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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
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 a \$50 ~~the~~ indigent intake fee  
46 to the clerk within 7 days after submitting the application. If  
47 the applicant fails to ~~does not~~ pay the intake fee before ~~prior~~  
48 ~~to~~ the disposition of the case, the clerk shall notify the  
49 court, 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 if 40 percent of the amount  
239 owed is referred to the attorney or collection agency after  
240 remaining unpaid for 60 days and is paid within 90 days. If the  
241 financial obligations are not referred to the attorney or  
242 collection agency until 90 days after it is due and are paid on  
243 or after the 90th day, the collection fee, including any  
244 reasonable attorney's fee paid to any attorney or collection



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245 agent retained by the clerk, may be added to the balance owed in  
246 an amount not to exceed 40 percent of the amount owed at the  
247 time the account is referred to the attorney or agent for  
248 collection.

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

251 34.041 Filing fees.—

252 (1) (a) Upon the institution of any civil action, suit, or  
253 proceeding in county court, the party shall pay the following  
254 filing fee, not to exceed:

255 1. For all claims less than \$100 \$50.

256 2. For all claims of \$100 or more but not more than \$500  
257 \$75.

258 3. For all claims of more than \$500 but not more than  
259 \$2,500 \$170.

260 4. For all claims of more than \$2,500 \$295.

261 5. In addition, for all proceedings of garnishment,  
262 attachment, replevin, and distress \$85.

263 6. For removal of tenant action \$265.

264 (b) The first \$80 of the filing fee collected under  
265 subparagraph (a)4. shall be remitted to the Department of  
266 Revenue for deposit into the General Revenue Fund. The next \$15  
267 of the filing fee collected under subparagraph (a)4., and the  
268 first \$15 of each filing fee collected under subparagraph (a)6.,  
269 shall be deposited in the state courts' Mediation and  
270 Arbitration Trust Fund. One-third of any filing fees collected  
271 by the clerk under this section in excess of the first \$95  
272 collected under subparagraph (a)4. shall be remitted to the  
273 Department of Revenue for deposit into the Department of Revenue



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274 Clerks of the Court Trust Fund. An additional filing fee of \$4  
275 shall be paid to the clerk. The clerk shall transfer \$3.50 to  
276 the Department of Revenue for deposit into the Court Education  
277 Trust Fund and shall transfer 50 cents to the Department of  
278 Revenue for deposit into the Department of Financial Services'  
279 Administrative Trust Fund to fund clerk education. Postal  
280 charges incurred by the clerk of the county court in making  
281 service by mail on defendants or other parties shall be paid by  
282 the party at whose instance service is made. Except as provided  
283 herein, filing fees and service charges for performing duties of  
284 the clerk relating to the county court shall be as provided in  
285 ss. 28.24 and 28.241. Except as otherwise provided herein, all  
286 filing fees shall be retained as fee income of the office of the  
287 clerk of circuit court. Filing fees imposed by this section may  
288 not be added to any penalty imposed by chapter 316 or chapter  
289 318.

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



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303 county court. However, the party shall also pay to the clerk the  
304 standard filing fee for the court to which the case is to be  
305 transferred. The clerk shall remit the fee to the Department of  
306 Revenue for deposit into the General Revenue Fund.

307 (d) The clerk of court shall collect a service charge of  
308 \$10 for issuing a summons. The clerk shall assess the fee  
309 against the party seeking to have the summons issued.

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

- 327 (a) A writ of garnishment;
- 328 (b) A writ of replevin;
- 329 (c) A distress writ;
- 330 (d) A writ of attachment;
- 331 (e) A motion for rehearing filed within 10 days;



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332 (f) A motion for attorney's fees filed within 30 days of  
333 the entry of the judgment or final order;

334 (g) A motion for dismissal filed after a mediation  
335 agreement has been filed;

336 (h) A motion to withdraw by attorneys;

337 (i) Stipulations and motions to enforce stipulations; ~~or~~

338 (j) Responsive pleadings; or

339 (k) Motions for contempt.

340 Section 5. Section 45.035, Florida Statutes, is amended to  
341 read:

342 45.035 Clerk's fees.—In addition to other fees or service  
343 charges authorized by law, the clerk shall receive service  
344 charges related to the judicial sales procedure set forth in ss.  
345 45.031-45.034 and this section:

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

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

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

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

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

360 (d) The clerk is entitled to a service charge of \$15 for



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361 appointing a surplus trustee, furnishing the surplus trustee  
362 with a copy of the final judgment and the certificate of  
363 disbursements, and disbursing to the surplus trustee the  
364 trustee's cost advance.

365 (3) If the sale is conducted by electronic means, as  
366 provided in s. 45.031(10), the clerk shall receive an additional  
367 a service charge not to exceed of \$60 ~~as provided in subsection~~  
368 ~~(1)~~ for services in conducting or contracting for the electronic  
369 sale, which service charge shall be assessed as costs and paid  
370 by the winning bidder ~~shall be advanced by the plaintiff before~~  
371 ~~the sale~~. If the clerk requires advance electronic deposits to  
372 secure the right to bid, such deposits shall not be subject to  
373 the fee under s. 28.24(10). The portion of an advance deposit  
374 from a winning bidder required by s. 45.031(3) shall, upon  
375 acceptance of the winning bid, be subject to the fee under s.  
376 28.24(10).

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

379 57.082 Determination of civil indigent status.—

380 (1) APPLICATION TO THE CLERK.—A person seeking appointment  
381 of an attorney in a civil case eligible for court-appointed  
382 counsel, or seeking relief from prepayment of fees and costs  
383 under s. 57.081, based upon an inability to pay must apply to  
384 the clerk of the court for a determination of civil indigent  
385 status using an application form developed by the Florida Clerks  
386 of Court Operations Corporation with final approval by the  
387 Supreme Court.

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



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390       ~~a.1.~~ Net income, consisting of total salary and wages,  
391 minus deductions required by law, including court-ordered  
392 support payments.

393       ~~b.2.~~ Other income, including, but not limited to, social  
394 security benefits, union funds, veterans' benefits, workers'  
395 compensation, other regular support from absent family members,  
396 public or private employee pensions, unemployment compensation,  
397 dividends, interest, rent, trusts, and gifts.

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

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

403       2. The application must include the signature of the  
404 applicant authorizing the clerk to conduct an indigency  
405 background review and other information necessary for the clerk  
406 to conduct the review.

407       3. The application must include a signature by the  
408 applicant which attests to the truthfulness of the information  
409 provided. The application form developed by the corporation must  
410 include notice that the applicant may seek court review of a  
411 clerk's determination that the applicant is not indigent, as  
412 provided in this section.

413       (b) The clerk shall assist a person who appears before the  
414 clerk and requests assistance in completing the application, and  
415 the clerk shall notify the court if a person is unable to  
416 complete the application after the clerk has provided  
417 assistance.

418       (c) The clerk shall accept an application that is signed by



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419 the applicant and submitted on his or her behalf by a private  
420 attorney who is representing the applicant in the applicable  
421 matter.

422 (d) A person who seeks appointment of an attorney in a case  
423 under chapter 39, at the trial or appellate level, for which an  
424 indigent person is eligible for court-appointed representation,  
425 shall pay a \$50 indigency intake application fee to the clerk  
426 for each application filed. The applicant shall pay the fee  
427 within 7 days after submitting the application. The clerk shall  
428 transfer monthly all application fees collected under this  
429 paragraph to the Department of Revenue for deposit into the  
430 Indigent Civil Defense Trust Fund, to be used as appropriated by  
431 the Legislature. ~~The clerk may retain 10 percent of application~~  
432 ~~fees collected monthly for administrative costs prior to~~  
433 ~~remitting the remainder to the Department of Revenue.~~ A person  
434 found to be indigent may not be refused counsel. The clerk of  
435 court shall determine whether a person seeking the appointment  
436 of an attorney is indigent by using the Comprehensive Case  
437 Information System to conduct the indigency background review.  
438 If the person cannot pay the application fee, the clerk shall  
439 enroll the person in a payment plan pursuant to s. 28.246.

440 (6) PROCESSING CHARGE; PAYMENT PLANS.—A person who the  
441 clerk or the court determines is indigent for civil proceedings  
442 under this section shall be enrolled in a payment plan under s.  
443 28.246 and shall be charged a one-time administrative processing  
444 charge under s. 28.24(26)(c). A monthly payment amount,  
445 calculated based upon all fees and all anticipated costs, is  
446 presumed to correspond to the person's ability to pay if it does  
447 not exceed 2 percent of the person's annual net income, as





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448 defined in subsection (1), divided by 12. The person may seek  
449 review of the clerk's decisions regarding a payment plan  
450 established under s. 28.246 in the court having jurisdiction  
451 over the matter. A case may not be impeded in any way, delayed  
452 in filing, or delayed in its progress, including the final  
453 hearing and order, due to nonpayment of any fees by an indigent  
454 person. The clerk shall suspend the driver's license of a person  
455 who fails to pay all of the fees and costs assessed by the court  
456 which are payable pursuant to a payment plan.

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

459 197.542 Sale at public auction.—

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

472 (b) Nothing in this subsection shall be construed to  
473 restrict or limit the authority of a charter county from  
474 conducting electronic tax deed sales. In a charter county where  
475 the clerk of the circuit court does not conduct all electronic  
476 sales, the charter county shall be permitted to receive



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477 electronic deposits and payments related to sales it conducts,  
478 as well as to subject the winning bidder to a fee, consistent  
479 with the schedule in s. 28.24(10).

480 (c) The costs of electronic tax deed sales shall be added  
481 to the charges for the costs of sale under subsection (1) and  
482 paid by the certificateholder when filing an application for a  
483 tax deed.

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

486 318.18 Amount of penalties.—The penalties required for a  
487 noncriminal disposition pursuant to s. 318.14 or a criminal  
488 offense listed in s. 318.17 are as follows:

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

496 (a) May impose by ordinance a surcharge of up to \$30 ~~\$15~~  
497 for any infraction or violation to fund state court facilities.  
498 The court shall not waive this surcharge. Up to 25 percent of  
499 the revenue from such surcharge may be used to support local law  
500 libraries provided that the county or unit of local government  
501 provides a level of service equal to that provided prior to July  
502 1, 2004, which shall include the continuation of library  
503 facilities located in or near the county courthouse or annexes.

504 (b) May, if it ~~That~~ imposed increased fees or service  
505 charges by ordinance under s. 28.2401, s. 28.241, or s. 34.041



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

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535           A county may not impose both of the surcharges authorized  
536 under paragraphs (a) and (b) concurrently. The clerk of court  
537 shall report, no later than 30 days after the end of the  
538 quarter, the amount of funds collected under this subsection  
539 during each quarter of the fiscal year. The clerk shall submit  
540 the report, in a format developed by the Office of State Courts  
541 Administrator, to the chief judge of the circuit, the Governor,  
542 the President of the Senate, ~~and~~ the Speaker of the House of  
543 Representatives, and the board of county commissioners.

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



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564 of the public, judges, staff, and litigants, or other exigent  
565 circumstances; or to support local law libraries in or near the  
566 county courthouse or annexes.

567 Section 9. Section 322.245, Florida Statutes, is amended to  
568 read:

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

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

589 (2) In non-IV-D cases, if a person fails to pay child  
590 support under chapter 61 and the obligee so requests, the  
591 depository or the clerk of the court shall mail in accordance  
592 with s. 61.13016 the notice specified in that section, notifying



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593 him or her that if he or she does not comply with the  
594 requirements of that section and pay a delinquency fee of \$25 to  
595 the depository or the clerk, his or her driver's license and  
596 motor vehicle registration will be suspended. The delinquency  
597 fee may be retained by the depository or the office of the clerk  
598 to defray the operating costs of the office.

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

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



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622           (5) (a) When the department receives notice from a clerk of  
623 the court that a person licensed to operate a motor vehicle in  
624 this state under the provisions of this chapter has failed to  
625 pay financial obligations for any criminal offense other than  
626 those specified in subsection (1), or any other unpaid court  
627 finances, fees, service charges, or court costs ordered by the  
628 court, in full or in part under a payment plan pursuant to s.  
629 28.246(4), the department shall suspend the license of the  
630 person named in the notice.

631           (b) The department must reinstate the driving privilege  
632 when the clerk of the court provides an affidavit to the  
633 department stating that:

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

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

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

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

644           Section 10. Section 322.29, Florida Statutes, is amended to  
645 read:

646           322.29 Surrender and return of license.—

647           (1) The department, upon suspending or revoking a license,  
648 shall require that the ~~such~~ license be surrendered to the  
649 department. At the end of the period of suspension, the ~~such~~  
650 surrendered license ~~so surrendered~~ shall be returned, or a



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651 duplicate license issued, to the licensee after the applicant  
652 has successfully passed the vision, sign, and traffic law  
653 examinations. In addition, pursuant to s. 322.221, the  
654 department may require the licensee to successfully complete a  
655 driving examination. The department may not require ~~is~~  
656 ~~prohibited from requiring~~ the surrender of a license except as  
657 authorized by this chapter.

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





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

682 938.30 Financial obligations in criminal cases;  
683 supplementary proceedings.—

684 (2) The court may require a person who is not a state  
685 inmate and who is liable for payment of an obligation to appear  
686 and be examined under oath concerning the person's financial  
687 ability to pay the obligation. The judge may convert the  
688 statutory financial obligation into a court-ordered obligation  
689 to perform community service after examining a person under oath  
690 and determining a person's inability to pay. Any person failing  
691 to attend a hearing may be arrested on warrant or *capias* which  
692 may be issued by the clerk upon order of the court.

693 Section 12. Section 938.301, Florida Statutes, is amended  
694 to read:

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

702 Section 13. Legislature's workgroup for court-related fees,  
703 service charges, costs, and fines.—A workgroup shall be  
704 appointed to review court-related fees, service charges, costs,  
705 and fines. The workgroup shall consist of seven members: a  
706 Senator appointed by the President of the Senate; a  
707 Representative appointed by the Speaker of the House of  
708 Representatives; two clerks of a circuit court appointed by the



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709 Florida Association of Court Clerks and Comptroller; one circuit  
710 court judge and one county court judge, each appointed by the  
711 Supreme Court; and one member of the American Collectors  
712 Association International appointed by the Government Services  
713 Program. The workgroup shall submit a report of its findings and  
714 recommendations of best practices for the effective uniform  
715 collection of court-related fees, service charges, costs, and  
716 finest to the President of the Senate and the Speaker of the  
717 House of Representatives on or before January 1, 2010. This  
718 section expires January 1, 2010.

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

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

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

722 And the title is amended as follows:

723 Delete everything before the enacting clause  
724 and insert:

725

726 A bill to be entitled

727 An act relating to clerks of the circuit court; amending s.  
728 27.52, F.S.; requiring an applicant for the appointment of a  
729 public defender to consent to an indigency background review  
730 conducted by a court clerk; requiring an applicant to pay an  
731 indigent intake fee within a certain period of time after  
732 submitting an application for the appointment of a public  
733 defender; providing for the deposit of certain fees relating to  
734 indigent persons into the Indigent Criminal Defense Trust Fund;  
735 deleting provisions authorizing a clerk of court to retain  
736 certain fees for administrative costs; requiring a clerk of  
737 court to use the Comprehensive Case Information System to



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738 conduct an indigency background review; requiring a clerk to use  
739 the results of the review to determine whether an applicant is  
740 indigent; amending s. 28.241, F.S.; revising criteria to  
741 determine when a fee to reopen a case must be paid; providing  
742 that the fee does not apply to motions to enforce stipulations  
743 or motions for contempt; requiring the payment of a fee upon the  
744 filing of a counter petition; amending s. 28.246, F.S.; reducing  
745 the period of time that an account must be unpaid before a clerk  
746 of court may refer the account to a collection agent or private  
747 attorney for collection; reducing the amount of the collection  
748 fee that may be paid to a collection agent or attorney under  
749 certain circumstances; amending s. 34.041, F.S.; requiring the  
750 payment of a fee upon the filing of a counter petition;  
751 requiring a clerk of court to deposit that fee into the General  
752 Revenue Fund; requiring the payment of an additional filing fee  
753 for filings that require the transmittal of a case to another  
754 court; revising criteria to determine when a fee to reopen a  
755 case must be paid; providing that the fee does not apply to  
756 motions to enforce stipulations or motions for contempt;  
757 amending s. 45.035, F.S.; authorizing a clerk of court to charge  
758 an additional fee for judicial sales conducted by electronic  
759 means; requiring the fee to be paid by the winning bidder;  
760 amending s. 57.082, F.S.; requiring an applicant for a court-  
761 appointed attorney in certain civil matters to consent to an  
762 indigency background review conducted by a clerk of court;  
763 deleting provisions authorizing a clerk of court to retain a  
764 portion of the fees collected from persons applying for a court-  
765 appointed attorney for administrative costs; requiring a clerk  
766 of court to determine whether an applicant for a court-appointed



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



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796 workgroup to submit a report to the President of the Senate and  
797 Speaker of the House of Representatives by a certain date;  
798 providing for expiration of the provisions creating the  
799 workgroup; repealing s. 939.17; F.S., relating to money  
800 deposited by a defendant under prosecution by the state;  
801 providing an effective date.