

FOR CONSIDERATION By the Committee on Budget

576-02919-12

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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:

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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 fin es 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.