shall be transferred to the
33 state courts system. For purposes of this section, the following
34 services shall be considered court-related services:

35 (a) Case maintenance.

36 (b) Records management.

37 (c) Court preparation and attendance.

38 (d) Processing the assignment, reopening, and reassignment
39 of cases.

40 (e) Processing appeals.

41 (f) Collection and distribution of fines, fees, service
42 charges, and court costs.

43 (g) Processing bond forfeiture payments.

44 (h) Payment of jurors and witnesses.

45 (i) Payment of expenses for meals or lodging provided to
46 jurors.

47 (j) Data collection and reporting.

48 (k) Processing jurors.

49 (l) Determinations of indigent status.

50 (m) Keeping progress dockets.

51 (n) Disposal of evidence.

52 (o) Pro se assistance.

53 (2) Upon the completion of the transfer of court-related
54 services to the state courts system, the Legislature shall
55 repeal this section and the provisions of this chapter imposing
56 court-related services upon the clerks of the court.

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57 Section 3. Paragraph (d) of subsection (1) of section
 58 28.101, Florida Statutes, is amended to read:

59 28.101 Petitions and records of dissolution of marriage;
 60 additional charges.--

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

64 (d) A charge of \$32.50. On a monthly basis, the clerk
 65 shall transfer the moneys collected pursuant to this paragraph
 66 as follows:

67 1. An amount of \$7.50 to the Department of Revenue for
 68 deposit into ~~in~~ the Displaced Homemaker Trust Fund.

69 2. An amount of \$25 to the State Courts ~~Department of~~
 70 ~~Revenue for deposit in the General~~ Revenue Trust Fund.

71 Section 4. Subsections (1) and (2) of section 28.241,
 72 Florida Statutes, are amended to read:

73 28.241 Filing fees for trial and appellate proceedings.--

74 (1)(a) The party instituting any civil action, suit, or
 75 proceeding in the circuit court shall pay to the clerk of that
 76 court a filing fee of up to \$295 in all cases in which there are
 77 not more than five defendants and an additional filing fee of up
 78 to \$2.50 for each defendant in excess of five. Of that amount,
 79 ~~the first \$85 in filing fees, \$80 must be remitted by the clerk~~
 80 ~~to the Department of Revenue for deposit into the General~~
 81 ~~Revenue Fund, and \$5 must be remitted to the Department of~~
 82 Revenue for deposit into the Department of Financial Services'
 83 Administrative Trust Fund to fund the contract with the Florida
 84 Clerks of Court Operations Corporation created in s. 28.35. The

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85 next \$15 of the filing fee collected shall be deposited in the
86 state courts' Mediation and Arbitration Trust Fund. ~~One-third of~~
87 ~~any filing fees collected by the clerk of the circuit court in~~
88 ~~excess of \$100 shall be remitted to the Department of Revenue~~
89 ~~for deposit into the Department of Revenue Clerks of the Court~~
90 ~~Trust Fund.~~ An additional filing fee of \$4 shall be paid to the
91 clerk. The clerk shall remit \$3.50 to the Department of Revenue
92 for deposit into the Court Education Trust Fund and shall remit
93 50 cents to the Department of Revenue for deposit into the
94 Department of Financial Services Administrative Trust Fund to
95 fund clerk education. An additional filing fee of up to \$18
96 shall be paid by the party seeking each severance that is
97 granted. The clerk may impose an additional filing fee of up to
98 \$85 for all proceedings of garnishment, attachment, replevin,
99 and distress. The clerk shall deposit all remaining fees into
100 the State Courts Revenue Trust Fund. Postal charges incurred by
101 the clerk of the circuit court in making service by certified or
102 registered mail on defendants or other parties shall be paid by
103 the party at whose instance service is made. No additional fees,
104 charges, or costs shall be added to the filing fees imposed
105 under this section, except as authorized herein or by general
106 law.

107 (b) A party reopening any civil action, suit, or
108 proceeding in the circuit court shall pay to the clerk of court
109 a filing fee set by the clerk in an amount not to exceed \$50,
110 which the clerk shall deposit into the State Courts Revenue
111 Trust Fund. For purposes of this section, a case is reopened
112 when a case previously reported as disposed of is resubmitted to

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113 a court and includes petitions for modification of a final
 114 judgment of dissolution. A party is exempt from paying the fee
 115 for any of the following:

- 116 1. A writ of garnishment;
- 117 2. A writ of replevin;
- 118 3. A distress writ;
- 119 4. A writ of attachment;
- 120 5. A motion for rehearing filed within 10 days;
- 121 6. A motion for attorney's fees filed within 30 days after
 122 entry of a judgment or final order;
- 123 7. A motion for dismissal filed after a mediation
 124 agreement has been filed;
- 125 8. A disposition of personal property without
 126 administration;
- 127 9. Any probate case prior to the discharge of a personal
 128 representative;
- 129 10. Any guardianship pleading prior to discharge;
- 130 11. Any mental health pleading;
- 131 12. Motions to withdraw by attorneys;
- 132 13. Motions exclusively for the enforcement of child
 133 support orders;
- 134 14. A petition for credit of child support;
- 135 15. A Notice of Intent to Relocate and any order issuing
 136 as a result of an uncontested relocation;
- 137 16. Stipulations;
- 138 17. Responsive pleadings; or
- 139 18. Cases in which there is no initial filing fee.

140 (c) Any party other than a party described in paragraph
 141 (a) who files a pleading in an original civil action in circuit
 142 court for affirmative relief by cross-claim, counterclaim, or
 143 third-party complaint shall pay the clerk of court a fee of
 144 \$295. The clerk shall deposit ~~remit~~ the fee into ~~to~~ the State
 145 Courts Revenue Trust ~~Department of Revenue for deposit into the~~
 146 General Revenue Fund.

147 (d) The clerk of court shall collect a service charge of
 148 \$10 for issuing a summons. The clerk shall assess the fee
 149 against the party seeking to have the summons issued.

150 (2) Upon the institution of any appellate proceeding from
 151 any lower court to the circuit court of any such county,
 152 including appeals filed by a county or municipality as provided
 153 in s. 34.041(5), or from the circuit court to an appellate court
 154 of the state, the clerk shall charge and collect from the party
 155 or parties instituting such appellate proceedings a filing fee
 156 not to exceed \$280 for filing a notice of appeal from the county
 157 court to the circuit court and, in addition to the filing fee
 158 required under s. 25.241 or s. 35.22, \$100 for filing a notice
 159 of appeal from the circuit court to the district court of appeal
 160 or to the Supreme Court. If the party is determined to be
 161 indigent, the clerk shall defer payment of the fee. The clerk
 162 shall deposit into the State Courts Revenue Trust Fund ~~remit~~
 163 the fee for filing a notice of appeal from the county court to the
 164 circuit court ~~first \$80 to the Department of Revenue for deposit~~
 165 ~~into the General Revenue Fund.~~ The clerk shall deposit into the
 166 State Courts Revenue Trust Fund the fee for filing a notice of
 167 appeal from the circuit court to the district court of appeal or

168 the Supreme Court ~~One-third of the fee collected by the clerk in~~
 169 ~~excess of \$80 also shall be remitted to the Department of~~
 170 ~~Revenue for deposit into the Clerks of the Court Trust Fund.~~

171 Section 5. Paragraphs (b) and (c) of subsection (1) and
 172 subsection (2) of section 34.041, Florida Statutes, are amended
 173 to read:

174 34.041 Filing fees.--

175 (1)

176 (b) ~~The first \$80 of the filing fee collected under~~
 177 ~~subparagraph (a)4. shall be remitted to the Department of~~
 178 ~~Revenue for deposit into the General Revenue Fund. The first~~
 179 ~~next~~ \$15 of the filing fee collected under subparagraph (a)4.,
 180 and the first \$15 of each filing fee collected under
 181 subparagraph (a)6., shall be deposited into ~~in~~ the state courts'
 182 Mediation and Arbitration Trust Fund. ~~One-third of any filing~~
 183 ~~fees collected by the clerk under this section in excess of the~~
 184 ~~first \$95 collected under subparagraph (a)4. shall be remitted~~
 185 ~~to the Department of Revenue for deposit into the Department of~~
 186 ~~Revenue Clerks of the Court Trust Fund.~~ An additional filing fee
 187 of \$4 shall be paid to the clerk. The clerk shall transfer \$3.50
 188 to the Department of Revenue for deposit into the Court
 189 Education Trust Fund and shall transfer 50 cents to the
 190 Department of Revenue for deposit into the Department of
 191 Financial Services' Administrative Trust Fund to fund clerk
 192 education. The clerk shall deposit all remaining filing fees
 193 into the State Courts Revenue Trust Fund. Postal charges
 194 incurred by the clerk of the county court in making service by
 195 mail on defendants or other parties shall be paid by the party

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196 at whose instance service is made. Except as provided herein,
197 filing fees and service charges for performing duties of the
198 clerk relating to the county court shall be as provided in ss.
199 28.24 and 28.241. ~~Except as otherwise provided herein, all~~
200 ~~filing fees shall be retained as fee income of the office of the~~
201 ~~clerk of circuit court.~~ Filing fees imposed by this section may
202 not be added to any penalty imposed by chapter 316 or chapter
203 318.

204 (c) Any party other than a party described in paragraph
205 (a) who files a pleading in an original civil action in the
206 county court for affirmative relief by cross-claim,
207 counterclaim, or third-party complaint, or who files a notice of
208 cross-appeal or notice of joinder or motion to intervene as an
209 appellant, cross-appellant, or petitioner, shall pay the clerk
210 of court a fee of \$295 if the relief sought by the party under
211 this paragraph exceeds \$2,500. This fee shall not apply where
212 the cross-claim, counterclaim, or third-party complaint requires
213 transfer of the case from county to circuit court. The clerk
214 shall deposit ~~remit~~ the fee into ~~to~~ the State Courts Department
215 of Revenue Trust ~~for deposit into the General Revenue Fund.~~

216 (2) A party reopening any civil action, suit, or
217 proceeding in the county court shall pay to the clerk of court a
218 filing fee set by the clerk in an amount not to exceed \$25 for
219 all claims of not more than \$500 and an amount not to exceed \$50
220 for all claims of more than \$500. The clerk shall deposit the
221 filing fee into the State Courts Revenue Trust Fund. For
222 purposes of this section, a case is reopened when a case

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223 | previously reported as disposed of is resubmitted to a court. A
 224 | party is exempt from paying the fee for any of the following:

- 225 | (a) A writ of garnishment;
- 226 | (b) A writ of replevin;
- 227 | (c) A distress writ;
- 228 | (d) A writ of attachment;
- 229 | (e) A motion for rehearing filed within 10 days;
- 230 | (f) A motion for attorney's fees filed within 30 days of
- 231 | the entry of the judgment or final order;
- 232 | (g) A motion for dismissal filed after a mediation
- 233 | agreement has been filed;
- 234 | (h) A motion to withdraw by attorneys;
- 235 | (i) Stipulations; or
- 236 | (j) Responsive pleadings.

237 | Section 6. Paragraph (b) of subsection (3) and subsection
 238 | (6) of section 35.22, Florida Statutes, are amended to read:

239 | 35.22 Clerk of district court; appointment; compensation;
 240 | assistants; filing fees; teleconferencing.--

241 | (3)

242 | (b) Upon the filing of a notice of cross-appeal, or a
 243 | notice of joinder or motion to intervene as an appellant, cross-
 244 | appellant, or petitioner, the clerk shall charge and collect a
 245 | filing fee of \$295. The clerk shall deposit ~~remit~~ the fee into
 246 | the State Courts Revenue Trust ~~to the Department of Revenue for~~
 247 | ~~deposit into the General Revenue~~ Fund. The state and its
 248 | agencies are exempt from the filing fee required by this
 249 | paragraph.

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250 (6) The first ~~clerk of each district court of appeal is~~
251 ~~required to deposit all fees collected in the State Treasury to~~
252 ~~the credit of the General Revenue Fund, except that \$50 of each~~
253 \$300 filing fee collected shall be deposited into the state
254 court's Operating Trust Fund to fund court improvement projects
255 as authorized in the General Appropriations Act. The remainder
256 of each filing fee shall be deposited into the State Courts
257 Revenue Trust Fund. The clerk shall retain an accounting of each
258 such remittance.

259 Section 7. This act shall take effect July 1, 2009.