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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/11/2009	.	
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The Committee on Judiciary (Ring) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (1) and (2) of section 27.52,
Florida Statutes, are amended to read:

27.52 Determination of indigent status.—

(1) APPLICATION TO THE CLERK.—A person seeking appointment
of a public defender under s. 27.51 based upon an inability to
pay must apply to the clerk of the court for a determination of
indigent status using an application form developed by the



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13 Florida Clerks of Court Operations Corporation with final
14 approval by the Supreme Court.

15 (a)1. The application must include, at a minimum, the
16 following financial information:

17 a.1. Net income, consisting of total salary and wages,
18 minus deductions required by law, including court-ordered
19 support payments.

20 b.2. Other income, including, but not limited to, social
21 security benefits, union funds, veterans' benefits, workers'
22 compensation, other regular support from absent family members,
23 public or private employee pensions, unemployment compensation,
24 dividends, interest, rent, trusts, and gifts.

25 c.3. Assets, including, but not limited to, cash, savings
26 accounts, bank accounts, stocks, bonds, certificates of deposit,
27 equity in real estate, and equity in a boat or a motor vehicle
28 or in other tangible property.

29 d.4. All liabilities and debts.

30 e.5. If applicable, the amount of any bail paid for the
31 applicant's release from incarceration and the source of the
32 funds.

33 2. The application must include the signature of the
34 applicant authorizing the clerk to conduct an indigency
35 background review and other information necessary for the clerk
36 to conduct the review.

37 3. The application must include a signature by the
38 applicant which attests to the truthfulness of the information
39 provided. The application form developed by the corporation must
40 include notice that the applicant may seek court review of a
41 clerk's determination that the applicant is not indigent, as



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42 provided in this section.

43 (b) An applicant shall pay a \$10 ~~\$50~~ application fee when
44 ~~an to the clerk for each~~ application for court-appointed counsel
45 is filed. The applicant shall pay an ~~the~~ indigent intake fee to
46 the clerk within 7 days after submitting the application. If the
47 applicant fails to ~~does not~~ pay the intake fee before ~~prior to~~
48 the disposition of the case, the clerk shall notify the court,
49 and the court shall:

50 1. Assess the application fee as part of the sentence or as
51 a condition of probation; or

52 2. Assess the application fee pursuant to s. 938.29.

53 (c) Notwithstanding any provision of law, court rule, or
54 administrative order, the clerk shall assign the first \$50 of
55 any fees or costs paid by an indigent person as payment of the
56 application fee. A person found to be indigent may not be
57 refused counsel or other required due process services for
58 failure to pay the fee.

59 (d) All ~~application~~ fees collected by the clerk from
60 indigent persons pursuant to ~~under~~ this section shall be
61 transferred monthly by the clerk to the Department of Revenue
62 for deposit in the Indigent Criminal Defense Trust Fund
63 administered by the Justice Administrative Commission, to be
64 used to as appropriated by the Legislature. ~~The clerk may retain~~
65 ~~2 percent of application fees collected monthly for~~
66 ~~administrative costs prior to remitting the remainder to the~~
67 ~~Department of Revenue.~~

68 (e)1. The clerk shall assist a person who appears before
69 the clerk and requests assistance in completing the application,
70 and the clerk shall notify the court if a person is unable to



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71 complete the application after the clerk has provided
72 assistance.

73 2. If the person seeking appointment of a public defender
74 is incarcerated, the public defender is responsible for
75 providing the application to the person and assisting him or her
76 in its completion and is responsible for submitting the
77 application to the clerk on the person's behalf. The public
78 defender may enter into an agreement for jail employees,
79 pretrial services employees, or employees of other criminal
80 justice agencies to assist the public defender in performing
81 functions assigned to the public defender under this
82 subparagraph.

83 (2) DETERMINATION BY THE CLERK.—The clerk of the court
84 shall determine whether an applicant seeking appointment of a
85 public defender is indigent based upon the information provided
86 in the application, the results of an indigency background
87 review from the Comprehensive Case Information System, and the
88 criteria prescribed in this subsection.

89 (a)1. An applicant, including an applicant who is a minor
90 or an adult tax-dependent person, is indigent if the applicant's
91 income is equal to or below 200 percent of the then-current
92 federal poverty guidelines prescribed for the size of the
93 household of the applicant by the United States Department of
94 Health and Human Services or if the person is receiving
95 Temporary Assistance for Needy Families-Cash Assistance,
96 poverty-related veterans' benefits, or Supplemental Security
97 Income (SSI).

98 2. There is a presumption that the applicant is not
99 indigent if the applicant owns, or has equity in, any intangible



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100 or tangible personal property or real property or the expectancy
101 of an interest in any such property having a net equity value of
102 \$2,500 or more, excluding the value of the person's homestead
103 and one vehicle having a net value not exceeding \$5,000.

104 (b) Based upon its review, the clerk shall make one of the
105 following determinations:

- 106 1. The applicant is not indigent.
- 107 2. The applicant is indigent.

108 (c)1. If the clerk determines that the applicant is
109 indigent, the clerk shall submit the determination to the office
110 of the public defender and immediately file the determination in
111 the case file.

112 2. If the public defender is unable to provide
113 representation due to a conflict pursuant to s. 27.5303, the
114 public defender shall move the court for withdrawal from
115 representation and appointment of the office of criminal
116 conflict and civil regional counsel.

117 (d) The duty of the clerk in determining whether an
118 applicant is indigent shall be limited to receiving the
119 application and comparing the information provided in the
120 application and the results of the indigency background review
121 to the criteria prescribed in this subsection. The determination
122 of indigent status is a ministerial act of the clerk and not a
123 decision based on further investigation or the exercise of
124 independent judgment by the clerk. The clerk may contract with
125 third parties to perform functions assigned to the clerk under
126 this section.

127 (e) The applicant may seek review of the clerk's
128 determination that the applicant is not indigent in the court



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129 having jurisdiction over the matter at the next scheduled
130 hearing. If the applicant seeks review of the clerk's
131 determination of indigent status, the court shall make a final
132 determination as provided in subsection (4).

133 Section 2. Subsection (1) of section 28.241, Florida
134 Statutes, is amended to read:

135 28.241 Filing fees for trial and appellate proceedings.—

136 (1) (a) The party instituting any civil action, suit, or
137 proceeding in the circuit court shall pay to the clerk of that
138 court a filing fee of up to \$295 in all cases in which there are
139 not more than five defendants and an additional filing fee of up
140 to \$2.50 for each defendant in excess of five. Of the first \$85
141 in filing fees, \$80 must be remitted by the clerk to the
142 Department of Revenue for deposit into the General Revenue Fund,
143 and \$5 must be remitted to the Department of Revenue for deposit
144 into the Department of Financial Services' Administrative Trust
145 Fund to fund the contract with the Florida Clerks of Court
146 Operations Corporation created in s. 28.35. The next \$15 of the
147 filing fee collected shall be deposited in the state courts'
148 Mediation and Arbitration Trust Fund. One-third of any filing
149 fees collected by the clerk of the circuit court in excess of
150 \$100 shall be remitted to the Department of Revenue for deposit
151 into the Department of Revenue Clerks of the Court Trust Fund.
152 An additional filing fee of \$4 shall be paid to the clerk. The
153 clerk shall remit \$3.50 to the Department of Revenue for deposit
154 into the Court Education Trust Fund and shall remit 50 cents to
155 the Department of Revenue for deposit into the Department of
156 Financial Services Administrative Trust Fund to fund clerk
157 education. An additional filing fee of up to \$18 shall be paid



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158 by the party seeking each severance that is granted. The clerk
159 may impose an additional filing fee of up to \$85 for all
160 proceedings of garnishment, attachment, replevin, and distress.
161 Postal charges incurred by the clerk of the circuit court in
162 making service by certified or registered mail on defendants or
163 other parties shall be paid by the party at whose instance
164 service is made. No additional fees, charges, or costs shall be
165 added to the filing fees imposed under this section, except as
166 authorized herein or by general law.

167 (b) A party reopening any civil action, suit, or proceeding
168 in the circuit court shall pay to the clerk of court a filing
169 fee set by the clerk in an amount not to exceed \$50. For
170 purposes of this section, a case is reopened after all appeals
171 or time to file an appeal from a final order or final judgment
172 have been exhausted ~~when a case previously reported as disposed~~
173 ~~of is resubmitted to a court and includes petitions for~~
174 ~~modification of a final judgment of dissolution. A clerk may not~~
175 assess a fee to reopen a civil case for any motion filed by any
176 party until 90 days after a final order or final judgment has
177 been filed with the clerk. Once the case has been reopened, an
178 additional reopen fee may not be assessed until the reopening
179 pleading, motion, or other paper requiring action is resolved,
180 either by the court or by the clerk pursuant to the rules of
181 court. The reservation of jurisdiction by a court in a case does
182 not exempt the case from the reopen fee. A party is exempt from
183 paying the fee for any of the following:

- 184 1. A writ of garnishment;
- 185 2. A writ of replevin;
- 186 3. A distress writ;



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- 187 4. A writ of attachment;
- 188 5. A motion for rehearing filed within 10 days;
- 189 6. A motion for attorney's fees filed within 30 days after
190 entry of a judgment or final order;
- 191 7. A motion for dismissal filed after a mediation agreement
192 has been filed;
- 193 8. A disposition of personal property without
194 administration;
- 195 9. Any probate case prior to the discharge of a personal
196 representative;
- 197 10. Any guardianship pleading prior to discharge;
- 198 11. Any mental health pleading;
- 199 12. Motions to withdraw by attorneys;
- 200 13. Motions exclusively for the enforcement of child
201 support orders;
- 202 14. A petition for credit of child support;
- 203 15. A Notice of Intent to Relocate and any order issuing as
204 a result of an uncontested relocation;
- 205 16. Stipulations and motions to enforce stipulations;
- 206 17. Responsive pleadings; ~~or~~
- 207 18. Cases in which there is no initial filing fee; or
- 208 19. Motions for contempt.
- 209 (c) A Any party in addition to the parties ~~other than a~~
210 ~~party~~ described in paragraph (a) who files a pleading in an
211 original civil action in circuit court for affirmative relief by
212 cross-claim, counterclaim, counterpetition, or third-party
213 complaint shall pay the clerk of court a fee of \$295. The clerk
214 shall remit the fee to the Department of Revenue for deposit
215 into the General Revenue Fund.



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216 (d) The clerk of court shall collect a service charge of
217 \$10 for issuing a summons. The clerk shall assess the fee
218 against the party seeking to have the summons issued.

219 Section 3. Subsection (6) of section 28.246, Florida
220 Statutes, is amended to read:

221 28.246 Payment of court-related fees, charges, and costs;
222 partial payments; distribution of funds.—

223 (6) A clerk of court may pursue the collection of any fees,
224 service charges, fines, court costs, and liens for the payment
225 of attorney's fees and costs pursuant to s. 938.29 which remain
226 unpaid for 60 ~~90~~ days or more, or refer the account to a private
227 attorney who is a member in good standing of The Florida Bar or
228 collection agent who is registered and in good standing pursuant
229 to chapter 559. In pursuing the collection of such unpaid
230 financial obligations through a private attorney or collection
231 agent, the clerk of the court must have attempted to collect the
232 unpaid amount through a collection court, collections docket, or
233 other collections process, if any, established by the court,
234 find this to be cost-effective and follow any applicable
235 procurement practices. The collection fee, including any
236 reasonable attorney's fee, paid to any attorney or collection
237 agent retained by the clerk may be added to the balance owed in
238 an amount not to exceed 25 percent ~~40 percent~~ of the amount owed
239 at the time the account is referred to the attorney or agent for
240 collection.

241 Section 4. Subsections (1) and (2) of section 34.041,
242 Florida Statutes, are amended to read:

243 34.041 Filing fees.—

244 (1) (a) Upon the institution of any civil action, suit, or



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245 proceeding in county court, the party shall pay the following
246 filing fee, not to exceed:

- 247 1. For all claims less than \$100.....\$50.
- 248 2. For all claims of \$100 or more but not more
249 than \$500.....\$75.
- 250 3. For all claims of more than \$500 but not more than
251 \$2,500.....\$170.
- 252 4. For all claims of more than \$2,500.....\$295.
- 253 5. In addition, for all proceedings of garnishment,
254 attachment, replevin, and distress.....\$85.
- 255 6. For removal of tenant action.....\$265.

256 (b) The first \$80 of the filing fee collected under
257 subparagraph (a)4. shall be remitted to the Department of
258 Revenue for deposit into the General Revenue Fund. The next \$15
259 of the filing fee collected under subparagraph (a)4., and the
260 first \$15 of each filing fee collected under subparagraph (a)6.,
261 shall be deposited in the state courts' Mediation and
262 Arbitration Trust Fund. One-third of any filing fees collected
263 by the clerk under this section in excess of the first \$95
264 collected under subparagraph (a)4. shall be remitted to the
265 Department of Revenue for deposit into the Department of Revenue
266 Clerks of the Court Trust Fund. An additional filing fee of \$4
267 shall be paid to the clerk. The clerk shall transfer \$3.50 to
268 the Department of Revenue for deposit into the Court Education
269 Trust Fund and shall transfer 50 cents to the Department of
270 Revenue for deposit into the Department of Financial Services'
271 Administrative Trust Fund to fund clerk education. Postal
272 charges incurred by the clerk of the county court in making
273 service by mail on defendants or other parties shall be paid by



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274 the party at whose instance service is made. Except as provided
275 herein, filing fees and service charges for performing duties of
276 the clerk relating to the county court shall be as provided in
277 ss. 28.24 and 28.241. Except as otherwise provided herein, all
278 filing fees shall be retained as fee income of the office of the
279 clerk of circuit court. Filing fees imposed by this section may
280 not be added to any penalty imposed by chapter 316 or chapter
281 318.

282 (c) A Any party in addition to the parties other than a
283 party described in paragraph (a) who files a pleading in an
284 original civil action in the county court for affirmative relief
285 by cross-claim, counterclaim, counterpetition, or third-party
286 complaint, or who files a notice of cross-appeal or notice of
287 joinder or motion to intervene as an appellant, cross-appellant,
288 or petitioner, shall pay the clerk of court a fee of \$295 if the
289 relief sought by the party under this paragraph exceeds \$2,500.
290 The clerk shall remit the \$295 fee to the Department of Revenue
291 for deposit into the General Revenue Fund. This fee does shall
292 not apply if where the cross-claim, counterclaim,
293 counterpetition, or third-party complaint requires transfer of
294 the case from county to circuit court or small claims court to
295 county court. However, the party shall also pay to the clerk the
296 standard filing fee for the court to which the case is to be
297 transferred. The clerk shall remit the fee to the Department of
298 Revenue for deposit into the General Revenue Fund.

299 (d) The clerk of court shall collect a service charge of
300 \$10 for issuing a summons. The clerk shall assess the fee
301 against the party seeking to have the summons issued.

302 (2) A party reopening any civil action, suit, or proceeding



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303 in the county court shall pay to the clerk of court a filing fee
304 set by the clerk in an amount not to exceed \$25 for all claims
305 of not more than \$500 and an amount not to exceed \$50 for all
306 claims of more than \$500. For purposes of this section, a case
307 is reopened after all appeals or time to file an appeal from a
308 final order or final judgment have been exhausted ~~when a case~~
309 ~~previously reported as disposed of is resubmitted to a court.~~ A
310 clerk may not assess a reopen fee for any motion filed by any
311 party until 90 days after a final order or final judgment has
312 been filed with the clerk. Once the case is reopened, an
313 additional reopen fee may not be assessed until the reopening
314 pleading, motion, or other paper requiring action is resolved,
315 by the court or the clerk pursuant to the rules of court. The
316 reservation of jurisdiction by a court in a case does not exempt
317 the case from the reopen fee. A party is exempt from paying the
318 fee for any of the following:

- 319 (a) A writ of garnishment;
- 320 (b) A writ of replevin;
- 321 (c) A distress writ;
- 322 (d) A writ of attachment;
- 323 (e) A motion for rehearing filed within 10 days;
- 324 (f) A motion for attorney's fees filed within 30 days of
325 the entry of the judgment or final order;
- 326 (g) A motion for dismissal filed after a mediation
327 agreement has been filed;
- 328 (h) A motion to withdraw by attorneys;
- 329 (i) Stipulations and motions to enforce stipulations; ~~or~~
- 330 (j) Responsive pleadings; or
- 331 (k) Motions for contempt.



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332 Section 5. Section 45.035, Florida Statutes, is amended to
333 read:

334 45.035 Clerk's fees.—In addition to other fees or service
335 charges authorized by law, the clerk shall receive service
336 charges related to the judicial sales procedure set forth in ss.
337 45.031-45.034 and this section:

338 (1) The clerk shall receive a service charge of \$70 for
339 services in making, recording, and certifying the sale and
340 title, which service charge shall be assessed as costs and shall
341 be advanced by the plaintiff before the sale.

342 (2) If there is a surplus resulting from the sale, the
343 clerk may receive the following service charges, which shall be
344 deducted from the surplus:

345 (a) The clerk may withhold the sum of \$28 from the surplus
346 which may only be used for purposes of educating the public as
347 to the rights of homeowners regarding foreclosure proceedings.

348 (b) The clerk is entitled to a service charge of \$15 for
349 notifying a surplus trustee of his or her appointment.

350 (c) The clerk is entitled to a service charge of \$15 for
351 each disbursement of surplus proceeds.

352 (d) The clerk is entitled to a service charge of \$15 for
353 appointing a surplus trustee, furnishing the surplus trustee
354 with a copy of the final judgment and the certificate of
355 disbursements, and disbursing to the surplus trustee the
356 trustee's cost advance.

357 (3) If the sale is conducted by electronic means, as
358 provided in s. 45.031(10), the clerk shall receive an additional
359 a service charge not to exceed of \$60 ~~as provided in subsection~~
360 ~~(1)~~ for services in conducting or contracting for the electronic



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361 sale, which service charge shall be assessed as costs and paid
362 by the winning bidder ~~shall be advanced by the plaintiff before~~
363 ~~the sale~~. If the clerk requires advance electronic deposits to
364 secure the right to bid, such deposits shall not be subject to
365 the fee under s. 28.24(10). The portion of an advance deposit
366 from a winning bidder required by s. 45.031(3) shall, upon
367 acceptance of the winning bid, be subject to the fee under s.
368 28.24(10).

369 Section 6. Subsections (1) and (6) of section 57.082,
370 Florida Statutes, are amended to read:

371 57.082 Determination of civil indigent status.—

372 (1) APPLICATION TO THE CLERK.—A person seeking appointment
373 of an attorney in a civil case eligible for court-appointed
374 counsel, or seeking relief from prepayment of fees and costs
375 under s. 57.081, based upon an inability to pay must apply to
376 the clerk of the court for a determination of civil indigent
377 status using an application form developed by the Florida Clerks
378 of Court Operations Corporation with final approval by the
379 Supreme Court. Each applicant shall pay a \$10 application fee to
380 the clerk when the application is filed.

381 (a)1. The application must include, at a minimum, the
382 following financial information:

383 a.1. Net income, consisting of total salary and wages,
384 minus deductions required by law, including court-ordered
385 support payments.

386 b.2. Other income, including, but not limited to, social
387 security benefits, union funds, veterans' benefits, workers'
388 compensation, other regular support from absent family members,
389 public or private employee pensions, unemployment compensation,



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390 dividends, interest, rent, trusts, and gifts.

391 ~~c.3.~~ Assets, including, but not limited to, cash, savings
392 accounts, bank accounts, stocks, bonds, certificates of deposit,
393 equity in real estate, and equity in a boat or a motor vehicle
394 or in other tangible property.

395 ~~d.4.~~ All liabilities and debts.

396 2. The application must include the signature of the
397 applicant authorizing the clerk to conduct an indigency
398 background review and other information necessary for the clerk
399 to conduct the review.

400 3. The application must include a signature by the
401 applicant which attests to the truthfulness of the information
402 provided. The application form developed by the corporation must
403 include notice that the applicant may seek court review of a
404 clerk's determination that the applicant is not indigent, as
405 provided in this section.

406 (b) The clerk shall assist a person who appears before the
407 clerk and requests assistance in completing the application, and
408 the clerk shall notify the court if a person is unable to
409 complete the application after the clerk has provided
410 assistance.

411 (c) The clerk shall accept an application that is signed by
412 the applicant and submitted on his or her behalf by a private
413 attorney who is representing the applicant in the applicable
414 matter.

415 (d) A person who seeks appointment of an attorney in a case
416 under chapter 39, at the trial or appellate level, for which an
417 indigent person is eligible for court-appointed representation,
418 shall, in addition to the \$10 application fee required under



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419 subsection (1), pay a \$50 indigency intake ~~application~~ fee to
420 the clerk for each application filed. The applicant shall pay
421 the fee within 7 days after submitting the application. The
422 clerk shall transfer monthly all application fees collected
423 under this paragraph to the Department of Revenue for deposit
424 into the Indigent Civil Defense Trust Fund, to be used as
425 appropriated by the Legislature. ~~The clerk may retain 10 percent~~
426 ~~of application fees collected monthly for administrative costs~~
427 ~~prior to remitting the remainder to the Department of Revenue.~~ A
428 person found to be indigent may not be refused counsel. The
429 clerk of court shall determine whether a person seeking the
430 appointment of an attorney is indigent by using the
431 Comprehensive Case Information System to conduct the indigency
432 background review. If the person cannot pay the application fee,
433 the clerk shall enroll the person in a payment plan pursuant to
434 s. 28.246.

435 (6) PROCESSING CHARGE; PAYMENT PLANS.—A person who the
436 clerk or the court determines is indigent for civil proceedings
437 under this section shall be enrolled in a payment plan under s.
438 28.246 and shall be charged a one-time administrative processing
439 charge under s. 28.24(26)(c). A monthly payment amount,
440 calculated based upon all fees and all anticipated costs, is
441 presumed to correspond to the person's ability to pay if it does
442 not exceed 2 percent of the person's annual net income, as
443 defined in subsection (1), divided by 12. The person may seek
444 review of the clerk's decisions regarding a payment plan
445 established under s. 28.246 in the court having jurisdiction
446 over the matter. A case may not be impeded in any way, delayed
447 in filing, or delayed in its progress, including the final



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448 hearing and order, due to nonpayment of any fees by an indigent
449 person. The clerk shall suspend the driver's license of a person
450 who fails to pay all of the fees and costs assessed by the court
451 which are payable pursuant to a payment plan.

452 Section 7. Subsection (4) of section 197.542, Florida
453 Statutes, is amended to read:

454 197.542 Sale at public auction.-

455 (4) (a) A clerk may conduct electronic tax deed sales in
456 lieu of public outcry. The clerk must comply with the procedures
457 provided in this chapter, except that electronic proxy bidding
458 shall be allowed and the clerk may require bidders to advance
459 sufficient funds to pay the deposit required by subsection (2).
460 The clerk shall provide access to the electronic sale by
461 computer terminals open to the public at a designated location.
462 A clerk who conducts such electronic sales may receive
463 electronic deposits and payments related to the sale. The
464 portion of an advance deposit from a winning bidder required by
465 subsection (2) shall, upon acceptance of the winning bid, be
466 subject to the fee under s. 28.24(10).

467 (b) Nothing in this subsection shall be construed to
468 restrict or limit the authority of a charter county from
469 conducting electronic tax deed sales. In a charter county where
470 the clerk of the circuit court does not conduct all electronic
471 sales, the charter county shall be permitted to receive
472 electronic deposits and payments related to sales it conducts,
473 as well as to subject the winning bidder to a fee, consistent
474 with the schedule in s. 28.24(10).

475 (c) The costs of electronic tax deed sales shall be added
476 to the charges for the costs of sale under subsection (1) and



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477 paid by the certificateholder when filing an application for a
478 tax deed.

479 Section 8. Subsection (13) of section 318.18, Florida
480 Statutes, is amended to read:

481 318.18 Amount of penalties.—The penalties required for a
482 noncriminal disposition pursuant to s. 318.14 or a criminal
483 offense listed in s. 318.17 are as follows:

484 (13) In addition to any penalties imposed for noncriminal
485 traffic infractions pursuant to this chapter or imposed for
486 criminal violations listed in s. 318.17, a board of county
487 commissioners or any unit of local government which is
488 consolidated as provided by s. 9, Art. VIII of the State
489 Constitution of 1885, as preserved by s. 6(e), Art. VIII of the
490 Constitution of 1968:

491 (a) May impose by ordinance a surcharge of up to \$30 ~~\$15~~
492 for any infraction or violation to fund state court facilities.
493 The court shall not waive this surcharge. Up to 25 percent of
494 the revenue from such surcharge may be used to support local law
495 libraries provided that the county or unit of local government
496 provides a level of service equal to that provided prior to July
497 1, 2004, which shall include the continuation of library
498 facilities located in or near the county courthouse or annexes.

499 (b) May, if it ~~That~~ imposed increased fees or service
500 charges by ordinance under s. 28.2401, s. 28.241, or s. 34.041
501 for the purpose of securing payment of the principal and
502 interest on bonds issued by the county before July 1, 2003, to
503 finance state court facilities, ~~may~~ impose by ordinance a
504 surcharge for any infraction or violation for the exclusive
505 purpose of securing payment of the principal and interest on



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506 bonds issued by the county before July 1, 2003, to fund state
507 court facilities until the date of stated maturity. The court
508 shall not waive this surcharge. Such surcharge may not exceed an
509 amount per violation calculated as the quotient of the maximum
510 annual payment of the principal and interest on the bonds as of
511 July 1, 2003, divided by the number of traffic citations for
512 county fiscal year 2002-2003 certified as paid by the clerk of
513 the court of the county. Such quotient shall be rounded up to
514 the next highest dollar amount. The bonds may be refunded only
515 if savings will be realized on payments of debt service and the
516 refunding bonds are scheduled to mature on the same date or
517 before the bonds being refunded. Notwithstanding any of the
518 foregoing provisions of this paragraph that limit the use of
519 surcharge revenues, if the revenues generated as a result of the
520 adoption of this ordinance exceed the debt service on the bonds,
521 the surplus revenues may be used to pay down the debt service on
522 the bonds; fund other state-court-facility construction projects
523 as may be certified by the chief judge as necessary to address
524 unexpected growth in caseloads, emergency requirements to
525 accommodate public access, threats to the safety of the public,
526 judges, staff, and litigants, or other exigent circumstances; or
527 support local law libraries in or near the county courthouse or
528 annexes.

529
530 A county may not impose both of the surcharges authorized under
531 paragraphs (a) and (b) concurrently. The clerk of court shall
532 report, no later than 30 days after the end of the quarter, the
533 amount of funds collected under this subsection during each
534 quarter of the fiscal year. The clerk shall submit the report,



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535 in a format developed by the Office of State Courts
536 Administrator, to the chief judge of the circuit, the Governor,
537 the President of the Senate, ~~and~~ the Speaker of the House of
538 Representatives, and the board of county commissioners.

539 (c) May impose by ordinance a surcharge for any infraction
540 or violation for the exclusive purpose of securing payment of
541 the principal and interest on bonds issued by the county on or
542 after July 1, 2009, to fund state court facilities until the
543 date of stated maturity. The court may not waive this surcharge.
544 The surcharge may not exceed an amount per violation calculated
545 as the quotient of the maximum annual payment of the principal
546 and interest on the bonds, divided by the number of traffic
547 citations certified as paid by the clerk of the court of the
548 county on August 15 of each year. The quotient shall be rounded
549 up to the next highest dollar amount. The bonds may be refunded
550 if savings will be realized on payments of debt service and the
551 refunding bonds are scheduled to mature on or before the
552 maturity date of the bonds being refunded. If the revenues
553 generated as a result of the adoption of this ordinance exceed
554 the debt service on the bonds, the surplus revenues may be used
555 to pay the debt service on the bonds; to fund other state court
556 facility construction projects certified by the chief judge as
557 necessary to address unexpected growth in caseloads, emergency
558 requirements to accommodate public access, threats to the safety
559 of the public, judges, staff, and litigants, or other exigent
560 circumstances; or to support local law libraries in or near the
561 county courthouse or annexes.

562 Section 9. Section 322.245, Florida Statutes, is amended to
563 read:



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564 322.245 Suspension of license upon failure of person
565 charged with specified offense under chapter 316, chapter 320,
566 or this chapter to comply with directives ordered by traffic
567 court or upon failure to pay child support in non-IV-D cases as
568 provided in chapter 61 or failure to pay any financial
569 obligation in any other criminal case.—

570 (1) If a person charged with a violation of any of the
571 criminal offenses enumerated in s. 318.17 or with the commission
572 of any offense constituting a misdemeanor under chapter 320 or
573 this chapter fails to comply with all of the directives of the
574 court within the time allotted by the court, the department
575 ~~clerk of the traffic court~~ shall mail to the person, at the
576 address specified on the uniform traffic citation, a notice of
577 such failure, notifying him or her that, if he or she does not
578 comply with the directives of the court within 30 days after the
579 date of the notice and pay a delinquency fee of up to \$25 to the
580 clerk, his or her driver's license will be suspended. The notice
581 shall be mailed no later than 5 days after such failure. The
582 delinquency fee may be retained by the office of the clerk to
583 defray the operating costs of the office.

584 (2) In non-IV-D cases, if a person fails to pay child
585 support under chapter 61 and the obligee so requests, the
586 depository or the clerk of the court shall mail in accordance
587 with s. 61.13016 the notice specified in that section, notifying
588 him or her that if he or she does not comply with the
589 requirements of that section and pay a delinquency fee of \$25 to
590 the depository or the clerk, his or her driver's license and
591 motor vehicle registration will be suspended. The delinquency
592 fee may be retained by the depository or the office of the clerk



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593 to defray the operating costs of the office.

594 (3) If the person fails to comply with any directive ~~the~~
595 ~~directives~~ of the court requiring the payment of fines, fees,
596 court costs, or service charges, including a payment plan
597 established pursuant to s. 28.246(4), within the 30-day period,
598 or, in non-IV-D cases, fails to comply with the requirements of
599 s. 61.13016 within the period specified in that statute, the
600 depository or the clerk of the court shall notify the department
601 of such failure within 10 days. Upon receipt of the notice, the
602 department shall immediately issue an order suspending the
603 person's driver's license and privilege to drive effective 20
604 days after the date the order of suspension is mailed in
605 accordance with s. 322.251(1), (2), and (6).

606 (4) After suspension of the driver's license of a person
607 pursuant to subsection (1), subsection (2), or subsection (3),
608 the license may not be reinstated until the person complies with
609 all court directives imposed upon him or her, including payment
610 of the delinquency fee imposed by subsection (1), and presents
611 certification of such compliance to a driver licensing office
612 and complies with the requirements of this chapter or, in the
613 case of a license suspended for nonpayment of child support in
614 non-IV-D cases, until the person complies with the reinstatement
615 provisions of s. 322.058 and makes payment of the delinquency
616 fee imposed by subsection (2).

617 (5) (a) When the department receives notice from a clerk of
618 the court that a person licensed to operate a motor vehicle in
619 this state under the provisions of this chapter has failed to
620 pay financial obligations for any criminal offense other than
621 those specified in subsection (1), or any other unpaid court



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622 finances, fees, service charges, or court costs ordered by the
623 court, in full or in part under a payment plan pursuant to s.
624 28.246(4), the department shall suspend the license of the
625 person named in the notice.

626 (b) The department must reinstate the driving privilege
627 when the clerk of the court provides an affidavit to the
628 department stating that:

629 1. The person has satisfied the financial obligation in
630 full or made all payments currently due under a payment plan;

631 2. The person has entered into a written agreement for
632 payment of the financial obligation if not presently enrolled in
633 a payment plan; or

634 3. A court has entered an order granting relief to the
635 person ordering the reinstatement of the license.

636 (c) The department shall not be held liable for any license
637 suspension resulting from the discharge of its duties under this
638 section.

639 Section 10. Section 322.29, Florida Statutes, is amended to
640 read:

641 322.29 Surrender and return of license.—

642 (1) The department, upon suspending or revoking a license,
643 shall require that the ~~such~~ license be surrendered to the
644 department. At the end of the period of suspension, the ~~such~~
645 surrendered license ~~so surrendered~~ shall be returned, or a
646 duplicate license issued, to the licensee after the applicant
647 has successfully passed the vision, sign, and traffic law
648 examinations. In addition, pursuant to s. 322.221, the
649 department may require the licensee to successfully complete a
650 driving examination. The department may not require ~~is~~



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651 ~~prohibited from requiring~~ the surrender of a license except as
652 authorized by this chapter.

653 (2) The provisions of subsection (1) to the contrary
654 notwithstanding, an ~~no~~ examination is not required for the
655 return of a license suspended under s. 318.15, s. 322.245, or s.
656 938.30 ~~s. 318.15 or s. 322.245~~ unless an examination is
657 otherwise required by this chapter. Every person applying for
658 the return of a license suspended under s. 318.15, s. 322.245,
659 or s. 938.30 ~~s. 318.15 or s. 322.245~~ shall present to the
660 department certification from the court that he or she has
661 complied with all obligations and penalties imposed on him or
662 her pursuant to s. 318.15 or, in the case of a suspension
663 pursuant to ss. 322.245 and 938.30 ~~s. 322.245~~, that he or she
664 has complied with all directives of the court and the
665 requirements of ss. 322.245 and 938.30 ~~s. 322.245~~ and shall pay
666 to the department a nonrefundable service fee of \$47.50, of
667 which \$37.50 shall be deposited into the General Revenue Fund
668 and \$10 shall be deposited into the Highway Safety Operating
669 Trust Fund. If reinstated by the clerk of the court or tax
670 collector, \$37.50 shall be retained and \$10 shall be remitted to
671 the Department of Revenue for deposit into the Highway Safety
672 Operating Trust Fund. However, the service fee is not required
673 if the person is required to pay a \$35 fee or \$60 fee under the
674 provisions of s. 322.21.

675 Section 11. Subsection (2) of section 938.30, Florida
676 Statutes, is amended to read:

677 938.30 Financial obligations in criminal cases;
678 supplementary proceedings.—

679 (2) The court may require a person who is not a state



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680 inmate and who is liable for payment of an obligation to appear
681 and be examined under oath concerning the person's financial
682 ability to pay the obligation. The judge may convert the
683 statutory financial obligation into a court-ordered obligation
684 to perform community service after examining a person under oath
685 and determining a person's inability to pay. Any person failing
686 to attend a hearing may be arrested on warrant or *capias* which
687 may be issued by the clerk upon order of the court.

688 Section 12. Section 938.301, Florida Statutes, is amended
689 to read:

690 938.301 Judicial oversight and jurisdiction.—The
691 Comprehensive Court Enforcement Program may be implemented as
692 supplementary proceedings in any judicial circuit by the chief
693 judge of that circuit. Judges in such circuits shall have
694 jurisdiction to carry out the provisions of this section ~~act~~ in
695 any ~~criminal~~ cases to ensure compliance with court-imposed
696 financial obligations.

697 Section 13. Legislature's workgroup for court-related fees,
698 service charges, costs, and fines.—A workgroup shall be
699 appointed to review court-related fees, service charges, costs,
700 and fines. The workgroup shall consist of seven members: a
701 Senator appointed by the President of the Senate; a
702 Representative appointed by the Speaker of the House of
703 Representatives; two clerks of a circuit court appointed by the
704 Florida Association of Court Clerks and Comptroller; one circuit
705 court judge and one county court judge, each appointed by the
706 Supreme Court; and one member of the American Collectors
707 Association International appointed by the Government Services
708 Program. The workgroup shall submit a report of its findings and



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709 recommendations of best practices for the effective uniform
710 collection of court-related fees, service charges, costs, and
711 finest to the President of the Senate and the Speaker of the
712 House of Representatives on or before January 1, 2010. This
713 section expires January 1, 2010.

714 Section 14. Section 939.17, Florida Statutes, is repealed.

715 Section 15 This act shall take effect July 1, 2009.

716

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

718 And the title is amended as follows:

719 Delete everything before the enacting clause

720 and insert:

721

722 A bill to be entitled

723 An act relating to clerks of the circuit court; amending s.

724 27.52, F.S.; requiring an applicant for the appointment of a

725 public defender to consent to an indigency background review

726 conducted by a court clerk; requiring an applicant to pay an

727 indigent intake fee within a certain period of time after

728 submitting an application for the appointment of a public

729 defender; providing for the deposit of certain fees relating to

730 indigent persons into the Indigent Criminal Defense Trust Fund;

731 deleting provisions authorizing a clerk of court to retain

732 certain fees for administrative costs; requiring a clerk of

733 court to use the Comprehensive Case Information System to

734 conduct an indigency background review; requiring a clerk to use

735 the results of the review to determine whether an applicant is

736 indigent; amending s. 28.241, F.S.; revising criteria to

737 determine when a fee to reopen a case must be paid; providing



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738 that the fee does not apply to motions to enforce stipulations
739 or motions for contempt; requiring the payment of a fee upon the
740 filing of a counter petition; amending s. 28.246, F.S.; reducing
741 the period of time that an account must be unpaid before a clerk
742 of court may refer the account to a collection agent or private
743 attorney for collection; reducing the amount of the collection
744 fee that may be paid to a collection agent or attorney; amending
745 s. 34.041, F.S.; requiring the payment of a fee upon the filing
746 of a counter petition; requiring a clerk of court to deposit
747 that fee into the General Revenue Fund; requiring the payment of
748 an additional filing fee for filings that require the
749 transmittal of a case to another court; revising criteria to
750 determine when a fee to reopen a case must be paid; providing
751 that the fee does not apply to motions to enforce stipulations
752 or motions for contempt; amending s. 45.035, F.S.; authorizing a
753 clerk of court to charge an additional fee for judicial sales
754 conducted by electronic means; requiring the fee to be paid by
755 the winning bidder; amending s. 57.082, F.S.; requiring an
756 applicant for a court-appointed attorney in certain civil
757 matters to pay an application fee; requiring the applicant to
758 consent to an indigency background review conducted by a clerk
759 of court; deleting provisions authorizing a clerk of court to
760 retain a portion of the fees collected from persons applying for
761 a court-appointed attorney for administrative costs; requiring a
762 clerk of court to determine whether an applicant for a court-
763 appointed attorney is indigent from the results of an indigency
764 background review provided by the Comprehensive Case Information
765 System; authorizing a clerk of court to suspend the driver's
766 license of a person who fails to pay certain amounts that are



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767 payable pursuant to a payment plan; amending s. 197.542, F.S.;
768 providing for the costs of electronic tax deed sales to be added
769 to other charges for costs of the sale; requiring payment of
770 such costs by a certificate-holder upon filing an application
771 for a tax deed; amending s. 318.18, F.S.; requiring a report
772 relating to certain surcharges imposed by ordinance to be
773 submitted to the board of county commissioners; authorizing a
774 county to impose an additional surcharge by ordinance to secure
775 the repayment of bonds relating to court facilities and related
776 purposes; amending s. 322.245, F.S.; requiring the Department of
777 Highway Safety and Motor Vehicles to mail notices to certain
778 persons who have failed to comply with directives of a court;
779 specifying the directives of a court which, if violated, may
780 result in the suspension of a driver's license; amending s.
781 322.29, F.S.; providing that an examination is not required
782 before returning a driver's license to a person whose license
783 was suspended for failure to pay certain financial obligations
784 to a court; amending s. 938.30, F.S.; exempting inmates from the
785 provision authorizing the court to examine persons to ensure
786 compliance with certain financial obligations; amending s.
787 938.301, F.S.; providing that circuit court judges have
788 jurisdiction to ensure compliance with court-imposed financial
789 obligations in all types of cases; providing for the appointment
790 of a workgroup to review court-related fees, service charges,
791 costs, and fines; specifying the membership of the workgroup;
792 requiring the workgroup to submit a report to the President of
793 the Senate and Speaker of the House of Representatives by a
794 certain date; providing for expiration of the provisions
795 creating the workgroup; repealing s. 939.17; F.S., relating to



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796 money deposited by a defendant under prosecution by the state;
797 providing an effective date.