

By Senator Pruitt

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

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

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

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

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

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

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

36 (a) Case maintenance.

37 (b) Records management.

38 (c) Court preparation and attendance.

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

41 (e) Processing appeals.

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

44 (g) Processing bond forfeiture payments.

45 (h) Payment of jurors and witnesses.

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

48 (j) Data collection and reporting.

49 (k) Processing jurors.

50 (l) Determinations of indigent status.

51 (m) Keeping progress dockets.

52 (n) Disposal of evidence.

53 (o) Pro se assistance.

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

58 Section 3. Paragraph (d) of subsection (1) of section

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59 28.101, Florida Statutes, is amended to read:

60 28.101 Petitions and records of dissolution of marriage;  
61 additional charges.—

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

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

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

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

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

74 28.241 Filing fees for trial and appellate proceedings.—

75 (1)(a) The party instituting any civil action, suit, or  
76 proceeding in the circuit court shall pay to the clerk of that  
77 court a filing fee of up to \$295 in all cases in which there are  
78 not more than five defendants and an additional filing fee of up  
79 to \$2.50 for each defendant in excess of five. Of that amount,  
80 ~~the first \$85 in filing fees, \$80 must be remitted by the clerk~~  
81 ~~to the Department of Revenue for deposit into the General~~  
82 ~~Revenue Fund, and \$5 must be remitted to the Department of~~  
83 ~~Revenue for deposit into the Department of Financial Services'~~  
84 ~~Administrative Trust Fund to fund the contract with the Florida~~  
85 ~~Clerks of Court Operations Corporation created in s. 28.35. The~~  
86 ~~next \$15 of the filing fee collected shall be deposited in the~~  
87 ~~state courts' Mediation and Arbitration Trust Fund. ~~One-third of~~~~

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

108 (b) A party reopening any civil action, suit, or proceeding  
109 in the circuit court shall pay to the clerk of court a filing  
110 fee set by the clerk in an amount not to exceed \$50, which the  
111 clerk shall deposit into the State Courts Revenue Trust Fund.

112 For purposes of this section, a case is reopened when a case  
113 previously reported as disposed of is resubmitted to a court and  
114 includes petitions for modification of a final judgment of  
115 dissolution. A party is exempt from paying the fee for any of  
116 the following:

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- 117 1. A writ of garnishment;
- 118 2. A writ of replevin;
- 119 3. A distress writ;
- 120 4. A writ of attachment;
- 121 5. A motion for rehearing filed within 10 days;
- 122 6. A motion for attorney's fees filed within 30 days after
- 123 entry of a judgment or final order;
- 124 7. A motion for dismissal filed after a mediation agreement
- 125 has been filed;
- 126 8. A disposition of personal property without
- 127 administration;
- 128 9. Any probate case prior to the discharge of a personal
- 129 representative;
- 130 10. Any guardianship pleading prior to discharge;
- 131 11. Any mental health pleading;
- 132 12. Motions to withdraw by attorneys;
- 133 13. Motions exclusively for the enforcement of child
- 134 support orders;
- 135 14. A petition for credit of child support;
- 136 15. A Notice of Intent to Relocate and any order issuing as
- 137 a result of an uncontested relocation;
- 138 16. Stipulations;
- 139 17. Responsive pleadings; or
- 140 18. Cases in which there is no initial filing fee.
- 141 (c) Any party other than a party described in paragraph (a)
- 142 who files a pleading in an original civil action in circuit
- 143 court for affirmative relief by cross-claim, counterclaim, or
- 144 third-party complaint shall pay the clerk of court a fee of
- 145 \$295. The clerk shall deposit ~~remit~~ the fee into ~~to~~ the State

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146 Courts Revenue Trust ~~Department of Revenue for deposit into the~~  
147 ~~General Revenue~~ Fund.

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

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

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

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175           34.041 Filing fees.-

176           (1)

177           (b) ~~The first \$80 of the filing fee collected under~~

178 ~~subparagraph (a)4. shall be remitted to the Department of~~

179 ~~Revenue for deposit into the General Revenue Fund. The first~~

180 ~~next \$15 of the filing fee collected under subparagraph (a)4.,~~

181 ~~and the first \$15 of each filing fee collected under~~

182 ~~subparagraph (a)6., shall be deposited into in the state courts'~~

183 ~~Mediation and Arbitration Trust Fund. One-third of any filing~~

184 ~~fees collected by the clerk under this section in excess of the~~

185 ~~first \$95 collected under subparagraph (a)4. shall be remitted~~

186 ~~to the Department of Revenue for deposit into the Department of~~

187 ~~Revenue Clerks of the Court Trust Fund. An additional filing fee~~

188 ~~of \$4 shall be paid to the clerk. The clerk shall transfer \$3.50~~

189 ~~to the Department of Revenue for deposit into the Court~~

190 ~~Education Trust Fund and shall transfer 50 cents to the~~

191 ~~Department of Revenue for deposit into the Department of~~

192 ~~Financial Services' Administrative Trust Fund to fund clerk~~

193 ~~education. The clerk shall deposit all remaining filing fees~~

194 ~~into the State Courts Revenue Trust Fund. Postal charges~~

195 ~~incurred by the clerk of the county court in making service by~~

196 ~~mail on defendants or other parties shall be paid by the party~~

197 ~~at whose instance service is made. Except as provided herein,~~

198 ~~filing fees and service charges for performing duties of the~~

199 ~~clerk relating to the county court shall be as provided in ss.~~

200 ~~28.24 and 28.241. ~~Except as otherwise provided herein, all~~~~

201 ~~~~filing fees shall be retained as fee income of the office of the~~~~

202 ~~~~clerk of circuit court.~~ Filing fees imposed by this section may~~

203 ~~not be added to any penalty imposed by chapter 316 or chapter~~

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204 318.

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

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

- 226 (a) A writ of garnishment;  
227 (b) A writ of replevin;  
228 (c) A distress writ;  
229 (d) A writ of attachment;  
230 (e) A motion for rehearing filed within 10 days;  
231 (f) A motion for attorney's fees filed within 30 days of  
232 the entry of the judgment or final order;



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233 (g) A motion for dismissal filed after a mediation  
234 agreement has been filed;

235 (h) A motion to withdraw by attorneys;

236 (i) Stipulations; or

237 (j) Responsive pleadings.

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

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

242 (3)

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

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

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