

By the Committee on Budget

576-03471-12

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1                                   A bill to be entitled  
2           An act relating to court-related assessments; creating  
3           s. 28.2457, F.S.; providing for a monetary assessment  
4           mandated by statute to be imposed regardless of  
5           whether the assessment is announced in open court;  
6           providing guidelines for establishing the amount of a  
7           mandatory assessment under certain conditions;  
8           requiring the clerks of court to develop a uniform  
9           form to be used in identifying and imposing mandatory  
10          assessments; providing for the Supreme Court to  
11          approve the form; defining terms; amending s. 28.246,  
12          F.S.; revising requirements for the clerks of court to  
13          report on the assessment and collection of certain  
14          fines or other monetary penalties, fees, costs, and  
15          charges; prescribing requirements for reporting  
16          certain assessments that are waived, suspended, or  
17          reduced; requiring the clerks to report collection  
18          rates; providing guidelines for calculating the  
19          collection rate; revising the timeframe for submitting  
20          the report; requiring the clerks, rather than the  
21          Department of Financial Services, to develop a  
22          reporting form; amending s. 28.42, F.S.; removing an  
23          obsolete date; providing for the clerks to consult  
24          with the Office of the State Courts Administrator in  
25          developing the form and guidelines governing the  
26          reporting of amounts assessed and collected; providing  
27          for the clerks of court, rather than the Office of the  
28          State Courts Administrator, to prepare and disseminate  
29          a manual of court-related filing fees, service

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30 charges, costs, and fines; providing for applicability  
31 of amendments made by the act; providing an effective  
32 date.

33  
34 Be It Enacted by the Legislature of the State of Florida:

35  
36 Section 1. Section 28.2457, Florida Statutes, is created to  
37 read:

38 28.2457 Mandatory monetary assessments.-

39 (1) (a) Except as otherwise provided by law, a monetary  
40 assessment mandated by statute shall be imposed and included in  
41 the judgment without regard to whether the assessment is  
42 announced in open court.

43 (b) When an assessment mandated by statute prescribes a  
44 minimum assessment and a maximum assessment, or prescribes  
45 solely a minimum assessment, the minimum assessment is presumed  
46 and shall be imposed and included in the judgment, unless the  
47 court specifies a greater amount.

48 (2) The clerks of court, through their association and in  
49 consultation with the Office of the State Courts Administrator,  
50 shall develop by October 1, 2012, a uniform form for the  
51 identification and imposition of all assessments mandated by  
52 statute. The clerks shall submit the form by that date, and by  
53 October 1 every year thereafter if necessary to reflect changes  
54 in the law, to the Supreme Court for approval. Upon approval of  
55 the form by the Supreme Court, all circuit and county courts  
56 shall use the form.

57 (3) As used in this section, the term "monetary assessment"  
58 or "assessment" includes, but is not limited to, a fine or other

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59 monetary penalty, fee, service charge, or cost.

60 Section 2. Section 28.246, Florida Statutes, is amended to  
61 read:

62 28.246 Payment of court-related fines or other monetary  
63 penalties, fees, charges, and costs; partial payments;  
64 distribution of funds.-

65 (1) The clerk of the circuit court shall report the  
66 following information to the Legislature and the Florida Clerks  
67 of Court Operations Corporation on a form, and using guidelines  
68 developed by the clerks of court, through their association and  
69 in consultation with the Office of the State Courts  
70 Administrator Department of Financial Services:

71 (a) The total amount of mandatory fees, service charges,  
72 and costs; ~~the total amount actually~~ assessed; the total amount  
73 underassessed, if any, which is the amount less than the minimum  
74 amount required by law to be discharged, waived, or otherwise  
75 ~~not~~ assessed; and the total amount collected.

76 (b) The total amount of discretionary fees, service  
77 charges, and costs assessed; ~~the total amount discharged;~~ and  
78 the total amount collected.

79 (c) The total amount of mandatory fines and other monetary  
80 penalties; ~~the total amount~~ assessed; the total amount  
81 underassessed, if any, which is the amount less than the minimum  
82 amount required by law to be discharged, waived, or otherwise  
83 ~~not~~ assessed; and the total amount collected.

84 (d) The total amount of discretionary fines and other  
85 monetary penalties assessed; the amount discharged; and the  
86 total amount collected.

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88 ~~If provided to the clerk of court by the judge,~~ The clerk, in  
89 reporting to the Legislature ~~amount assessed,~~ shall separately  
90 identify the monetary amount assessed and subsequently  
91 discharged or converted pursuant to s. 938.30 as community  
92 service, ~~assessed by reducing the amount to a judgment or lien,~~  
93 ~~or to; satisfied by time served; or other.~~ The form developed by  
94 the clerks Chief Financial Officer shall include separate  
95 entries for recording the amount discharged and the amount  
96 converted these amounts. If a court waives, suspends, or reduces  
97 an assessment as authorized by law, the portion waived,  
98 suspended, or reduced may not be deemed assessed or  
99 underassessed for purposes of the reporting requirements of this  
100 section. The clerk also shall report a collection rate for  
101 mandatory and discretionary assessments. In calculating the  
102 rate, the clerk shall deduct amounts discharged or converted  
103 from the amount assessed. The clerk shall submit the report on  
104 an annual basis 90 ~~60~~ days after the end of the county fiscal  
105 year. The clerks and the courts shall develop by October 1,  
106 2012, the form and guidelines to govern the accurate and  
107 consistent reporting statewide of assessments as provided in  
108 this section. The clerk shall use the new reporting form and  
109 guidelines in submitting the report for the county fiscal year  
110 ending September 30, 2013, and for each year thereafter.

111 (2) The clerk of the circuit court shall establish and  
112 maintain a system of accounts receivable for court-related fees,  
113 charges, and costs.

114 (3) Court costs, fines, and other dispositional assessments  
115 shall be enforced by order of the courts, collected by the  
116 clerks of the circuit and county courts, and disbursed in

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117 accordance with authorizations and procedures as established by  
118 general law.

119 (4) The clerk of the circuit court shall accept partial  
120 payments for court-related fees, service charges, costs, and  
121 fines in accordance with the terms of an established payment  
122 plan. An individual seeking to defer payment of fees, service  
123 charges, costs, or fines imposed by operation of law or order of  
124 the court under any provision of general law shall apply to the  
125 clerk for enrollment in a payment plan. The clerk shall enter  
126 into a payment plan with an individual who the court determines  
127 is indigent for costs. A monthly payment amount, calculated  
128 based upon all fees and all anticipated costs, is presumed to  
129 correspond to the person's ability to pay if the amount does not  
130 exceed 2 percent of the person's annual net income, as defined  
131 in s. 27.52(1), divided by 12. The court may review the  
132 reasonableness of the payment plan.

133 (5) When receiving partial payment of fees, service  
134 charges, court costs, and fines, clerks shall distribute funds  
135 according to the following order of priority:

136 (a) That portion of fees, service charges, court costs, and  
137 fines to be remitted to the state for deposit into the General  
138 Revenue Fund.

139 (b) That portion of fees, service charges, court costs, and  
140 fines ~~which are~~ required to be retained by the clerk of the  
141 court or deposited into the Clerks of the Court Trust Fund  
142 within the Justice Administrative Commission.

143 (c) That portion of fees, service charges, court costs, and  
144 fines payable to state trust funds, allocated on a pro rata  
145 basis among the various authorized funds if the total collection

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146 amount is insufficient to fully fund all such funds as provided  
147 by law.

148 (d) That portion of fees, service charges, court costs, and  
149 fines payable to counties, municipalities, or other local  
150 entities, allocated on a pro rata basis among the various  
151 authorized recipients if the total collection amount is  
152 insufficient to fully fund all such recipients as provided by  
153 law.

154  
155 To offset processing costs, clerks may impose either a per-month  
156 service charge pursuant to s. 28.24(26) (b) or a one-time  
157 administrative processing service charge at the inception of the  
158 payment plan pursuant to s. 28.24(26) (c).

159 (6) A clerk of court shall pursue the collection of any  
160 fees, service charges, fines, court costs, and liens for the  
161 payment of attorney ~~attorney's~~ fees and costs pursuant to s.  
162 938.29 which remain unpaid after 90 days by referring the  
163 account to a private attorney who is a member in good standing  
164 of The Florida Bar or collection agent who is registered and in  
165 good standing pursuant to chapter 559. In pursuing the  
166 collection of such unpaid financial obligations through a  
167 private attorney or collection agent, the clerk of the court  
168 must have attempted to collect the unpaid amount through a  
169 collection court, collections docket, or other collections  
170 process, if any, established by the court, find this to be cost-  
171 effective and follow any applicable procurement practices. The  
172 collection fee, including any reasonable attorney's fee, paid to  
173 any attorney or collection agent retained by the clerk may be  
174 added to the balance owed in an amount not to exceed 40 percent

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175 of the amount owed at the time the account is referred to the  
176 attorney or agent for collection. The clerk shall give the  
177 private attorney or collection agent the application for the  
178 appointment of court-appointed counsel regardless of whether the  
179 court file is otherwise confidential from disclosure.

180 Section 3. Section 28.42, Florida Statutes, is amended to  
181 read:

182 28.42 Manual of court-related filing fees, charges, costs,  
183 and fines. ~~No later than July 1, 2004,~~ The clerks of court,  
184 through their association and in consultation with the Office of  
185 the State Courts Administrator shall prepare and disseminate a  
186 manual of court-related filing fees, service charges, costs, and  
187 fines imposed pursuant to state law, organized by county for  
188 each type of action and offense and classified as either  
189 mandatory or discretionary. The clerks, through their  
190 association, Office of the State Courts Administrator shall  
191 disseminate this manual to the chief judge, state attorney,  
192 public defender, and court administrator in each circuit and to  
193 the clerk of the court in each county. The clerks, through their  
194 association and in consultation with the Office of the State  
195 Courts Administrator, shall at a minimum update and disseminate  
196 this manual on July 1 of each year ~~thereafter~~.

197 Section 4. Notwithstanding the amendments made by this act  
198 to s. 28.246, Florida Statutes, the clerks of court shall use  
199 the reporting requirements, standards, and form prescribed in  
200 that section before July 1, 2012, for the report due for the  
201 county fiscal year ending September 30, 2012. The amendments  
202 made by this act to s. 28.246, Florida Statutes, apply beginning  
203 with the report for the county fiscal year ending September 30,

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204 2013.

205 Section 5. This act shall take effect July 1, 2012.