



595084

604-00059A-09A

Proposed Committee Substitute by the Committee on Criminal and  
Civil Justice Appropriations

A bill to be entitled

An act relating to the state judicial system; amending  
s. 28.241, F.S.; requiring that a portion of filing  
fees in civil actions be deposited for use by the  
state courts system; amending s. 318.14, F.S.;  
eliminating a percentage reduction in penalties for  
noncriminal traffic infractions which is provided for  
attending a basic driver improvement course; providing  
for the distribution of a specified portion of penalty  
revenues; amending s. 318.15, F.S., to conform;  
amending s. 318.18, F.S.; increasing certain fines for  
speeding; creating an assessment to be paid for  
noncriminal moving and nonmoving traffic infractions;  
amending s. 318.21, F.S.; providing for the  
distribution of funds from certain penalties imposed  
for traffic infractions; amending s. 775.083, F.S.;  
providing for the distribution of certain criminal and  
noncriminal fines; defining the terms "convicted" and  
"conviction" for purposes of liability for payment of  
criminal and noncriminal fines; amending s. 948.01,  
F.S.; providing that the imposition of probation in  
certain nonfelony cases is discretionary rather than  
mandatory; authorizing the court to impose a fine  
without placing a nonfelony offender on probation;  
providing that certain revenues generated under the  
act may not be used to establish the budgets of clerks  
of the court; providing effective dates.



595084

604-00059A-09A

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

Section 1. Paragraph (a) of subsection (1) of section 28.241, Florida Statutes, is amended to read:

28.241 Filing fees for trial and appellate proceedings.—

(1) (a) The party instituting any civil action, suit, or proceeding in the circuit court shall pay to the clerk of that court a filing fee of up to \$295 in all cases in which there are not more than five defendants and an additional filing fee of up to \$2.50 for each defendant in excess of five. Of the first \$85 in filing fees, the clerk shall remit \$32 to the Department of Revenue for deposit into the State Courts Independent Trust Fund for use by the state courts system, \$48 ~~\$80 must be remitted by the clerk~~ to the Department of Revenue for deposit into the General Revenue Fund, and ~~\$5 must be remitted~~ to the Department of Revenue for deposit into the Department of Financial Services' Administrative Trust Fund to fund the contract with the Florida Clerks of Court Operations Corporation created in s. 28.35. The next \$15 of the filing fee collected shall be deposited in the state courts' Mediation and Arbitration Trust Fund. One-third of any filing fees collected by the clerk of the circuit court in excess of \$100 shall be remitted to the Department of Revenue for deposit into the Department of Revenue Clerks of the Court Trust Fund. An additional filing fee of \$4 shall be paid to the clerk. The clerk shall remit \$3.50 to the Department of Revenue for deposit into the Court Education Trust Fund and shall remit 50 cents to the Department of Revenue for deposit into the Department of Financial Services Administrative



595084

604-00059A-09A

57 Trust Fund to fund clerk education. An additional filing fee of  
58 up to \$18 shall be paid by the party seeking each severance that  
59 is granted. The clerk may impose an additional filing fee of up  
60 to \$85 for all proceedings of garnishment, attachment, replevin,  
61 and distress. Postal charges incurred by the clerk of the  
62 circuit court in making service by certified or registered mail  
63 on defendants or other parties shall be paid by the party at  
64 whose instance service is made. No additional fees, charges, or  
65 costs shall be added to the filing fees imposed under this  
66 section, except as authorized herein or by general law.

67 Section 2. Effective July 1, 2009, paragraph (a) of  
68 subsection (1) of section 28.241, Florida Statutes, as amended  
69 by this act, is amended to read:

70 28.241 Filing fees for trial and appellate proceedings.—

71 (1)(a) The party instituting any civil action, suit, or  
72 proceeding in the circuit court shall pay to the clerk of that  
73 court a filing fee of up to \$295 in all cases in which there are  
74 not more than five defendants and an additional filing fee of up  
75 to \$2.50 for each defendant in excess of five. Of the first \$85  
76 in filing fees, the clerk shall remit \$60 ~~\$32~~ to the Department  
77 of Revenue for deposit into the State Courts Independent Trust  
78 Fund for use by the state courts system, \$20 ~~\$48~~ to the  
79 Department of Revenue for deposit into the General Revenue Fund,  
80 and \$5 to the Department of Revenue for deposit into the  
81 Department of Financial Services' Administrative Trust Fund to  
82 fund the contract with the Florida Clerks of Court Operations  
83 Corporation created in s. 28.35. The next \$15 of the filing fee  
84 collected shall be deposited in the state courts' Mediation and  
85 Arbitration Trust Fund. One-third of any filing fees collected



595084

604-00059A-09A

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

104 Section 3. Subsection (9) of section 318.14, Florida  
105 Statutes, is amended to read:

106 318.14 Noncriminal traffic infractions; exception;  
107 procedures.—

108 (9) Any person who does not hold a commercial driver's  
109 license and who is cited for an infraction under this section  
110 other than a violation of s. 316.183(2), s. 316.187, or s.  
111 316.189 when the driver exceeds the posted limit by 30 miles per  
112 hour or more, s. 320.0605, s. 320.07(3)(a) or (b), s. 322.065,  
113 s. 322.15(1), s. 322.61, or s. 322.62 may, in lieu of a court  
114 appearance, elect to attend in the location of his or her choice



595084

604-00059A-09A

115 within this state a basic driver improvement course approved by  
116 the Department of Highway Safety and Motor Vehicles. In such a  
117 case, adjudication must be withheld and, points, as provided by  
118 s. 322.27, may not be assessed. ~~and the civil penalty that is~~  
119 ~~imposed by s. 318.18(3) must be reduced by 18 percent.~~ However,  
120 a person may not make an election under this subsection if the  
121 person has made an election under this subsection in the  
122 preceding 12 months. A person may make no more than five  
123 elections within 10 years under this subsection. The requirement  
124 for community service under s. 318.18(8) is not waived by a plea  
125 of nolo contendere or by the withholding of adjudication of  
126 guilt by a court. If a person makes an election to attend a  
127 basic driver improvement course under this subsection, 18  
128 percent of the civil penalty imposed under s. 318.18(3) shall be  
129 deposited in the General Revenue Fund; however, that portion is  
130 not revenue for purposes of s. 28.36 and may not be used in  
131 establishing the budget of the clerk of the court under that  
132 section or s. 28.35.

133 Section 4. Subsection (1) of section 318.15, Florida  
134 Statutes, is amended to read:

135 318.15 Failure to comply with civil penalty or to appear;  
136 penalty.-

137 (1) (a) If a person fails to comply with the civil penalties  
138 provided in s. 318.18 within the time period specified in s.  
139 318.14(4), fails to attend driver improvement school, or fails  
140 to appear at a scheduled hearing, the clerk of the court shall  
141 notify the Division of Driver Licenses of the Department of  
142 Highway Safety and Motor Vehicles of such failure within 10 days  
143 after such failure. Upon receipt of such notice, the department



595084

604-00059A-09A

144 shall immediately issue an order suspending the driver's license  
145 and privilege to drive of such person effective 20 days after  
146 the date the order of suspension is mailed in accordance with s.  
147 322.251(1), (2), and (6). Any such suspension of the driving  
148 privilege which has not been reinstated, including a similar  
149 suspension imposed outside Florida, shall remain on the records  
150 of the department for a period of 7 years from the date imposed  
151 and shall be removed from the records after the expiration of 7  
152 years from the date it is imposed.

153 (b) However, a person who elects to attend driver  
154 improvement school and has paid the civil penalty as provided in  
155 s. 318.14(9), but who subsequently fails to attend the driver  
156 improvement school within the time specified by the court shall  
157 be deemed to have admitted the infraction and shall be  
158 adjudicated guilty. ~~In such case the person must pay the clerk~~  
159 ~~of the court the 18 percent deducted pursuant to s. 318.14(9),~~  
160 ~~and a processing fee of up to \$18, after which no additional~~  
161 ~~penalties, court costs, or surcharges shall be imposed for the~~  
162 ~~violation.~~ The clerk of the court shall notify the department of  
163 the person's failure to attend driver improvement school and  
164 points shall be assessed pursuant to s. 322.27.

165 Section 5. Subsection (3) of section 318.18, Florida  
166 Statutes, is amended, and subsection (19) is added to that  
167 section, to read:

168 318.18 Amount of penalties.—The penalties required for a  
169 noncriminal disposition pursuant to s. 318.14 or a criminal  
170 offense listed in s. 318.17 are as follows:

171 (3)(a) Except as otherwise provided in this section, \$60  
172 for all moving violations not requiring a mandatory appearance.



595084

604-00059A-09A

173 (b) For moving violations involving unlawful speed, the  
174 fines are as follows:

175

176 For speed exceeding the limit by:	Fine:
177 1-5 m.p.h.....	Warning
178 6-9 m.p.h.....	\$25
179 10-14 m.p.h.....	\$100
180 15-19 m.p.h.....	<u>\$150</u> <del>\$125</del>
181 20-29 m.p.h.....	<u>\$175</u> <del>\$150</del>
182 30 m.p.h. and above.....	\$250

183

184 (c) Notwithstanding paragraph (b), a person cited for  
185 exceeding the speed limit by up to 5 m.p.h. in a legally posted  
186 school zone will be fined \$50. A person exceeding the speed  
187 limit in a school zone shall pay a fine double the amount listed  
188 in paragraph (b).

189 (d) A person cited for exceeding the speed limit in a  
190 posted construction zone, which posting must include  
191 notification of the speed limit and the doubling of fines, shall  
192 pay a fine double the amount listed in paragraph (b). The fine  
193 shall be doubled for construction zone violations only if  
194 construction personnel are present or operating equipment on the  
195 road or immediately adjacent to the road under construction.

196 (e) A person cited for exceeding the speed limit in an  
197 enhanced penalty zone shall pay a fine amount of \$50 plus the  
198 amount listed in paragraph (b). Notwithstanding paragraph (b), a  
199 person cited for exceeding the speed limit by up to 5 m.p.h. in  
200 a legally posted enhanced penalty zone shall pay a fine amount  
201 of \$50.



595084

604-00059A-09A

202 (f) If a violation of s. 316.1301 or s. 316.1303 results in  
203 an injury to the pedestrian or damage to the property of the  
204 pedestrian, an additional fine of up to \$250 shall be paid. This  
205 amount must be distributed pursuant to s. 318.21.

206 (g) A person cited for exceeding the speed limit within a  
207 zone posted for any electronic or manual toll collection  
208 facility shall pay a fine double the amount listed in paragraph  
209 (b). However, no person cited for exceeding the speed limit in  
210 any toll collection zone shall be subject to a doubled fine  
211 unless the governmental entity or authority controlling the toll  
212 collection zone first installs a traffic control device  
213 providing warning that speeding fines are doubled. Any such  
214 traffic control device must meet the requirements of the uniform  
215 system of traffic control devices.

216 (h) A person cited for a second or subsequent conviction of  
217 speed exceeding the limit by 30 miles per hour and above within  
218 a 12-month period shall pay a fine that is double the amount  
219 listed in paragraph (b). For purposes of this paragraph, the  
220 term "conviction" means a finding of guilt as a result of a jury  
221 verdict, nonjury trial, or entry of a plea of guilty. Moneys  
222 received from the increased fine imposed by this paragraph shall  
223 be remitted to the Department of Revenue and deposited into the  
224 Department of Health Administrative Trust Fund to provide  
225 financial support to certified trauma centers to assure the  
226 availability and accessibility of trauma services throughout the  
227 state. Funds deposited into the Administrative Trust Fund under  
228 this section shall be allocated as follows:

229 1. Fifty percent shall be allocated equally among all Level  
230 I, Level II, and pediatric trauma centers in recognition of





595084

604-00059A-09A

231 readiness costs for maintaining trauma services.

232         2. Fifty percent shall be allocated among Level I, Level  
233 II, and pediatric trauma centers based on each center's relative  
234 volume of trauma cases as reported in the Department of Health  
235 Trauma Registry.

236         (19) In addition to any penalties imposed, an Article V  
237 assessment of \$10 must be paid for all noncriminal moving and  
238 nonmoving traffic violations under chapter 316. The assessment  
239 is not revenue for purposes of s. 28.36 and may not be used in  
240 establishing the budget of the clerk of the court under that  
241 section or s. 28.35. Of the funds collected under this  
242 subsection:

243         (a) The sum of \$5 shall be deposited in the State Courts  
244 Independent Trust Fund for use by the state courts system;

245         (b) The sum of \$3.33 shall be deposited in the State  
246 Attorneys Independent Trust Fund for use by the state attorneys;  
247 and

248         (c) The sum of \$1.67 shall be deposited in the Public  
249 Defenders Trust Independent Fund for use by the public  
250 defenders.

251         Section 6. Subsections (18), (19), and (20) are added to  
252 section 318.21, Florida Statutes, to read:

253         318.21 Disposition of civil penalties by county courts.—All  
254 civil penalties received by a county court pursuant to the  
255 provisions of this chapter shall be distributed and paid monthly  
256 as follows:

257         (18) Notwithstanding subsections (1) and (2), the proceeds  
258 from the administrative fee imposed under s. 318.18(18) shall be  
259 distributed as provided in that subsection.



595084

604-00059A-09A

260 (19) Notwithstanding subsections (1) and (2), the proceeds  
261 from the Article V assessment imposed under s. 318.18(19) shall  
262 be distributed as provided in that subsection.

263 (20) For fines assessed under s. 318.18(3) for unlawful  
264 speed, effective for violations occurring on or after February  
265 1, 2009, the following amounts shall be remitted to the  
266 Department of Revenue for deposit in the General Revenue Fund;  
267 however, these amounts are not revenue for purposes of s. 28.36  
268 and may not be used in establishing the budget of the clerk of  
269 the court under that section or s. 28.35:

For speed exceeding the limit by:	Fine:
1-5 m.p.h. ....	\$ .00
6-9 m.p.h. ....	\$ .00
10-14 m.p.h. ....	\$ .00
15-19 m.p.h. ....	\$25
20-29 m.p.h. ....	\$25
30 m.p.h. and above ....	\$ .00

278  
279 The remaining amount shall be distributed pursuant to  
280 subsections (1) and (2).

281 Section 7. Section 775.083, Florida Statutes, is amended to  
282 read:

283 775.083 Fines.—

284 (1) A person who has been convicted of an offense other  
285 than a capital felony may be sentenced to pay a fine in addition  
286 to any punishment described in s. 775.082; when specifically  
287 authorized by statute, he or she may be sentenced to pay a fine  
288 in lieu of any punishment described in s. 775.082. A person who



595084

604-00059A-09A

289 has been convicted of a noncriminal violation may be sentenced  
290 to pay a fine. Fines for designated crimes and for noncriminal  
291 violations shall not exceed:

292 (a) \$15,000, when the conviction is of a life felony.

293 (b) \$10,000, when the conviction is of a felony of the  
294 first or second degree.

295 (c) \$5,000, when the conviction is of a felony of the third  
296 degree.

297 (d) \$1,000, when the conviction is of a misdemeanor of the  
298 first degree.

299 (e) \$500, when the conviction is of a misdemeanor of the  
300 second degree or a noncriminal violation.

301 (f) Any higher amount equal to double the pecuniary gain  
302 derived from the offense by the offender or double the pecuniary  
303 loss suffered by the victim.

304 (g) Any higher amount specifically authorized by statute.  
305

306 Fines imposed in this subsection shall be deposited by the clerk  
307 of the court in the fine and forfeiture fund established  
308 pursuant to s. 142.01, except that fines imposed when  
309 adjudication is withheld shall be deposited in the General  
310 Revenue Fund, and such fines imposed when adjudication is  
311 withheld are not revenue for purposes of s. 28.36 and may not be  
312 used in establishing the budget of the clerk of the court under  
313 that section or s. 28.35. If a defendant is unable to pay a  
314 fine, the court may defer payment of the fine to a date certain.  
315 As used in this subsection, the term "convicted" or "conviction"  
316 means a determination of guilt which is the result of a trial or  
317 the entry of a plea of guilty or nolo contendere, regardless of



595084

604-00059A-09A

318 whether adjudication is withheld.

319 (2) In addition to the fines set forth in subsection (1),  
320 court costs shall be assessed and collected in each instance a  
321 defendant pleads nolo contendere to, or is convicted of, or  
322 adjudicated delinquent for, a felony, a misdemeanor, or a  
323 criminal traffic offense under state law, or a violation of any  
324 municipal or county ordinance if the violation constitutes a  
325 misdemeanor under state law. The court costs imposed by this  
326 section shall be \$50 for a felony and \$20 for any other offense  
327 and shall be deposited by the clerk of the court into an  
328 appropriate county account for disbursement for the purposes  
329 provided in this subsection. A county shall account for the  
330 funds separately from other county funds as crime prevention  
331 funds. The county, in consultation with the sheriff, must expend  
332 such funds for crime prevention programs in the county,  
333 including safe neighborhood programs under ss. 163.501-163.523.

334 (3) The purpose of this section is to provide uniform  
335 penalty authorization for criminal offenses and, to this end, a  
336 reference to this section constitutes a general reference under  
337 the doctrine of incorporation by reference.

338 Section 8. Subsection (2) of section 948.01, Florida  
339 Statutes, is amended to read:

340 948.01 When court may place defendant on probation or into  
341 community control.-

342 (2) If it appears to the court upon a hearing of the matter  
343 that the defendant is not likely again to engage in a criminal  
344 course of conduct and that the ends of justice and the welfare  
345 of society do not require that the defendant presently suffer  
346 the penalty imposed by law, the court, in its discretion, may



595084

604-00059A-09A

347 either adjudge the defendant to be guilty or stay and withhold  
348 the adjudication of guilt. ~~and,~~ In either case, the court it  
349 shall stay and withhold the imposition of sentence upon the such  
350 defendant ~~and shall place the defendant upon probation.~~ If the  
351 defendant is found guilty of a felony as the result of a trial  
352 or entry of a plea of guilty or nolo contendere, regardless of  
353 whether adjudication is withheld, the court shall place the  
354 defendant on probation. If the defendant is found guilty of a  
355 nonfelony offense as the result of a trial or entry of a plea of  
356 guilty or nolo contendere, regardless of whether adjudication is  
357 withheld, the court may place the defendant on probation. In  
358 addition to court costs and fees and notwithstanding any law to  
359 the contrary, the court may impose a fine authorized by law if  
360 the offender is a nonfelony offender who is not placed on  
361 probation. However, a ne defendant who is placed on probation  
362 for a misdemeanor may not be placed under the supervision of the  
363 department unless the circuit court was the court of original  
364 jurisdiction.

365 Section 9. Except as otherwise expressly provided in this  
366 act, this act shall take effect February 1, 2009, or upon  
367 becoming a law, whichever occurs later.