

By Senator Latvala

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1 A bill to be entitled
2 An act relating to substance abuse treatment services;
3 providing a short title; amending s. 28.241, F.S.;
4 revising the filing fee for involuntary admissions
5 proceedings for substance abuse treatment; providing
6 for the distribution of proceeds from the fee;
7 amending ss. 397.6772, 397.6773, 397.6797, and
8 397.6798, F.S.; increasing the period allowed for
9 assessment of a person following involuntary custody
10 or admission to a hospital or other facility;
11 conforming provisions; amending s. 397.754, F.S.;
12 specifying requirements for the initial processing of
13 inmates by the Department of Corrections for substance
14 abuse needs; providing that, to the fullest extent
15 practicable, inmates be given the choice between
16 faith-based and nonfaith-based substance abuse
17 programs; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. This act may be cited as "The Jennifer Act."

22 Section 2. Paragraph (a) of subsection (1) of section
23 28.241, Florida Statutes, is amended to read:

24 28.241 Filing fees for trial and appellate proceedings.—

25 (1) Filing fees are due at the time a party files a
26 pleading to initiate a proceeding or files a pleading for
27 relief. Reopen fees are due at the time a party files a pleading
28 to reopen a proceeding if at least 90 days have elapsed since
29 the filing of a final order or final judgment with the clerk. If

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30 a fee is not paid upon the filing of the pleading as required
31 under this section, the clerk shall pursue collection of the fee
32 pursuant to s. 28.246.

33 (a)1.a. Except as provided in sub-subparagraphs ~~sub-~~
34 ~~subparagraph~~ b. and d. and subparagraph 2., the party
35 instituting a ~~any~~ civil action, suit, or proceeding in the
36 circuit court shall pay to the clerk of that court a filing fee
37 not to exceed ~~of up to~~ \$395 in all cases in which there are up
38 to ~~not more than~~ five defendants and an additional filing fee of
39 up to \$2.50 for each defendant in excess of five. Of the first
40 \$280 in filing fees, \$80 shall ~~must~~ be remitted by the clerk to
41 the Department of Revenue for deposit into the General Revenue
42 Fund, \$195 shall ~~must~~ be remitted to the Department of Revenue
43 for deposit into the State Courts Revenue Trust Fund, \$3.50
44 shall ~~must~~ be remitted to the Department of Revenue for deposit
45 into the Clerks of the Court Trust Fund within the Justice
46 Administrative Commission and used to fund the Florida Clerks of
47 Court Operations Corporation created in s. 28.35, and \$1.50
48 shall ~~must~~ be remitted to the Department of Revenue for deposit
49 into the Administrative Trust Fund within the Department of
50 Financial Services to fund clerk budget reviews conducted by the
51 Department of Financial Services. One third of the ~~any~~ filing
52 fees collected by the clerk of the circuit court in excess of
53 \$100 shall ~~must~~ be remitted to the Department of Revenue for
54 deposit into the Clerks of the Court Trust Fund within the
55 Justice Administrative Commission.

56 b. The party instituting any civil action, suit, or
57 proceeding in the circuit court under chapter 39, chapter 61,
58 chapter 741, chapter 742, chapter 747, chapter 752, or chapter

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59 753 shall pay to the clerk of that court a filing fee of up to
60 \$295 in all cases in which there are up to ~~not more than~~ five
61 defendants and an additional filing fee of up to \$2.50 for each
62 defendant in excess of five. Of the first \$180 in filing fees,
63 \$80 shall ~~must~~ be remitted by the clerk to the Department of
64 Revenue for deposit into the General Revenue Fund, \$95 shall
65 ~~must~~ be remitted to the Department of Revenue for deposit into
66 the State Courts Revenue Trust Fund, \$3.50 shall ~~must~~ be
67 remitted to the Department of Revenue for deposit into the
68 Clerks of the Court Trust Fund within the Justice Administrative
69 Commission and used to fund the Florida Clerks of Court
70 Operations Corporation created in s. 28.35, and \$1.50 shall ~~must~~
71 be remitted to the Department of Revenue for deposit into the
72 Administrative Trust Fund within the Department of Financial
73 Services to fund clerk budget reviews conducted by the
74 Department of Financial Services.

75 c. An additional filing fee of \$4 shall be paid to the
76 clerk. The clerk shall remit \$3.50 to the Department of Revenue
77 for deposit into the Court Education Trust Fund and ~~shall remit~~
78 50 cents to the Department of Revenue for deposit into the
79 Clerks of the Court Trust Fund within the Justice Administrative
80 Commission to fund clerk education. An additional filing fee of
81 up to \$18 shall be paid by the party seeking each severance that
82 is granted. The clerk may impose an additional filing fee of up
83 to \$85 for all proceedings of garnishment, attachment, replevin,
84 and distress. Postal charges incurred by the clerk ~~of the~~
85 ~~circuit court~~ in making service by certified or registered mail
86 on defendants or other parties shall be paid by the party at
87 whose instance service is made. Additional fees, charges, or

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88 costs may not be added to the filing fees imposed under this
89 section, except as authorized in this section or by general law.

90 d. The party instituting a civil action, suit, or
91 proceeding in the circuit court under part V of chapter 397
92 shall pay to the clerk of that court a filing fee not to exceed
93 \$195 in all cases in which there are up to five defendants and
94 an additional filing fee of up to \$2.50 for each defendant in
95 excess of five. The first \$90 in filing fees shall be remitted
96 to the Department of Revenue for deposit into the State Courts
97 Revenue Trust Fund, \$3.50 shall be remitted to the Department of
98 Revenue for deposit into the Clerks of the Court Trust Fund
99 within the Justice Administrative Commission and used to fund
100 the Florida Clerks of Court Operations Corporation created in s.
101 28.35, and \$1.50 shall be remitted to the Department of Revenue
102 for deposit into the Administrative Trust Fund within the
103 Department of Financial Services to fund clerk budget reviews
104 conducted by the Department of Financial Services.

105 ~~2.a.~~ Notwithstanding the fees prescribed in subparagraph
106 1., a party instituting a civil action in circuit court relating
107 to real property or mortgage foreclosure must ~~shall~~ pay a
108 graduated filing fee based on the value of the claim.

109 ~~a.b.~~ The A party shall estimate in writing the amount of of
110 the claim in controversy ~~of the claim~~ upon filing the action.
111 For purposes of this subparagraph, the value of a mortgage
112 foreclosure action is based upon the principal due on the note
113 secured by the mortgage, plus interest owed on the note and any
114 moneys advanced by the lender for property taxes, insurance, and
115 other advances secured by the mortgage, at the time of filing
116 the foreclosure. The value ~~shall~~ also includes ~~include~~ the value

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117 of any tax certificates related to the property. In stating the
118 value of a mortgage foreclosure claim, the ~~a~~ party shall declare
119 in writing the total value of the claim, as well as the
120 individual elements of the value as prescribed in this sub-
121 subparagraph.

122 ~~b.e.~~ In its order providing for the final disposition of
123 the matter, the court shall identify the actual value of the
124 claim. The clerk shall adjust the filing fee if there is a
125 difference between the estimated amount in controversy and the
126 actual value of the claim and collect any additional filing fee
127 owed or provide a refund of excess filing fee paid.

128 ~~c.d.~~ The party shall pay a filing fee of:

129 (I) Three hundred and ninety-five dollars in all cases in
130 which the value of the claim is \$50,000 or less and in which
131 there are not more than five defendants. The party shall pay an
132 additional filing fee of up to \$2.50 for each defendant in
133 excess of five. Of the first \$280 in filing fees, \$275 shall
134 ~~must~~ be remitted by the clerk to the Department of Revenue for
135 deposit into the General Revenue Fund, \$3.50 shall ~~must~~ be
136 remitted to the Department of Revenue for deposit into the
137 Clerks of the Court Trust Fund within the Justice Administrative
138 Commission and used to fund the Florida Clerks of Court
139 Operations Corporation created in s. 28.35, and \$1.50 shall ~~must~~
140 be remitted to the Department of Revenue for deposit into the
141 Administrative Trust Fund within the Department of Financial
142 Services to fund clerk budget reviews conducted by the
143 Department of Financial Services;

144 (II) Nine hundred dollars in all cases in which the value
145 of the claim is more than \$50,000 but less than \$250,000 and ~~in~~

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146 ~~which~~ there are not more than five defendants. The party shall
147 pay an additional filing fee of up to \$2.50 for each defendant
148 in excess of five. Of the first \$785 in filing fees, \$780 shall
149 ~~must~~ be remitted by the clerk to the Department of Revenue for
150 deposit into the General Revenue Fund, \$3.50 shall ~~must~~ be
151 remitted to the Department of Revenue for deposit into the
152 Clerks of the Court Trust Fund within the Justice Administrative
153 Commission and used to fund the Florida Clerks of Court
154 Operations Corporation described in s. 28.35, and \$1.50 shall
155 ~~must~~ be remitted to the Department of Revenue for deposit into
156 the Administrative Trust Fund within the Department of Financial
157 Services to fund clerk budget reviews conducted by the
158 Department of Financial Services; or

159 (III) One thousand nine hundred dollars in all cases in
160 which the value of the claim is \$250,000 or more and ~~in which~~
161 there are not more than five defendants. The party shall pay an
162 additional filing fee of up to \$2.50 for each defendant in
163 excess of five. Of the first \$1,785 in filing fees, \$1,010 shall
164 ~~must~~ be remitted by the clerk to the Department of Revenue for
165 deposit into the General Revenue Fund, \$770 shall ~~must~~ be
166 remitted to the Department of Revenue for deposit into the State
167 Courts Revenue Trust Fund, \$3.50 shall ~~must~~ be remitted to the
168 Department of Revenue for deposit into the Clerks of the Court
169 Trust Fund within the Justice Administrative Commission to fund
170 the Florida Clerks of Court Operations Corporation created in s.
171 28.35, and \$1.50 shall ~~must~~ be remitted to the Department of
172 Revenue for deposit into the Administrative Trust Fund within
173 the Department of Financial Services to fund clerk budget
174 reviews conducted by the Department of Financial Services.

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175 ~~d.e.~~ An additional filing fee of \$4 shall be paid to the
176 clerk. The clerk shall remit \$3.50 to the Department of Revenue
177 for deposit into the Court Education Trust Fund and ~~shall remit~~
178 50 cents to the Department of Revenue for deposit into the
179 Clerks of the Court Trust Fund within the Justice Administrative
180 Commission to fund clerk education. An additional filing fee of
181 up to \$18 shall be paid by the party seeking each severance that
182 is granted. The clerk may impose an additional filing fee of up
183 to \$85 for all proceedings of garnishment, attachment, replevin,
184 and distress. Postal charges incurred by the clerk ~~of the~~
185 ~~circuit court~~ in making service by certified or registered mail
186 on defendants or other parties shall be paid by the party at
187 whose instance service is made. Additional fees, charges, or
188 costs may not be added to the filing fees imposed under this
189 section, except as authorized in this section or by general law.

190 Section 3. Subsection (1) of section 397.6772, Florida
191 Statutes, is amended to read:

192 397.6772 Protective custody without consent.—

193 (1) If a person in circumstances that ~~which~~ justify
194 protective custody as described in s. 397.677 fails or refuses
195 to consent to assistance and a law enforcement officer has
196 determined that a hospital or a licensed detoxification or
197 addictions receiving facility is the most appropriate place for
198 the person, the officer may, after giving due consideration to
199 the expressed wishes of the person:

200 (a) Take the person to a hospital or to a licensed
201 detoxification or addictions receiving facility against the
202 person's will but without using unreasonable force; or

203 (b) In the case of an adult, detain the person for his or

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204 her own protection in a ~~any~~ municipal or county jail or other
205 appropriate detention facility.

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207 Such detention is not to be considered an arrest for any
208 purpose, and no entry or other record may be made to indicate
209 that the person has been detained or charged with any crime. The
210 officer in charge of the detention facility shall ~~must~~ notify
211 the nearest appropriate licensed service provider within the
212 first 8 hours after detention that the person has been detained.
213 ~~It is the duty of~~ The detention facility must ~~to~~ arrange, as
214 necessary, for transportation of the person to an appropriate
215 licensed service provider with an available bed. Persons taken
216 into protective custody must be assessed by the attending
217 physician within the 5-day ~~72-hour~~ period and without
218 unnecessary delay, to determine the need for further services.

219 Section 4. Section 397.6773, Florida Statutes, is amended
220 to read:

221 397.6773 Dispositional alternatives after protective
222 custody.—

223 (1) An individual who is in protective custody must be
224 released by a qualified professional if ~~when~~:

225 (a) The individual no longer meets the involuntary
226 admission criteria in s. 397.675(1);

227 (b) The 5-day ~~72-hour~~ period has elapsed; or

228 (c) The individual has consented to remain voluntarily at
229 the licensed service provider.

230 (2) An individual may ~~only~~ be retained in protective
231 custody beyond the 5-day ~~72-hour~~ period only if ~~when~~ a petition
232 for involuntary assessment or treatment has been initiated. The

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233 timely filing of the petition authorizes the service provider to
234 retain physical custody of the individual pending further order
235 of the court.

236 Section 5. Section 397.6797, Florida Statutes, is amended
237 to read:

238 397.6797 Dispositional alternatives after emergency
239 admission.—Within 5 days ~~72 hours~~ after an emergency admission
240 to a hospital, ~~or~~ a licensed detoxification or addictions
241 receiving facility, or ~~the individual must be assessed by the~~
242 ~~attending physician to determine the need for further services.~~
243 ~~Within 5 days after an emergency admission to~~ a nonresidential
244 component of a licensed service provider, the individual must be
245 assessed by a qualified professional to determine the need for
246 further services. Based upon that assessment, a qualified
247 professional of the hospital, detoxification facility, or
248 addictions receiving facility, or a qualified professional if a
249 less restrictive component was used, must ~~either~~:

250 (1) Release the individual and, if ~~where~~ appropriate, refer
251 the individual to other needed services; or

252 (2) Retain the individual if ~~when~~:

253 (a) The individual has consented to remain voluntarily at
254 the licensed provider; or

255 (b) A petition for involuntary assessment or treatment has
256 been initiated, the timely filing of which authorizes the
257 service provider to retain physical custody of the individual
258 pending further order of the court.

259 Section 6. Subsection (1) of section 397.6798, Florida
260 Statutes, is amended to read:

261 397.6798 Alternative involuntary assessment procedure for

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262 minors.—

263 (1) In addition to protective custody, emergency admission,
264 and involuntary assessment and stabilization, an addictions
265 receiving facility may admit a minor for involuntary assessment
266 and stabilization upon the filing of an application to an
267 addictions receiving facility by the minor's parent, guardian,
268 or legal custodian. The application must establish the need for
269 involuntary assessment and stabilization based on the criteria
270 for involuntary admission in s. 397.675. Within 5 days ~~72 hours~~
271 after involuntary admission of a minor, the minor must be
272 assessed to determine the need for further services. Assessments
273 must be performed by a qualified professional. If, after the 5-
274 day ~~72-hour~~ period, it is determined by the attending physician
275 that further services are necessary, the minor may be kept for a
276 period of up to 5 days, inclusive of the 5-day ~~72-hour~~ period.

277 Section 7. Subsections (1) and (2) of section 397.754,
278 Florida Statutes, are amended to read:

279 397.754 Duties and responsibilities of the Department of
280 Corrections.—The Department of Corrections shall:

281 (1) To the fullest extent possible, provide inmates upon
282 arrival at a department of Corrections reception center for
283 initial processing with an assessment of substance abuse service
284 needs, including drug testing and mental, physical, and
285 emotional assessment by qualified professionals.

286 (2) Provide inmates who are admitted to inmate substance
287 abuse services with an individualized treatment plan that ~~which~~
288 is developed on the basis of assessed need for services and ~~that~~
289 ~~which~~ includes measurable goals and specifies the types of
290 services needed to meet those goals. In areas where both faith-

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291 based and nonfaith-based drug programs are available, and to the
292 fullest extent practicable, each inmate must be given the choice
293 of a faith-based or nonfaith-based program for rehabilitation
294 and drug treatment.

295 Section 8. This act shall take effect July 1, 2013.