

By Senator Dean

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1 A bill to be entitled
2 An act relating to clerks of the circuit court;
3 amending s. 28.241, F.S.; redirecting revenues from
4 the filing fee for pleadings in specified civil
5 actions in circuit court from the General Revenue Fund
6 into the fine and forfeiture fund; amending s. 28.35,
7 F.S.; revising the list of court-related functions
8 that clerks may fund from filing fees, service
9 charges, costs, and fines; amending s. 28.37, F.S.;
10 removing an obsolete date; reducing the amount of the
11 transfer of excess funds from the Clerks of the Court
12 Trust Fund to the General Revenue Fund if certain
13 deficits are estimated; restricting excess fund
14 transfers to costs submitted for the previous county
15 fiscal year; amending ss. 40.24 and 40.26, F.S.;
16 transferring responsibility for payment of jury-
17 related costs from the clerk to the state; amending s.
18 40.29, F.S.; requiring the clerk to forward quarterly
19 estimates on jury-related costs to the Justice
20 Administrative Commission; amending s. 40.31, F.S.;
21 authorizing the Justice Administrative Commission to
22 issue a certificate to the clerk if apportioned funds
23 are insufficient to cover jury-related costs; amending
24 s. 40.32, F.S.; removing a provision regarding funding
25 of jury-related costs to conform to changes made by
26 the act; amending s. 40.33, F.S.; authorizing the
27 clerk to request the Justice Administrative Commission
28 for additional funds to pay due-process costs in the
29 event of a deficiency; amending s. 40.34, F.S.;

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30 requiring the clerk to provide for triplicate payroll
31 for the payment of jurors; amending s. 318.18, F.S.;
32 redirecting a portion of the revenue from the civil
33 penalty for certain traffic infractions from the
34 General Revenue Fund to the fine and forfeiture fund;
35 removing an obsolete date; amending s. 318.21, F.S.;
36 revising the distribution and payment of civil
37 penalties received by a county court pursuant to ch.
38 318, F.S.; amending s. 775.083, F.S.; redirecting
39 revenue from fines when adjudication is withheld from
40 the General Revenue Fund to the fine and forfeiture
41 fund; providing for retroactive application;
42 specifying the authorized budget for the clerks of the
43 circuit court for the 2015-2016 county fiscal year;
44 requiring clerks to submit jury-related cost estimates
45 to the Justice Administrative Commission for the 2014-
46 2015 county fiscal year; providing an effective date.

47
48 Be It Enacted by the Legislature of the State of Florida:

49
50 Section 1. Paragraph (c) of subsection (1) of section
51 28.241, Florida Statutes, is amended to read:

52 28.241 Filing fees for trial and appellate proceedings.—

53 (1) Filing fees are due at the time a party files a
54 pleading to initiate a proceeding or files a pleading for
55 relief. Reopen fees are due at the time a party files a pleading
56 to reopen a proceeding if at least 90 days have elapsed since
57 the filing of a final order or final judgment with the clerk. If
58 a fee is not paid upon the filing of the pleading as required

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59 under this section, the clerk shall pursue collection of the fee
60 pursuant to s. 28.246.

61 (c)1. A party in addition to a party described in sub-
62 subparagraph (a)1.a. who files a pleading in an original civil
63 action in circuit court for affirmative relief by cross-claim,
64 counterclaim, counterpetition, or third-party complaint shall
65 pay the clerk of court a fee of \$395. A party in addition to a
66 party described in sub-subparagraph (a)1.b. who files a pleading
67 in an original civil action in circuit court for affirmative
68 relief by cross-claim, counterclaim, counterpetition, or third-
69 party complaint shall pay the clerk of court a fee of \$295. The
70 clerk shall deposit ~~remit~~ the fee ~~to the Department of Revenue~~
71 ~~for deposit~~ into the fine and forfeiture fund established
72 pursuant to s. 142.01 General Revenue Fund.

73 2. A party in addition to a party described in subparagraph
74 (a)2. who files a pleading in an original civil action in
75 circuit court for affirmative relief by cross-claim,
76 counterclaim, counterpetition, or third-party complaint shall
77 pay the clerk of court a graduated fee of:

78 a. Three hundred and ninety-five dollars in all cases in
79 which the value of the pleading is \$50,000 or less;

80 b. Nine hundred dollars in all cases in which the value of
81 the pleading is more than \$50,000 but less than \$250,000; or

82 c. One thousand nine hundred dollars in all cases in which
83 the value of the pleading is \$250,000 or more.

84
85 The clerk shall deposit ~~remit~~ the fees collected under this
86 subparagraph ~~to the Department of Revenue for deposit~~ into the
87 fine and forfeiture fund established pursuant to s. 142.01

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88 ~~General Revenue Fund.~~

89 Section 2. Paragraph (a) of subsection (3) of section
90 28.35, Florida Statutes, is amended to read:

91 28.35 Florida Clerks of Court Operations Corporation.—

92 (3) (a) The list of court-related functions that clerks may
93 fund from filing fees, service charges, costs, and fines is
94 limited to those functions expressly authorized by law or court
95 rule. Those functions include the following: case maintenance;
96 records management; court preparation and attendance; processing
97 the assignment, reopening, and reassignment of cases; processing
98 of appeals; collection and distribution of fines, fees, service
99 charges, and court costs; processing of bond forfeiture
100 payments; ~~payment of jurors and witnesses; payment of expenses~~
101 ~~for meals or lodging provided to jurors;~~ data collection and
102 reporting; ~~processing of jurors;~~ determinations of indigent
103 status; and paying reasonable administrative support costs to
104 enable the clerk of the court to carry out these court-related
105 functions.

106 Section 3. Subsections (2) and (3) of section 28.37,
107 Florida Statutes, are amended to read:

108 28.37 Fines, fees, service charges, and costs remitted to
109 the state.—

110 (2) The ~~Beginning November 1, 2013,~~ that portion of all
111 fines, fees, service charges, and costs collected by the clerks
112 of the court for the previous month which is in excess of one-
113 twelfth of the clerks' total budget for the performance of
114 court-related functions shall be remitted to the Department of
115 Revenue for deposit into the Clerks of the Court Trust Fund.
116 Such collections do not include funding received for the

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117 operation of the Title IV-D child support collections and
118 disbursement program. The clerk of the court shall remit the
119 revenues collected during the previous month due to the state on
120 or before the 10th day of each month.

121 (3) Each year, no later than January 25, ~~2015, and each~~
122 ~~January 25 thereafter~~ for the previous county fiscal year, the
123 clerks of court, in consultation with the Florida Clerks of
124 Court Operations Corporation, shall remit to the Department of
125 Revenue for deposit into the Clerks of the Court Trust ~~in the~~
126 ~~General Revenue~~ Fund the cumulative excess of all fines, fees,
127 service charges, and costs retained by the clerks of the court,
128 plus any funds received by the clerks of the court from the
129 Clerks of the Court Trust Fund under s. 28.36(3), which exceed
130 the amount needed to meet their authorized budget amounts
131 established under s. 28.35. The Department of Revenue shall
132 transfer from the Clerks of the Court Trust Fund to the General
133 Revenue Fund the cumulative excess of all fines, fees, service
134 charges, and costs submitted by the clerks of court for the
135 previous county fiscal year pursuant to this section ~~subsection~~
136 ~~(2)~~. However, if the official estimate for funds accruing to the
137 clerks of court made by the Revenue Estimating Conference for
138 the current fiscal year or the next 2 fiscal years ~~year~~ is less
139 than the cumulative amount of authorized budgets for the clerks
140 of court for the current fiscal year, the Department of Revenue
141 shall retain in the Clerks of the Court Trust Fund the estimated
142 amount needed to fully fund the clerks of court for the current
143 and next 2 fiscal years ~~year~~ based upon the current budget
144 established under s. 28.35.

145 Section 4. Subsections (3), (4), and (5) of section 40.24,

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146 Florida Statutes, are amended to read:

147 40.24 Compensation and reimbursement policy.—

148 (3) (a) Jurors who are regularly employed and who continue
149 to receive regular wages while serving as jurors ~~a juror~~ are not
150 entitled to receive compensation from the state ~~clerk of the~~
151 ~~circuit court~~ for the first 3 days of juror service.

152 (b) Jurors who are not regularly employed or who do not
153 continue to receive regular wages while serving as jurors ~~a~~
154 ~~juror~~ are entitled to receive \$15 per day for the first 3 days
155 of juror service.

156 (4) Each juror who serves more than 3 days is entitled to
157 be paid by the state ~~clerk of the circuit court~~ for the fourth
158 day of service and each day thereafter at the rate of \$30 per
159 day of service.

160 (5) Jurors are not entitled to additional reimbursement by
161 the state ~~clerk of the circuit court~~ for travel or other out-of-
162 pocket expenses.

163 Section 5. Section 40.26, Florida Statutes, is amended to
164 read:

165 40.26 Meals and lodging for jurors.—The sheriff, when
166 required by order of the court, shall provide juries with meals
167 and lodging, the expense to be taxed against and paid by the
168 state ~~clerk of the circuit court~~.

169 Section 6. Subsections (1) and (4) of section 40.29,
170 Florida Statutes, are amended to read:

171 40.29 Payment of due-process costs.—

172 (1) Each clerk of the circuit court shall forward to the
173 Justice Administrative Commission:~~7~~

174 (a) On behalf of the state attorney, private court-

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175 appointed counsel, the public defender, and the criminal
176 conflict and civil regional counsel, ~~shall forward to the~~
177 ~~Justice Administrative Commission,~~ by county, a quarterly
178 estimate of funds necessary to pay for ordinary witnesses,
179 including, but not limited to, witnesses in civil traffic cases
180 and witnesses of the state attorney, the public defender,
181 criminal conflict and civil regional counsel, private court-
182 appointed counsel, and persons determined to be indigent for
183 costs. Each quarter of the state fiscal year, the commission,
184 based upon the estimates, shall advance funds to each clerk to
185 pay for these ordinary witnesses from state funds specifically
186 appropriated for the payment of ordinary witnesses.

187 (b) A quarterly estimate of funds necessary to pay jury-
188 related costs, including juror compensation and personnel and
189 operational costs of the clerk directly related to jury
190 management.

191 (4) After review for compliance with applicable rates and
192 requirements, the Justice Administrative Commission shall pay
193 all invoices related to due process services and juries ~~service~~
194 ~~related invoices,~~ except those enumerated in subsection (1),
195 approved and submitted by the state attorney, the public
196 defender, the clerk of the circuit court, criminal conflict and
197 civil regional counsel, or private court-appointed counsel in
198 accordance with the applicable requirements of ss. 29.005,
199 29.006, and 29.007.

200 Section 7. Section 40.31, Florida Statutes, is amended to
201 read:

202 40.31 Justice Administrative Commission may apportion
203 appropriation.—If the Justice Administrative Commission has

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204 reason to believe that the amounts ~~amount~~ appropriated by the
 205 Legislature are ~~is~~ insufficient to meet the expenses of
 206 witnesses or of jury-related costs during the remaining part of
 207 the state fiscal year, the commission may apportion the money in
 208 the treasury for that purpose among the several counties, basing
 209 such apportionment upon the amount expended for the payment of
 210 witnesses or for jury-related costs in each county during the
 211 prior fiscal year. In such case, each county shall be paid by
 212 warrant, issued by the Chief Financial Officer, only the amount
 213 so apportioned to each county. ~~and,~~ When the amount ~~se~~
 214 apportioned is insufficient to pay in full all the witnesses
 215 during a quarterly fiscal period, the clerk of the court shall
 216 apportion the money received pro rata among the witnesses
 217 entitled to pay and shall give to each witness a certificate of
 218 the amount of compensation still due, which certificate shall be
 219 held by the commission as other demands against the state. When
 220 the amount apportioned is insufficient to pay in full all jury-
 221 related costs of the clerk of the court during a quarterly
 222 fiscal period, the commission shall give each clerk a
 223 certificate of the amount still due. The certificate shall be
 224 held by the commission as other demands against the state.

225 Section 8. Section 40.32, Florida Statutes, is amended to
 226 read:

227 40.32 Clerks to disburse money; payments to jurors and
 228 witnesses.—

229 (1) All moneys drawn from the treasury under the provisions
 230 of this chapter by the clerk of the court shall be disbursed by
 231 the clerk of the court as far as needed in payment of jurors and
 232 witnesses, except for expert witnesses paid under a contract or

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233 other professional services agreement pursuant to ss. 29.004,
234 29.005, 29.006, and 29.007, for the legal compensation for
235 service during the quarterly fiscal period for which the moneys
236 were drawn and for no other purposes.

237 ~~(2) The payment of jurors and the payment of expenses for~~
238 ~~meals and lodging for jurors under the provisions of this~~
239 ~~chapter are court-related functions that the clerk of the court~~
240 ~~shall fund from filing fees, service charges, court costs, and~~
241 ~~finances as part of the maximum annual budget under ss. 28.35 and~~
242 ~~28.36.~~

243 (2)~~(3)~~ Jurors and witnesses shall be paid by the clerk of
244 the court in cash, by check, or by warrant within 20 days after
245 completion of jury service or completion of service as a
246 witness.

247 (a) If the clerk of the court pays a juror or witness by
248 cash, the juror or witness shall sign the payroll in the
249 presence of the clerk, a deputy clerk, or some other person
250 designated by the clerk.

251 (b) If the clerk pays a juror or witness by warrant, he or
252 she shall endorse on the payroll opposite the juror's or
253 witness's name the words "Paid by warrant," giving the number
254 and date of the warrant.

255 Section 9. Section 40.33, Florida Statutes, is amended to
256 read:

257 40.33 Deficiency.—If the funds required for payment of the
258 items enumerated in s. 40.29(1) in any county during a quarterly
259 fiscal period exceeds the amount of the funds provided pursuant
260 to s. 40.29(3), the state attorney, public defender, clerk of
261 the circuit court, or criminal conflict and civil regional

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262 counsel, as applicable, shall make a further request upon the
263 Justice Administrative Commission for the items enumerated in s.
264 40.29(1) for the amount necessary to allow for full payment.

265 Section 10. Section 40.34, Florida Statutes, is amended to
266 read:

267 40.34 Clerks to make triplicate payroll.-

268 (1) The clerk of the court shall make out a payroll in
269 triplicate for the payment of jurors and witnesses, which
270 payroll shall contain:

271 (a) The name of each juror and witness entitled to be paid
272 with state funds;

273 (b) The number of days for which the jurors and witnesses
274 are entitled to be paid;

275 (c) The number of miles traveled by each; and

276 (d) The total compensation each juror and witness is
277 entitled to receive.

278 (2) The form of such payroll shall be prescribed by the
279 Chief Financial Officer.

280 (3) Compensation paid a juror or witness shall be attested
281 as provided in s. 40.32. The payroll shall be approved by the
282 signature of the clerk, or his or her deputy, except for the
283 payroll as to witnesses appearing before the state attorney,
284 which payroll shall be approved by the signature of the state
285 attorney or an assistant state attorney.

286 (4) The clerks of the courts shall forward two copies of
287 such payrolls to the Justice Administrative Commission, within 2
288 weeks after the last day of the quarterly fiscal period, and the
289 commission shall audit such payrolls.

290 Section 11. Paragraph (a) of subsection (8) and paragraph

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291 (a) of subsection (15) of section 318.18, Florida Statutes, are
292 amended to read:

293 318.18 Amount of penalties.—The penalties required for a
294 noncriminal disposition pursuant to s. 318.14 or a criminal
295 offense listed in s. 318.17 are as follows:

296 (8) (a) Any person who fails to comply with the court's
297 requirements or who fails to pay the civil penalties specified
298 in this section within the 30-day period provided for in s.
299 318.14 must pay an additional civil penalty of \$16, \$6.50 of
300 which must be deposited into the fine and forfeiture fund
301 established pursuant to s. 142.01 ~~remitted to the Department of~~
302 ~~Revenue for deposit in the General Revenue Fund,~~ and \$9.50 of
303 which must be remitted to the Department of Revenue for deposit
304 in the Highway Safety Operating Trust Fund. ~~Of this additional~~
305 ~~civil penalty of \$16, \$4 is not revenue for purposes of s. 28.36~~
306 ~~and may not be used in establishing the budget of the clerk of~~
307 ~~the court under that section or s. 28.35.~~ The department shall
308 contract with the Florida Association of Court Clerks, Inc., to
309 design, establish, operate, upgrade, and maintain an automated
310 statewide Uniform Traffic Citation Accounting System to be
311 operated by the clerks of the court which shall include, but not
312 be limited to, the accounting for traffic infractions by type, a
313 record of the disposition of the citations, and an accounting
314 system for the fines assessed and the subsequent fine amounts
315 paid to the clerks of the court. ~~On or before December 1, 2001,~~
316 The clerks of the court must provide the information required by
317 this chapter to be transmitted to the department by electronic
318 transmission pursuant to the contract.

319 (15) (a)1. One hundred and fifty-eight dollars for a

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320 violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver
321 has failed to stop at a traffic signal and when enforced by a
322 law enforcement officer. Sixty dollars shall be distributed as
323 provided in s. 318.21, \$30 shall be deposited into the fine and
324 forfeiture fund established pursuant to s. 142.01 ~~distributed to~~
325 ~~the General Revenue Fund~~, \$3 shall be remitted to the Department
326 of Revenue for deposit into the Brain and Spinal Cord Injury
327 Trust Fund, and the remaining \$65 shall be remitted to the
328 Department of Revenue for deposit into the Emergency Medical
329 Services Trust Fund of the Department of Health.

330 2. One hundred and fifty-eight dollars for a violation of
331 s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
332 stop at a traffic signal and when enforced by the department's
333 traffic infraction enforcement officer. One hundred dollars
334 shall be remitted to the Department of Revenue for deposit into
335 the General Revenue Fund, \$45 shall be distributed to the county
336 for any violations occurring in any unincorporated areas of the
337 county or to the municipality for any violations occurring in
338 the incorporated boundaries of the municipality in which the
339 infraction occurred, \$10 shall be remitted to the Department of
340 Revenue for deposit into the Department of Health Emergency
341 Medical Services Trust Fund for distribution as provided in s.
342 395.4036(1), and \$3 shall be remitted to the Department of
343 Revenue for deposit into the Brain and Spinal Cord Injury Trust
344 Fund.

345 3. One hundred and fifty-eight dollars for a violation of
346 s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
347 stop at a traffic signal and when enforced by a county's or
348 municipality's traffic infraction enforcement officer. Seventy-

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349 five dollars shall be distributed to the county or municipality
350 issuing the traffic citation, \$70 shall be remitted to the
351 Department of Revenue for deposit into the General Revenue Fund,
352 \$10 shall be remitted to the Department of Revenue for deposit
353 into the Department of Health Emergency Medical Services Trust
354 Fund for distribution as provided in s. 395.4036(1), and \$3
355 shall be remitted to the Department of Revenue for deposit into
356 the Brain and Spinal Cord Injury Trust Fund.

357 Section 12. Paragraphs (a) and (f) of subsection (2) of
358 section 318.21, Florida Statutes, are amended to read:

359 318.21 Disposition of civil penalties by county courts.—All
360 civil penalties received by a county court pursuant to the
361 provisions of this chapter shall be distributed and paid monthly
362 as follows:

363 (2) Of the remainder:

364 (a) ~~Twenty and~~ Six-tenths percent shall be remitted to the
365 Department of Revenue for deposit into the General Revenue Fund
366 ~~of the state~~, except that the first \$300,000 shall be deposited
367 into the Grants and Donations Trust Fund in the Justice
368 Administrative Commission for administrative costs, training
369 costs, and costs associated with the implementation and
370 maintenance of Florida foster care citizen review panels in a
371 constitutional charter county as provided for in s. 39.702.

372 (f) Twenty and five-tenths percent shall be deposited into
373 the fine and forfeiture fund established pursuant to s. 142.01
374 ~~paid to the clerk of the court for administrative costs.~~

375 Section 13. Subsection (1) of section 775.083, Florida
376 Statutes, is amended to read:

377 775.083 Fines.—

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378 (1) A person who has been convicted of an offense other
379 than a capital felony may be sentenced to pay a fine in addition
380 to any punishment described in s. 775.082; when specifically
381 authorized by statute, he or she may be sentenced to pay a fine
382 in lieu of any punishment described in s. 775.082. A person who
383 has been convicted of a noncriminal violation may be sentenced
384 to pay a fine. Fines for designated crimes and for noncriminal
385 violations may ~~shall~~ not exceed:

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

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

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

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

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

395 (f) Any higher amount equal to double the pecuniary gain
396 derived from the offense by the offender or double the pecuniary
397 loss suffered by the victim.

398 (g) Any higher amount specifically authorized by statute.
399

400 Fines imposed in this subsection shall be deposited by the clerk
401 of the court in the fine and forfeiture fund established
402 pursuant to s. 142.01, ~~except that the clerk shall remit fines~~
403 ~~imposed when adjudication is withheld to the Department of~~
404 ~~Revenue for deposit in the General Revenue Fund.~~ If a defendant
405 is unable to pay a fine, the court may defer payment of the fine
406 to a date certain. As used in this subsection, the term

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407 "convicted" or "conviction" means a determination of guilt which
408 is the result of a trial or the entry of a plea of guilty or
409 nolo contendere, regardless of whether adjudication is withheld.

410 Section 14. The amendments to ss. 40.24, 40.26, 40.29,
411 40.31, 40.32, 40.33, and 40.34, Florida Statutes, made by this
412 act shall apply retroactively to October 1, 2014.

413 Section 15. For the 2015-2016 county fiscal year beginning
414 October 1, 2015, and ending September 30, 2016, the total
415 approved budgets for the clerks of the circuit court shall be
416 \$460 million. Notwithstanding any provision of s. 28.36, Florida
417 Statutes, clerks of the circuit court are authorized to spend
418 \$460 million of their total collected revenues for the 2015-2016
419 county fiscal year. The Florida Clerks of Court Operations
420 Corporation shall determine budget allocations for individual
421 clerks of the circuit court for such fiscal year.

422 Section 16. In order to implement the amendments made by
423 this act to ss. 40.24, 40.26, 40.29, 40.31, 40.32, 40.33, and
424 40.34, Florida Statutes, for the entire 2014-2015 county fiscal
425 year, notwithstanding any provision of law related to quarterly
426 submissions, clerks of the circuit court shall submit estimates
427 of jury-related costs for the first two quarters of the 2014-
428 2015 county fiscal year to the Justice Administrative Commission
429 as soon as practicable after the effective date of this act.

430 Section 17. This act shall take effect upon becoming a law.