

By the Committee on Criminal and Civil Justice Appropriations
and Senator Crist

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1 A bill to be entitled
2 An act relating to the state judicial system; amending
3 s. 28.241, F.S.; requiring that a portion of filing
4 fees in civil actions be deposited for use by the
5 state courts system; amending s. 318.14, F.S.;
6 eliminating a percentage reduction in penalties for
7 noncriminal traffic infractions which is provided for
8 attending a basic driver improvement course; providing
9 for the distribution of a specified portion of penalty
10 revenues; amending s. 318.15, F.S., to conform;
11 amending s. 318.18, F.S.; increasing certain fines for
12 speeding; creating an assessment to be paid for
13 noncriminal moving and nonmoving traffic infractions;
14 amending s. 318.21, F.S.; providing for the
15 distribution of funds from certain penalties imposed
16 for traffic infractions; amending s. 775.083, F.S.;
17 providing for the distribution of certain criminal and
18 noncriminal fines; defining the terms "convicted" and
19 "conviction" for purposes of liability for payment of
20 criminal and noncriminal fines; amending s. 948.01,
21 F.S.; providing that the imposition of probation in
22 certain nonfelony cases is discretionary rather than
23 mandatory; authorizing the court to impose a fine
24 without placing a nonfelony offender on probation;
25 providing that certain revenues generated under the
26 act may not be used to establish the budgets of clerks
27 of the court; providing effective dates.

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

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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 Trust Fund to fund clerk education. An additional filing fee of up to \$18 shall be paid by the party seeking each severance that

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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
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

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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
115 within this state a basic driver improvement course approved by
116 the Department of Highway Safety and Motor Vehicles. In such a

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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
144 shall immediately issue an order suspending the driver's license
145 and privilege to drive of such person effective 20 days after

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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.

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

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

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

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

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

(f) If a violation of s. 316.1301 or s. 316.1303 results in an injury to the pedestrian or damage to the property of the

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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
231 readiness costs for maintaining trauma services.

232 2. Fifty percent shall be allocated among Level I, Level

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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 Independent Trust 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.

260 (19) Notwithstanding subsections (1) and (2), the proceeds
261 from the Article V assessment imposed under s. 318.18(19) shall

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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:

270		
271	<u>For speed exceeding the limit by:</u>	<u>Fine:</u>
272	<u>1-5 m.p.h.</u>	<u>\$.00</u>
273	<u>6-9 m.p.h.</u>	<u>\$.00</u>
274	<u>10-14 m.p.h.</u>	<u>\$.00</u>
275	<u>15-19 m.p.h.</u>	<u>\$25</u>
276	<u>20-29 m.p.h.</u>	<u>\$25</u>
277	<u>30 m.p.h. and above</u>	<u>\$.00</u>

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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
289 has been convicted of a noncriminal violation may be sentenced
290 to pay a fine. Fines for designated crimes and for noncriminal

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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.
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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
318 whether adjudication is withheld.

319 (2) In addition to the fines set forth in subsection (1),

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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
347 either adjudge the defendant to be guilty or stay and withhold
348 the adjudication of guilt. ~~and,~~ In either case, the court ~~it~~

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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.