

1 A bill to be entitled
2 An act relating to clerks of the court; amending s.
3 28.241, F.S.; providing for the fee paid by certain
4 additional parties who file a pleading in an original
5 civil action in circuit court for affirmative relief
6 by specified pleadings to be deposited into the
7 clerks' fine and forfeiture fund instead of the
8 General Revenue Fund; amending s. 28.35, F.S.;
9 revising the list of court-related functions that
10 clerks of the circuit court may fund from fees,
11 charges, costs, and fines; amending s. 28.37, F.S.;
12 providing annual transfer of specified excess funds to
13 the Clerks of the Court Trust Fund rather than to the
14 General Revenue Fund if certain future-year revenue
15 deficits are estimated; limiting the transfer to
16 excess funds from the previous county fiscal year;
17 amending ss. 40.24, 40.26, and 40.32, F.S.; providing
18 for state responsibility for jury-related costs;
19 providing for retroactive effect to the beginning of
20 the 2014-2015 county fiscal year; amending s. 40.29,
21 F.S.; requiring each clerk of the circuit court to
22 make a quarterly estimate of funds necessary to pay
23 jury-related costs; providing for reimbursement to
24 clerks of court for jury-related costs; providing for
25 retroactive effect to the beginning of the 2014-2015
26 county fiscal year; amending s. 40.31, F.S.; providing

27 | for apportionment of reimbursement for jury-related
28 | costs under certain conditions; providing for
29 | retroactive effect to the beginning of the 2014-2015
30 | county fiscal year; amending s. 40.33, F.S.;
31 | authorizing a clerk of the circuit court to make a
32 | request regarding certain deficiencies; providing for
33 | retroactive effect to the beginning of the 2014-2015
34 | county fiscal year; amending s. 40.34, F.S.; providing
35 | for the clerk of the court to make out a payroll for
36 | payment of jurors; providing for retroactive effect to
37 | the beginning of the 2014-2015 county fiscal year;
38 | amending s. 318.18, F.S.; providing for the deposit of
39 | a portion of a civil penalty for failure to comply
40 | with a court requirement and a portion of a penalty
41 | for failure to stop at a traffic signal under certain
42 | conditions into the clerks' fine and forfeiture fund
43 | rather than the General Revenue Fund; deleting
44 | obsolete language; amending s. 318.21, F.S.; providing
45 | for the deposit of a portion of such civil penalties
46 | into the clerks' fine and forfeiture fund instead of
47 | the General Revenue Fund; amending s. 775.083, F.S.;
48 | providing for deposit of fines imposed when certain
49 | adjudications are withheld into the clerks' fine and
50 | forfeiture fund instead of the General Revenue Fund;
51 | specifying the authorized budget for the clerks of the
52 | circuit court for the 2015-2016 county fiscal year;

53 authorizing the Florida Clerks of Court Operations
54 Corporation to determine budget amounts for individual
55 clerks for that period; providing for estimates of
56 jury-related costs for the first two quarters of the
57 county fiscal year 2014-2015; providing effective
58 dates.

59
60 Be It Enacted by the Legislature of the State of Florida:

61
62 Section 1. Paragraph (c) of subsection (1) of section
63 28.241, Florida Statutes, is amended to read:

64 28.241 Filing fees for trial and appellate proceedings.—

65 (1) Filing fees are due at the time a party files a
66 pleading to initiate a proceeding or files a pleading for
67 relief. Reopen fees are due at the time a party files a pleading
68 to reopen a proceeding if at least 90 days have elapsed since
69 the filing of a final order or final judgment with the clerk. If
70 a fee is not paid upon the filing of the pleading as required
71 under this section, the clerk shall pursue collection of the fee
72 pursuant to s. 28.246.

73 (c)1. A party in addition to a party described in sub-
74 subparagraph (a)1.a. who files a pleading in an original civil
75 action in circuit court for affirmative relief by cross-claim,
76 counterclaim, counterpetition, or third-party complaint shall
77 pay the clerk of court a fee of \$395. A party in addition to a
78 party described in sub-subparagraph (a)1.b. who files a pleading

79 | in an original civil action in circuit court for affirmative
 80 | relief by cross-claim, counterclaim, counterpetition, or third-
 81 | party complaint shall pay the clerk of court a fee of \$295. The
 82 | clerk shall deposit ~~remit~~ the fee ~~to the Department of Revenue~~
 83 | ~~for deposit~~ into the fine and forfeiture fund established
 84 | pursuant to s. 142.01 General Revenue Fund.

85 | 2. A party in addition to a party described in
 86 | subparagraph (a)2. who files a pleading in an original civil
 87 | action in circuit court for affirmative relief by cross-claim,
 88 | counterclaim, counterpetition, or third-party complaint shall
 89 | pay the clerk of court a graduated fee of:

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

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

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

96 |
 97 | The clerk shall deposit ~~remit~~ the fees collected under this
 98 | subparagraph ~~to the Department of Revenue for deposit~~ into the
 99 | fine and forfeiture fund established pursuant to s. 142.01
 100 | General Revenue Fund.

101 | Section 2. Paragraph (a) of subsection (3) of section
 102 | 28.35, Florida Statutes, is amended to read:

103 | 28.35 Florida Clerks of Court Operations Corporation.—

104 | (3) (a) The list of court-related functions that clerks may

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

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

120 28.37 Fines, fees, service charges, and costs remitted to
 121 the state.—

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

131 collected during the previous month due to the state on or
 132 before the 10th day of each month.

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

157 Section 4. Effective upon becoming a law and retroactively
 158 effective to the beginning of the 2014-2015 county fiscal year,
 159 subsections (3), (4), and (5) of section 40.24, Florida
 160 Statutes, are amended to read:

161 40.24 Compensation and reimbursement policy.—

162 (3) (a) Jurors who are regularly employed and who continue
 163 to receive regular wages while serving as a juror are not
 164 entitled to receive compensation from the state ~~clerk of the~~
 165 ~~circuit court~~ for the first 3 days of juror service.

166 (b) Jurors who are not regularly employed or who do not
 167 continue to receive regular wages while serving as a juror are
 168 entitled to receive \$15 per day for the first 3 days of juror
 169 service.

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

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

177 Section 5. Effective upon becoming a law and retroactively
 178 effective to the beginning of the 2014-2015 county fiscal year,
 179 section 40.26, Florida Statutes, is amended to read:

180 40.26 Meals and lodging for jurors.—The sheriff, when
 181 required by order of the court, shall provide juries with meals
 182 and lodging, the expense to be taxed against and paid by the

183 state clerk of the circuit court.

184 Section 6. Effective upon becoming a law and retroactively
 185 effective to the beginning of the 2014-2015 county fiscal year,
 186 subsections (1) and (4) of section 40.29, Florida Statutes, are
 187 amended to read:

188 40.29 Payment of due-process costs.—

189 (1) (a) Each clerk of the circuit court, on behalf of the
 190 state attorney, private court-appointed counsel, the public
 191 defender, and the criminal conflict and civil regional counsel,
 192 shall forward to the Justice Administrative Commission, by
 193 county, a quarterly estimate of funds necessary to pay for
 194 ordinary witnesses, including, but not limited to, witnesses in
 195 civil traffic cases and witnesses of the state attorney, the
 196 public defender, criminal conflict and civil regional counsel,
 197 private court-appointed counsel, and persons determined to be
 198 indigent for costs. Each quarter of the state fiscal year, the
 199 commission, based upon the estimates, shall advance funds to
 200 each clerk to pay for these ordinary witnesses from state funds
 201 specifically appropriated for the payment of ordinary witnesses.

202 (b) Each clerk of the circuit court shall forward to the
 203 Justice Administrative Commission a quarterly estimate of funds
 204 necessary to pay jury-related costs, including juror
 205 compensation and personnel and operational costs of the clerk
 206 directly related to jury management.

207 (4) After review for compliance with applicable rates and
 208 requirements, the Justice Administrative Commission shall pay

209 all due process service-related and jury-related ~~service-related~~
 210 invoices, except those enumerated in subsection (1), approved
 211 and submitted by the state attorney, the public defender,
 212 criminal conflict and civil regional counsel, clerk of the
 213 circuit court, or private court-appointed counsel in accordance
 214 with the applicable requirements of ss. 29.005, 29.006, and
 215 29.007.

216 Section 7. Effective upon becoming a law and retroactively
 217 effective to the beginning of the 2014-2015 county fiscal year,
 218 section 40.31, Florida Statutes, is amended to read:

219 40.31 Justice Administrative Commission may apportion
 220 appropriation.—If the Justice Administrative Commission has
 221 reason to believe that the amounts ~~amount~~ appropriated by the
 222 Legislature are ~~is~~ insufficient to meet the expenses of
 223 witnesses or of jury-related costs during the remaining part of
 224 the state fiscal year, the commission may apportion the money in
 225 the treasury for that purpose among the several counties, basing
 226 such apportionment upon the amount expended for the payment of
 227 witnesses or for jury-related costs in each county during the
 228 prior fiscal year. In such case, each county shall be paid by
 229 warrant, issued by the Chief Financial Officer, only the amount
 230 so apportioned to each county. ~~and,~~ When the amount so
 231 apportioned is insufficient to pay in full all the witnesses
 232 during a quarterly fiscal period, the clerk of the court shall
 233 apportion the money received pro rata among the witnesses
 234 entitled to pay and shall give to each witness a certificate of

235 the amount of compensation still due, which certificate shall be
236 held by the commission as other demands against the state. When
237 the amount so apportioned is insufficient to pay in full all
238 jury-related costs of the clerk of the circuit court during a
239 quarterly fiscal period, the commission shall give each clerk a
240 certificate of the amount still due, which certificate shall be
241 held by the commission as other demands against the state.

242 Section 8. Effective upon becoming a law and retroactively
243 effective to the beginning of the 2014-2015 county fiscal year,
244 section 40.32, Florida Statutes, is amended to read:

245 40.32 Clerks to disburse money; payments to jurors and
246 witnesses.—

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

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

261 (2)~~(3)~~ Jurors and witnesses shall be paid by the clerk of
 262 the court in cash, by check, or by warrant within 20 days after
 263 completion of jury service or completion of service as a
 264 witness.

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

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

273 Section 9. Effective upon becoming a law and retroactively
 274 effective to the beginning of the 2014-2015 county fiscal year,
 275 section 40.33, Florida Statutes, is amended to 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 for the items enumerated in s.
 283 40.29(1) for the amount necessary to allow for full payment.

284 Section 10. Effective upon becoming a law and retroactively
 285 effective to the beginning of the 2014-2015 county fiscal year,
 286 section 40.34, Florida Statutes, is amended to read:

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287 40.34 Clerks to make triplicate payroll.—

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

291 (a) The name of each juror and witness entitled to be paid
292 with state funds.~~†~~

293 (b) The number of days for which the jurors and witnesses
294 are entitled to be paid.~~†~~

295 (c) The number of miles traveled by each.~~†~~ and

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

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

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

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

310 Section 11. Paragraph (a) of subsection (8) and paragraph
311 (a) of subsection (15) of section 318.18, Florida Statutes, are
312 amended to read:

313 318.18 Amount of penalties.—The penalties required for a
314 noncriminal disposition pursuant to s. 318.14 or a criminal
315 offense listed in s. 318.17 are as follows:

316 (8) (a) Any person who fails to comply with the court's
317 requirements or who fails to pay the civil penalties specified
318 in this section within the 30-day period provided for in s.
319 318.14 must pay an additional civil penalty of \$16, \$6.50 of
320 which must be deposited into the fine and forfeiture fund
321 established pursuant to s. 142.01 ~~remitted to the Department of~~
322 ~~Revenue for deposit in the General Revenue Fund,~~ and \$9.50 of
323 which must be remitted to the Department of Revenue for deposit
324 in the Highway Safety Operating Trust Fund. ~~Of this additional~~
325 ~~civil penalty of \$16, \$4 is not revenue for purposes of s. 28.36~~
326 ~~and may not be used in establishing the budget of the clerk of~~
327 ~~the court under that section or s. 28.35.~~ The department shall
328 contract with the Florida Association of Court Clerks, Inc., to
329 design, establish, operate, upgrade, and maintain an automated
330 statewide Uniform Traffic Citation Accounting System to be
331 operated by the clerks of the court which shall include, but not
332 be limited to, the accounting for traffic infractions by type, a
333 record of the disposition of the citations, and an accounting
334 system for the fines assessed and the subsequent fine amounts
335 paid to the clerks of the court. ~~On or before December 1, 2001,~~
336 The clerks of the court must provide the information required by
337 this chapter to be transmitted to the department by electronic
338 transmission pursuant to the contract.

339 (15) (a)1. One hundred and fifty-eight dollars for a
 340 violation of s. 316.074(1) or s. 316.075(1) (c)1. when a driver
 341 has failed to stop at a traffic signal and when enforced by a
 342 law enforcement officer. Sixty dollars shall be distributed as
 343 provided in s. 318.21, \$30 shall be deposited into the fine and
 344 forfeiture fund established pursuant to s. 142.01 ~~distributed to~~
 345 ~~the General Revenue Fund~~, \$3 shall be remitted to the Department
 346 of Revenue for deposit into the Brain and Spinal Cord Injury
 347 Trust Fund, and the remaining \$65 shall be remitted to the
 348 Department of Revenue for deposit into the Emergency Medical
 349 Services Trust Fund of the Department of Health.

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

365 3. One hundred and fifty-eight dollars for a violation of
366 s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
367 stop at a traffic signal and when enforced by a county's or
368 municipality's traffic infraction enforcement officer. Seventy-
369 five dollars shall be distributed to the county or municipality
370 issuing the traffic citation, \$70 shall be remitted to the
371 Department of Revenue for deposit into the General Revenue Fund,
372 \$10 shall be remitted to the Department of Revenue for deposit
373 into the Department of Health Emergency Medical Services Trust
374 Fund for distribution as provided in s. 395.4036(1), and \$3
375 shall be remitted to the Department of Revenue for deposit into
376 the Brain and Spinal Cord Injury Trust Fund.

377 Section 12. Paragraphs (a) and (f) of subsection (2) of
378 section 318.21, Florida Statutes, is amended to read:

379 318.21 Disposition of civil penalties by county courts.—
380 All civil penalties received by a county court pursuant to the
381 provisions of this chapter shall be distributed and paid monthly
382 as follows:

383 (2) Of the remainder:

384 (a) ~~Twenty and~~ Six-tenths percent shall be remitted to the
385 Department of Revenue for deposit into the General Revenue Fund
386 of the state, except that the first \$300,000 shall be deposited
387 into the Grants and Donations Trust Fund in the Justice
388 Administrative Commission for administrative costs, training
389 costs, and costs associated with the implementation and

390 maintenance of Florida foster care citizen review panels in a
 391 constitutional charter county as provided for in s. 39.702.

392 (f) Twenty and five-tenths percent shall be deposited into
 393 the fine and forfeiture trust fund established pursuant to s.
 394 142.01 ~~paid to the clerk of the court for administrative costs.~~

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

397 775.083 Fines.—

398 (1) A person who has been convicted of an offense other
 399 than a capital felony may be sentenced to pay a fine in addition
 400 to any punishment described in s. 775.082; when specifically
 401 authorized by statute, he or she may be sentenced to pay a fine
 402 in lieu of any punishment described in s. 775.082. A person who
 403 has been convicted of a noncriminal violation may be sentenced
 404 to pay a fine. Fines for designated crimes and for noncriminal
 405 violations shall not exceed:

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

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

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

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

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

415 (f) Any higher amount equal to double the pecuniary gain
 416 derived from the offense by the offender or double the pecuniary
 417 loss suffered by the victim.

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

419
 420 Fines imposed in this subsection shall be deposited by the clerk
 421 of the court in the fine and forfeiture fund established
 422 pursuant to s. 142.01, ~~except that the clerk shall remit fines~~
 423 ~~imposed when adjudication is withheld to the Department of~~
 424 ~~Revenue for deposit in the General Revenue Fund.~~ If a defendant
 425 is unable to pay a fine, the court may defer payment of the fine
 426 to a date certain. As used in this subsection, the term
 427 "convicted" or "conviction" means a determination of guilt which
 428 is the result of a trial or the entry of a plea of guilty or
 429 nolo contendere, regardless of whether adjudication is withheld.

430 Section 14. Notwithstanding any provision of s. 28.36,
 431 Florida Statutes, to the contrary, for the county fiscal year
 432 beginning October 1, 2015, and ending September 30, 2016, the
 433 clerks of court may spend up to \$460 million of their total
 434 collected revenues. The Florida Clerks of Court Operations
 435 Corporation shall determine budget amounts for the individual
 436 clerks for that period. The total approved budgets for the
 437 clerks of the court for the 2015-2016 county fiscal year shall
 438 be \$460 million.

439 Section 15. In order to implement sections 3 through 9 of
 440 this act for the entire 2014-2015 county fiscal year,

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441 notwithstanding provisions of the law related to quarterly
442 submissions, clerks of the circuit court must submit estimates
443 of jury-related costs for the first two quarters of the county
444 fiscal year 2014-2015 to the Justice Administrative Commission
445 as soon as practicable after the effective date of this act.

446 Section 16. Except as otherwise expressly provided in this
447 act, this act shall take effect upon becoming a law.