

By the Committee on Judiciary; and Senator Dean

590-02822-15

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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.; expanding the list of duties of the Florida  
8       Clerks of Court Operations Corporation; revising the  
9       list of court-related functions that clerks may fund  
10      from filing fees, service charges, costs, and fines;  
11      amending s. 28.37, F.S.; removing an obsolete date;  
12      redirecting transfer of specified excess funds from  
13      the General Revenue Fund to the Clerks of the Court  
14      Trust Fund if certain future-year revenue deficits are  
15      estimated; restricting excess fund transfers to costs  
16      submitted for the previous county fiscal year;  
17      amending s. 40.24, F.S.; authorizing the clerk to seek  
18      reimbursement for jury-related costs from the state;  
19      amending s. 40.29, F.S.; requiring the clerk to  
20      forward quarterly estimates on jury-related costs to  
21      the Florida Clerks of Court Operations Corporation;  
22      revising procedures governing the payment of due-  
23      process costs; amending s. 40.31, F.S.; authorizing  
24      the Florida Clerks of Court Operations Corporation to  
25      apportion appropriations for jury-related costs if  
26      certain conditions are met; amending s. 40.32, F.S.;  
27      removing a provision regarding funding of jury-related  
28      costs to conform to changes made by the act; amending  
29      s. 40.33, F.S.; authorizing the clerk to request the

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30 Florida Clerks of Court Operations Corporation for  
31 additional funds to pay due-process costs in the event  
32 of a deficiency; amending s. 40.34, F.S.; requiring  
33 the clerk to provide for payroll in triplicate for the  
34 payment of jurors; requiring the clerk to forward  
35 juror payrolls to the Florida Clerks of Courts  
36 Operations Corporation; requiring the corporation to  
37 audit such payrolls; amending s. 318.18, F.S.;

38 redirecting a portion of the revenue from the civil  
39 penalty for certain traffic infractions from the  
40 General Revenue Fund to the fine and forfeiture fund;  
41 removing an obsolete date; amending s. 318.21, F.S.;

42 revising the distribution and payment of civil  
43 penalties received by a county court pursuant to ch.  
44 318, F.S.; amending s. 775.083, F.S.; redirecting  
45 revenue from fines when adjudication is withheld from  
46 the General Revenue Fund to the fine and forfeiture  
47 fund; specifying the authorized budget for the clerks  
48 of the circuit court for the 2015-2016 county fiscal  
49 year; providing an effective date.

50  
51 Be It Enacted by the Legislature of the State of Florida:

52  
53 Section 1. Paragraph (c) of subsection (1) of section  
54 28.241, Florida Statutes, is amended to read:

55 28.241 Filing fees for trial and appellate proceedings.—

56 (1) Filing fees are due at the time a party files a  
57 pleading to initiate a proceeding or files a pleading for  
58 relief. Reopen fees are due at the time a party files a pleading

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59 to reopen a proceeding if at least 90 days have elapsed since  
60 the filing of a final order or final judgment with the clerk. If  
61 a fee is not paid upon the filing of the pleading as required  
62 under this section, the clerk shall pursue collection of the fee  
63 pursuant to s. 28.246.

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

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

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

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

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

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88 The clerk shall deposit ~~remit~~ the fees collected under this  
89 subparagraph ~~to the Department of Revenue for deposit~~ into the  
90 fine and forfeiture fund established pursuant to s. 142.01  
91 ~~General Revenue Fund.~~

92 Section 2. Paragraph (i) is added to subsection (2) of  
93 section 28.35, Florida Statutes, and paragraph (a) of subsection  
94 (3) of that section is amended, to read:

95 28.35 Florida Clerks of Court Operations Corporation.—

96 (2) The duties of the corporation shall include the  
97 following:

98 (i) Paying jury-related invoices submitted by the clerks of  
99 the circuit court pursuant to s. 40.29.

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

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

116 28.37 Fines, fees, service charges, and costs remitted to

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117 the state.—

118 (2) The ~~Beginning November 1, 2013,~~ that portion of all  
119 fines, fees, service charges, and costs collected by the clerks  
120 of the court for the previous month which is in excess of one-  
121 twelfth of the clerks' total budget for the performance of  
122 court-related functions shall be remitted to the Department of  
123 Revenue for deposit into the Clerks of the Court Trust Fund.  
124 Such collections do not include funding received for the  
125 operation of the Title IV-D child support collections and  
126 disbursement program. The clerk of the court shall remit the  
127 revenues collected during the previous month due to the state on  
128 or before the 10th day of each month.

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

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146 the current fiscal year or the next 2 fiscal years ~~year~~ is less  
147 than the cumulative amount of authorized budgets for the clerks  
148 of court for the current fiscal year, the Department of Revenue  
149 shall retain in the Clerks of the Court Trust Fund the estimated  
150 amount needed to fully fund the clerks of court for the current  
151 and next 2 fiscal years ~~year~~ based upon the current budget  
152 established under s. 28.35.

153 Section 4. Present subsections (6) through (8) of section  
154 40.24, Florida Statutes, are redesignated as subsections (7)  
155 through (9), respectively, and a new subsection (6) is added to  
156 that section, to read:

157 40.24 Compensation and reimbursement policy.—

158 (6) Clerks of the circuit court are entitled to  
159 reimbursement from the state for jury-related costs, including  
160 juror compensation and personnel and operational costs of the  
161 clerk directly related to jury management.

162 Section 5. Section 40.29, Florida Statutes, is amended to  
163 read:

164 40.29 Payment of due-process costs.—

165 (1) Each clerk of the circuit court:7

166 (a) On behalf of the state attorney, private court-  
167 appointed counsel, the public defender, and the criminal  
168 conflict and civil regional counsel, shall forward to the  
169 Justice Administrative Commission, by county, a quarterly  
170 estimate of funds necessary to pay for ordinary witnesses,  
171 including, but not limited to, witnesses in civil traffic cases  
172 and witnesses of the state attorney, the public defender,  
173 criminal conflict and civil regional counsel, private court-  
174 appointed counsel, and persons determined to be indigent for

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175 costs. Each quarter of the state fiscal year, the commission,  
176 based upon the estimates, shall advance funds to each clerk to  
177 pay for these ordinary witnesses from state funds specifically  
178 appropriated for the payment of ordinary witnesses.

179 (b) Shall forward a quarterly estimate of funds necessary  
180 to pay jury-related costs, by county, to the Florida Clerks of  
181 Court Operations Corporation.

182 (2) Upon receipt of an estimate pursuant to subsection (1),  
183 the Justice Administrative Commission or the Florida Clerks of  
184 Court Operations Corporation, as applicable, shall endorse the  
185 amount deemed necessary for payment by the clerk of the court  
186 during the quarterly fiscal period and shall submit a request  
187 for payment to the Chief Financial Officer.

188 (3) Upon receipt of the funds from the Chief Financial  
189 Officer, the clerk of the court shall pay all invoices approved  
190 and submitted by the state attorney, the public defender, the  
191 clerk of the court, criminal conflict and civil regional  
192 counsel, and private court-appointed counsel for the items  
193 enumerated in subsection (1).

194 (4) After review for compliance with applicable rates and  
195 requirements, the Justice Administrative Commission or the  
196 Florida Clerks of Court Operations Corporation, as applicable,  
197 shall pay all invoices related to due process services and  
198 juries ~~service related invoices~~, except those enumerated in  
199 subsection (1), approved and submitted by the state attorney,  
200 the public defender, the clerk of the court, criminal conflict  
201 and civil regional counsel, or private court-appointed counsel  
202 in accordance with the applicable requirements of ss. 29.005,  
203 29.006, and 29.007.

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204 Section 6. Section 40.31, Florida Statutes, is amended to  
205 read:

206 40.31 Apportionment of appropriations ~~Justice~~  
207 ~~Administrative Commission may apportion appropriation.~~-

208 (1) If the Justice Administrative Commission has reason to  
209 believe that the amount appropriated by the Legislature is  
210 insufficient to meet the expenses of witnesses during the  
211 remaining part of the state fiscal year, the commission may  
212 apportion the money in the treasury for that purpose among the  
213 several counties, basing such apportionment upon the amount  
214 expended for the payment of witnesses in each county during the  
215 prior fiscal year. In such case, each county shall be paid by  
216 warrant, issued by the Chief Financial Officer, only the amount  
217 so apportioned to each county, and, when the amount so  
218 apportioned is insufficient to pay in full all the witnesses  
219 during a quarterly fiscal period, the clerk of the court shall  
220 apportion the money received pro rata among the witnesses  
221 entitled to pay and shall give to each witness a certificate of  
222 the amount of compensation still due, which certificate shall be  
223 held by the commission as other demands against the state.

224 (2) If the Florida Clerks of Court Operations Corporation  
225 has reason to believe that the amount appropriated by the  
226 Legislature is insufficient to meet jury-related costs during  
227 the remaining part of the state fiscal year, the corporation may  
228 apportion the money in the treasury for that purpose among the  
229 several counties, basing such apportionment upon the amount  
230 expended for jury-related costs in each county during the prior  
231 fiscal year. In such case, each county shall be paid by warrant,  
232 issued by the Chief Financial Officer, only the amount so



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233 apportioned to each county. When the amount so apportioned is  
234 insufficient to pay in full all jury-related costs during a  
235 quarterly fiscal period, the clerk of the court shall pay jurors  
236 entitled to pay before reimbursing any other jury-related costs.  
237 If the amount so apportioned is insufficient to pay in full all  
238 jurors during a quarterly fiscal period, the clerk of the court  
239 shall apportion the money received pro rata among the jurors  
240 entitled to pay and shall give to each juror a certificate of  
241 the amount of compensation still due, which certificate shall be  
242 held by the Florida Clerks of Court Operations Corporation as  
243 other demands against the state.

244 Section 7. Section 40.32, Florida Statutes, is amended to  
245 read:

246 40.32 Clerks to disburse money; payments to jurors and  
247 witnesses.—

248 (1) All moneys drawn from the treasury under the provisions  
249 of this chapter by the clerk of the court shall be disbursed by  
250 the clerk of the court as far as needed in payment of jurors and  
251 witnesses, except for expert witnesses paid under a contract or  
252 other professional services agreement pursuant to ss. 29.004,  
253 29.005, 29.006, and 29.007, for the legal compensation for  
254 service during the quarterly fiscal period for which the moneys  
255 were drawn and for no other purposes.

256 ~~(2) The payment of jurors and the payment of expenses for~~  
257 ~~meals and lodging for jurors under the provisions of this~~  
258 ~~chapter are court-related functions that the clerk of the court~~  
259 ~~shall fund from filing fees, service charges, court costs, and~~  
260 ~~finances as part of the maximum annual budget under ss. 28.35 and~~  
261 ~~28.36.~~

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262        ~~(2)~~<sup>(3)</sup> Jurors and witnesses shall be paid by the clerk of  
263 the court in cash, by check, or by warrant within 20 days after  
264 completion of jury service or completion of service as a  
265 witness.

266        (a) If the clerk of the court pays a juror or witness by  
267 cash, the juror or witness shall sign the payroll in the  
268 presence of the clerk, a deputy clerk, or some other person  
269 designated by the clerk.

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

274        Section 8. Section 40.33, Florida Statutes, is amended to  
275 read:

276        40.33 Deficiency.—If the funds required for payment of the  
277 items enumerated in s. 40.29(1) in any county during a quarterly  
278 fiscal period exceeds the amount of the funds provided pursuant  
279 to s. 40.29(3), the state attorney, public defender, clerk of  
280 the circuit court, or criminal conflict and civil regional  
281 counsel, as applicable, shall make a further request upon the  
282 Justice Administrative Commission or the Florida Clerks of Court  
283 Operations Corporation, as applicable, for the items enumerated  
284 in s. 40.29(1) for the amount necessary to allow for full  
285 payment.

286        Section 9. Section 40.34, Florida Statutes, is amended to  
287 read:

288        40.34 Clerks to make triplicate payroll.—

289        (1) The clerk of the court shall make out a payroll in  
290 triplicate for the payment of jurors and witnesses, which

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291 payroll shall contain:

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

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

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

297 (d) The total compensation each juror and witness is  
298 entitled to receive.

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

301 (3) Compensation paid a juror or witness shall be attested  
302 as provided in s. 40.32. The payroll shall be approved by the  
303 signature of the clerk, or his or her deputy, except for the  
304 payroll as to witnesses appearing before the state attorney,  
305 which payroll shall be approved by the signature of the state  
306 attorney or an assistant state attorney.

307 (4) The clerks of the courts shall forward two copies of  
308 such payrolls:

309 (a) Related to witnesses to the Justice Administrative  
310 Commission, within 2 weeks after the last day of the quarterly  
311 fiscal period, and the commission shall audit such payrolls.

312 (b) Related to jurors to the Florida Clerks of Court  
313 Operations Corporation, within 2 weeks after the last day of the  
314 quarterly fiscal period, and the corporation shall audit such  
315 payrolls.

316 Section 10. Paragraph (a) of subsection (8) and paragraph  
317 (a) of subsection (15) of section 318.18, Florida Statutes, are  
318 amended to read:

319 318.18 Amount of penalties.—The penalties required for a

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320 noncriminal disposition pursuant to s. 318.14 or a criminal  
321 offense listed in s. 318.17 are as follows:

322 (8) (a) Any person who fails to comply with the court's  
323 requirements or who fails to pay the civil penalties specified  
324 in this section within the 30-day period provided for in s.  
325 318.14 must pay an additional civil penalty of \$16, \$6.50 of  
326 which must be deposited into the fine and forfeiture fund  
327 established pursuant to s. 142.01 ~~remitted to the Department of~~  
328 ~~Revenue for deposit in the General Revenue Fund,~~ and \$9.50 of  
329 which must be remitted to the Department of Revenue for deposit  
330 in the Highway Safety Operating Trust Fund. ~~Of this additional~~  
331 ~~civil penalty of \$16, \$4 is not revenue for purposes of s. 28.36~~  
332 ~~and may not be used in establishing the budget of the clerk of~~  
333 ~~the court under that section or s. 28.35.~~ The department shall  
334 contract with the Florida Association of Court Clerks, Inc., to  
335 design, establish, operate, upgrade, and maintain an automated  
336 statewide Uniform Traffic Citation Accounting System to be  
337 operated by the clerks of the court which shall include, but not  
338 be limited to, the accounting for traffic infractions by type, a  
339 record of the disposition of the citations, and an accounting  
340 system for the fines assessed and the subsequent fine amounts  
341 paid to the clerks of the court. ~~On or before December 1, 2001,~~  
342 The clerks of the court must provide the information required by  
343 this chapter to be transmitted to the department by electronic  
344 transmission pursuant to the contract.

345 (15) (a)1. One hundred and fifty-eight dollars for a  
346 violation of s. 316.074(1) or s. 316.075(1) (c)1. when a driver  
347 has failed to stop at a traffic signal and when enforced by a  
348 law enforcement officer. Sixty dollars shall be distributed as

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349 provided in s. 318.21, \$30 shall be deposited into the fine and  
350 forfeiture fund established pursuant to s. 142.01 ~~distributed to~~  
351 ~~the General Revenue Fund~~, \$3 shall be remitted to the Department  
352 of Revenue for deposit into the Brain and Spinal Cord Injury  
353 Trust Fund, and the remaining \$65 shall be remitted to the  
354 Department of Revenue for deposit into the Emergency Medical  
355 Services Trust Fund of the Department of Health.

356 2. One hundred and fifty-eight dollars for a violation of  
357 s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to  
358 stop at a traffic signal and when enforced by the department's  
359 traffic infraction enforcement officer. One hundred dollars  
360 shall be remitted to the Department of Revenue for deposit into  
361 the General Revenue Fund, \$45 shall be distributed to the county  
362 for any violations occurring in any unincorporated areas of the  
363 county or to the municipality for any violations occurring in  
364 the incorporated boundaries of the municipality in which the  
365 infraction occurred, \$10 shall be remitted to the Department of  
366 Revenue for deposit into the Department of Health Emergency  
367 Medical Services Trust Fund for distribution as provided in s.  
368 395.4036(1), and \$3 shall be remitted to the Department of  
369 Revenue for deposit into the Brain and Spinal Cord Injury Trust  
370 Fund.

371 3. One hundred and fifty-eight dollars for a violation of  
372 s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to  
373 stop at a traffic signal and when enforced by a county's or  
374 municipality's traffic infraction enforcement officer. Seventy-  
375 five dollars shall be distributed to the county or municipality  
376 issuing the traffic citation, \$70 shall be remitted to the  
377 Department of Revenue for deposit into the General Revenue Fund,

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378 \$10 shall be remitted to the Department of Revenue for deposit  
379 into the Department of Health Emergency Medical Services Trust  
380 Fund for distribution as provided in s. 395.4036(1), and \$3  
381 shall be remitted to the Department of Revenue for deposit into  
382 the Brain and Spinal Cord Injury Trust Fund.

383 Section 11. Paragraphs (a) and (f) of subsection (2) of  
384 section 318.21, Florida Statutes, are amended to read:

385 318.21 Disposition of civil penalties by county courts.—All  
386 civil penalties received by a county court pursuant to the  
387 provisions of this chapter shall be distributed and paid monthly  
388 as follows:

389 (2) Of the remainder:

390 (a) ~~Twenty and~~ Six-tenths percent shall be remitted to the  
391 Department of Revenue for deposit into the General Revenue Fund  
392 ~~of the state~~, except that the first \$300,000 shall be deposited  
393 into the Grants and Donations Trust Fund in the Justice  
394 Administrative Commission for administrative costs, training  
395 costs, and costs associated with the implementation and  
396 maintenance of Florida foster care citizen review panels in a  
397 constitutional charter county as provided for in s. 39.702.

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

401 Section 12. Subsection (1) of section 775.083, Florida  
402 Statutes, is amended to read:

403 775.083 Fines.—

404 (1) A person who has been convicted of an offense other  
405 than a capital felony may be sentenced to pay a fine in addition  
406 to any punishment described in s. 775.082; when specifically

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407 authorized by statute, he or she may be sentenced to pay a fine  
408 in lieu of any punishment described in s. 775.082. A person who  
409 has been convicted of a noncriminal violation may be sentenced  
410 to pay a fine. Fines for designated crimes and for noncriminal  
411 violations may ~~shall~~ not exceed:

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

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

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

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

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

421 (f) Any higher amount equal to double the pecuniary gain  
422 derived from the offense by the offender or double the pecuniary  
423 loss suffered by the victim.

424 (g) Any higher amount specifically authorized by statute.

425  
426 Fines imposed in this subsection shall be deposited by the clerk  
427 of the court in the fine and forfeiture fund established  
428 pursuant to s. 142.01, ~~except that the clerk shall remit fines~~  
429 ~~imposed when adjudication is withheld to the Department of~~  
430 ~~Revenue for deposit in the General Revenue Fund.~~ If a defendant  
431 is unable to pay a fine, the court may defer payment of the fine  
432 to a date certain. As used in this subsection, the term  
433 "convicted" or "conviction" means a determination of guilt which  
434 is the result of a trial or the entry of a plea of guilty or  
435 nolo contendere, regardless of whether adjudication is withheld.

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436           Section 13. For the 2015-2016 county fiscal year beginning  
437 October 1, 2015, and ending September 30, 2016, the total  
438 approved budgets for the clerks of the circuit court shall be  
439 \$460 million. Notwithstanding any provision of s. 28.36, Florida  
440 Statutes, clerks of the circuit court are authorized to spend  
441 \$460 million of their total collected revenues for the 2015-2016  
442 county fiscal year. The Florida Clerks of Court Operations  
443 Corporation shall determine budget allocations for individual  
444 clerks of the circuit court for such fiscal year.

445           Section 14. This act shall take effect October 1, 2015.