

By the Committee on Appropriations

576-03493-17

20172506\_\_

1                                   A bill to be entitled  
2       An act relating to clerks of the court; amending s.  
3       28.241, F.S.; requiring that certain filing fees for  
4       trial and appellate proceedings be deposited into  
5       clerks of the circuit court fine and forfeiture funds,  
6       rather than into the General Revenue Fund; amending s.  
7       28.35, F.S.; authorizing the Florida Clerks of the  
8       Court Operations Corporation to recommend budgets that  
9       are in excess of the official estimate under certain  
10      circumstances; requiring the corporation to certify  
11      the amounts of additional revenues necessary to fund  
12      certain budgets; conforming provisions to changes made  
13      by the act; amending s. 28.36, F.S.; requiring the  
14      corporation to certify the revenue deficit and report  
15      the amount necessary to fund anticipated expenditures  
16      to the commission; conforming provisions to changes  
17      made by the act; authorizing the Legislative Budget  
18      Commission to approve a budget that includes an  
19      anticipated deficit under certain circumstances;  
20      authorizing the corporation to request that the  
21      Legislature approve an appropriation of general  
22      revenue to the Clerks of the Court Trust Fund under  
23      certain circumstances; limiting the amount the  
24      corporation may request; amending s. 28.37, F.S.;  
25      revising the fund into which certain fines collected  
26      by the clerk are to be deposited; amending s. 40.29,  
27      F.S.; requiring the Justice Administrative Commission  
28      to provide funds to the clerks of court for certain  
29      jury-related costs; requiring the clerks of court and

576-03493-17

20172506\_\_

30 the corporation to submit quarterly estimates of  
31 certain expenses to the commission; providing the  
32 procedure for securing such funds and distributing  
33 them to the clerks; providing for the apportionment of  
34 costs if funds appropriated by the Legislature are  
35 estimated to be insufficient to pay all amounts  
36 requested; requiring the clerks of court to pay  
37 amounts in excess of appropriated amounts; amending s.  
38 318.18, F.S.; redirecting a portion of the revenue  
39 derived from the civil penalty for certain traffic  
40 infractions from the General Revenue Fund to the fine  
41 and forfeiture fund; removing obsolete provisions;  
42 amending s. 318.21, F.S.; revising the distribution  
43 and payment of civil penalties received by a county  
44 court pursuant to ch. 318, F.S.; amending s. 775.083,  
45 F.S.; deleting a provision requiring a clerk to remit  
46 certain fines under a specified circumstance to the  
47 Department of Revenue; providing an effective date.

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

50  
51 Section 1. Paragraph (c) of subsection (1) and subsection  
52 (2) of section 28.241, Florida Statutes, are amended to read:

53 28.241 Filing fees for trial and appellate proceedings.—

54 (1) Filing fees are due at the time a party files a  
55 pleading to initiate a proceeding or files a pleading for  
56 relief. Reopen fees are due at the time a party files a pleading  
57 to reopen a proceeding if at least 90 days have elapsed since  
58 the filing of a final order or final judgment with the clerk. If

576-03493-17

20172506\_\_

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

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

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

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

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

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

85

86 The clerk shall deposit ~~remit~~ the fees collected under this  
87 subparagraph ~~to the Department of Revenue for deposit~~ into the

576-03493-17

20172506\_\_

88 fine and forfeiture fund established pursuant to s. 142.01  
89 ~~General Revenue Fund.~~

90 (2) Upon the institution of any appellate proceeding from  
91 any lower court to the circuit court of any such county,  
92 including appeals filed by a county or municipality as provided  
93 in s. 34.041(5), or from the circuit court to an appellate court  
94 of the state, the clerk shall charge and collect from the party  
95 or parties instituting such appellate proceedings a filing fee  
96 not to exceed \$280 for filing a notice of appeal from the county  
97 court to the circuit court and, in addition to the filing fee  
98 required under s. 25.241 or s. 35.22, \$100 for filing a notice  
99 of appeal from the circuit court to the district court of appeal  
100 or to the Supreme Court. If the party is determined to be  
101 indigent, the clerk shall defer payment of the fee. ~~The clerk~~  
102 ~~shall remit the first \$80 to the Department of Revenue for~~  
103 ~~deposit into the General Revenue Fund.~~

104 Section 2. Paragraphs (f) and (h) of subsection (2) of  
105 section 28.35, Florida Statutes, are amended to read:

106 28.35 Florida Clerks of Court Operations Corporation.—

107 (2) The duties of the corporation shall include the  
108 following:

109 (f) Reviewing, certifying, and recommending proposed  
110 budgets submitted by clerks of the court pursuant to s. 28.36.  
111 As part of this process, the corporation shall:

112 1. Calculate the minimum amount of revenue necessary for  
113 each clerk of the court to efficiently perform the list of  
114 court-related functions specified in paragraph (3) (a). The  
115 corporation shall apply the workload measures appropriate for  
116 determining the individual level of review required to fund the

576-03493-17

20172506\_\_

117 clerk's budget.

118 2. Prepare a cost comparison of similarly situated clerks  
119 of the court, based on county population and numbers of filings,  
120 using the standard list of court-related functions specified in  
121 paragraph (3) (a).

122 3. Conduct an annual base budget review and an annual  
123 budget exercise examining the total budget of each clerk of the  
124 court. The review shall examine revenues from all sources,  
125 expenses of court-related functions, and expenses of noncourt-  
126 related functions as necessary to determine that court-related  
127 revenues are not being used for noncourt-related purposes. The  
128 review and exercise shall identify potential targeted budget  
129 reductions in the percentage amount provided in Schedule VIII-B  
130 of the state's previous year's legislative budget instructions,  
131 as referenced in s. 216.023(3), or an equivalent schedule or  
132 instruction as may be adopted by the Legislature.

133 4. Identify those proposed budgets containing funding for  
134 items not included on the standard list of court-related  
135 functions specified in paragraph (3) (a).

136 5. Identify those clerks projected to have court-related  
137 revenues insufficient to fund their anticipated court-related  
138 expenditures.

139 6. Use revenue estimates based on the official estimate for  
140 funds accruing to the clerks of the court made by the Revenue  
141 Estimating Conference. However, the corporation may recommend  
142 budgets that are in excess of the official estimate if such  
143 budgets fund only those court-related functions specified in  
144 paragraph (3) (a).

145 7. Identify and report pay and benefit increases in any

576-03493-17

20172506\_\_

146 proposed clerk budget, including, but not limited to, cost of  
147 living increases, merit increases, and bonuses.

148 8. Provide detailed explanation for increases in  
149 anticipated expenditures in any clerk budget that exceeds the  
150 current year budget by more than 3 percent.

151 9. Identify and report the budget of any clerk which  
152 exceeds the average budget of similarly situated clerks by more  
153 than 10 percent.

154 10. Certify the amounts of additional revenues necessary to  
155 fund the budgets recommended by the corporation and the combined  
156 budgets submitted by the clerks.

157 ~~(h) Beginning August 1, 2014, and each August 1 thereafter,~~  
158 ~~submitting to the Legislative Budget Commission, as provided in~~  
159 ~~s. 11.90, its proposed budget and the information described in~~  
160 ~~paragraph (f), as well as the proposed budgets for each clerk of~~  
161 ~~the court. Before October 1 of each year beginning in 2014, the~~  
162 ~~Legislative Budget Commission shall consider the submitted~~  
163 ~~budgets and shall approve, disapprove, or amend and approve the~~  
164 ~~corporation's budget and shall approve, disapprove, or amend and~~  
165 ~~approve the total of the clerks' combined budgets or any~~  
166 ~~individual clerk's budget. If the Legislative Budget Commission~~  
167 ~~fails to approve or amend and approve the corporation's budget~~  
168 ~~or the clerks' combined budgets before October 1, the clerk~~  
169 ~~shall continue to perform the court-related functions based upon~~  
170 ~~the clerk's budget for the previous county fiscal year.~~

171 Section 3. Paragraph (b) of subsection (2) of section  
172 28.36, Florida Statutes, is amended, present subsection (4) of  
173 that section is redesignated as subsection (5), and a new  
174 subsection (4) is added to that section, to read:

576-03493-17

20172506\_\_

175           28.36 Budget procedure.—There is established a budget  
176 procedure for the court-related functions of the clerks of the  
177 court.

178           (2) Each proposed budget shall further conform to the  
179 following requirements:

180           (b) The proposed budget must be balanced such that the  
181 total of the estimated revenues available equals or exceeds the  
182 total of the anticipated expenditures. Such revenues include  
183 revenue projected to be received from fees, service charges,  
184 costs, and fines for court-related functions during the fiscal  
185 period covered by the budget. The anticipated expenditures must  
186 be itemized as required by the corporation. If the corporation  
187 determines that the clerks' total anticipated expenditures  
188 exceed the clerks' total estimated revenues as determined by the  
189 Revenue Estimating Conference, the corporation shall certify the  
190 amount necessary to fund anticipated expenditures to the  
191 Legislative Budget Commission as part of the budget process  
192 pursuant to subsection (4).

193           (4) (a) Annually, on or before August 1, the corporation  
194 shall submit to the Legislative Budget Commission, as provided  
195 in s. 11.90, its proposed budget and the information described  
196 in s. 28.35(2) (f), as well as the proposed budgets for each  
197 clerk of the court. Before October 1 of each year, the  
198 commission shall consider the submitted budgets and shall  
199 approve, disapprove, or amend and approve the corporation's  
200 budget and shall approve, disapprove, or amend and approve the  
201 total of the clerks' combined budgets or any individual clerk's  
202 budget. The commission may approve a budget that includes an  
203 anticipated deficit based on the official estimates of revenues

576-03493-17

20172506\_\_

204 projected pursuant to ss. 216.133-216.138 if it determines that  
205 the requested budget is justified based on data reported by the  
206 corporation pursuant to s. 28.35(2)(f). If the commission fails  
207 to approve or amend and approve the corporation's budget or the  
208 clerks' combined budgets before October 1, the clerk shall  
209 continue to perform the court-related functions based upon the  
210 clerk's budget for the previous county fiscal year.

211 (b) The corporation may request that, during the next  
212 legislative session, the Legislature approve an appropriation of  
213 general revenue funds to the Clerks of the Court Trust Fund  
214 within the Department of Revenue equal to the difference between  
215 the clerks' total estimated expenditures and the total estimated  
216 revenues, as provided in the proposed budgets. The total  
217 spending authority requested may not exceed that established  
218 pursuant to paragraph (a).

219 (c) If the official estimate of revenues accruing to the  
220 clerks' fine and forfeiture funds, established pursuant to s.  
221 142.01, is reduced below the official estimate available to the  
222 commission at the time the corporation submitted proposed  
223 budgets pursuant to paragraph (a), the corporation may request  
224 that, during the next legislative session, the Legislature  
225 approve an appropriation of general revenue funds to the Clerks  
226 of the Court Trust Fund within the Department of Revenue equal  
227 to the difference between the most recent official estimate of  
228 revenues and the clerks' combined budgets. The total spending  
229 authority requested may not exceed that established pursuant to  
230 paragraph (a).

231 Section 4. Subsection (5) of section 28.37, Florida  
232 Statutes, is amended to read:



576-03493-17

20172506\_\_

233 28.37 Fines, fees, service charges, and costs remitted to  
234 the state.—

235 (5) Ten percent of all court-related fines collected by the  
236 clerk, except for penalties or fines distributed to counties or  
237 municipalities under s. 316.0083(1)(b)3. or s. 318.18(15)(a),  
238 shall be deposited into the fine and forfeiture ~~clerk's Public~~  
239 ~~Records Modernization Trust~~ fund to be used exclusively for  
240 additional clerk court-related functions, as provided in s.  
241 28.35(3)(a) operational needs and program enhancements.

242 Section 5. Subsection (5) is added to section 40.29,  
243 Florida Statutes, to read:

244 40.29 Payment of due-process costs.—

245 (5) The Justice Administrative Commission shall provide  
246 funds to the clerks of the court to compensate jurors, to pay  
247 for meals or lodging provided to jurors, and to pay for jury-  
248 related personnel costs as provided in this section. Each clerk  
249 of the court shall forward to the Justice Administrative  
250 Commission a quarterly estimate of funds necessary to compensate  
251 jurors and pay for meals or lodging provided to jurors during  
252 the upcoming quarter. The Florida Clerks of Court Operations  
253 Corporation shall forward to the Justice Administrative  
254 Commission a quarterly estimate of the amount necessary to  
255 reimburse each clerk of the court for its personnel and other  
256 costs related to jury management. Upon receipt of such  
257 estimates, the Justice Administrative Commission shall determine  
258 the amount deemed necessary for payment to the clerks of the  
259 court during the upcoming quarter and submit a request for  
260 payment to the Chief Financial Officer. If the Justice  
261 Administrative Commission believes that the amount appropriated

576-03493-17

20172506\_\_

262 by the Legislature is insufficient to meet such costs during the  
263 remaining part of the state fiscal year, the commission may  
264 apportion the funds appropriated in the General Appropriations  
265 Act for those purposes among the several counties, basing the  
266 apportionment upon the amount expended for such purposes in each  
267 county during the prior fiscal year, in which case, the Chief  
268 Financial Officer shall issue the appropriate apportioned amount  
269 by warrant to each county. The clerks of the court are  
270 responsible for any compensation to jurors, for payments for  
271 meals or lodging provided to jurors, and for jury-related  
272 personnel costs that exceed the funding provided in the General  
273 Appropriations Act for these purposes.

274 Section 6. Paragraph (a) of subsection (8) and paragraph  
275 (a) of subsection (15) of section 318.18, Florida Statutes, are  
276 amended to read:

277 318.18 Amount of penalties.—The penalties required for a  
278 noncriminal disposition pursuant to s. 318.14 or a criminal  
279 offense listed in s. 318.17 are as follows:

280 (8) (a) Any person who fails to comply with the court's  
281 requirements or who fails to pay the civil penalties specified  
282 in this section within the 30-day period provided for in s.  
283 318.14 must pay an additional civil penalty of \$16, \$6.50 of  
284 which must be deposited into the fine and forfeiture fund  
285 established pursuant to s. 142.01 ~~remitted to the Department of~~  
286 ~~Revenue for deposit in the General Revenue Fund,~~ and \$9.50 of  
287 which must be remitted to the Department of Revenue for deposit  
288 in the Highway Safety Operating Trust Fund. ~~Of this additional~~  
289 ~~civil penalty of \$16, \$4 is not revenue for purposes of s. 28.36~~  
290 ~~and may not be used in establishing the budget of the clerk of~~

576-03493-17

20172506\_\_

291 ~~the court under that section or s. 28.35.~~ The department shall  
 292 contract with the Florida Association of Court Clerks, Inc., to  
 293 design, establish, operate, upgrade, and maintain an automated  
 294 statewide Uniform Traffic Citation Accounting System to be  
 295 operated by the clerks of the court which shall include, but not  
 296 be limited to, the accounting for traffic infractions by type, a  
 297 record of the disposition of the citations, and an accounting  
 298 system for the fines assessed and the subsequent fine amounts  
 299 paid to the clerks of the court. ~~On or before December 1, 2001,~~  
 300 The clerks of the court shall ~~must~~ provide the information  
 301 required by this chapter to be transmitted to the department by  
 302 electronic transmission pursuant to the contract.

303 (15) (a)1. One hundred and fifty-eight dollars for a  
 304 violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver  
 305 has failed to stop at a traffic signal and when enforced by a  
 306 law enforcement officer. Sixty dollars shall be distributed as  
 307 provided in s. 318.21, \$30 shall be deposited into the fine and  
 308 forfeiture fund established pursuant to s. 142.01 ~~distributed to~~  
 309 ~~the General Revenue Fund~~, \$3 shall be remitted to the Department  
 310 of Revenue for deposit into the Brain and Spinal Cord Injury  
 311 Trust Fund, and the remaining \$65 shall be remitted to the  
 312 Department of Revenue for deposit into the Emergency Medical  
 313 Services Trust Fund of the Department of Health.

314 2. One hundred and fifty-eight dollars for a violation of  
 315 s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to  
 316 stop at a traffic signal and when enforced by the department's  
 317 traffic infraction enforcement officer. One hundred dollars  
 318 shall be remitted to the Department of Revenue for deposit into  
 319 the General Revenue Fund, \$45 shall be distributed to the county

576-03493-17

20172506\_\_

320 for any violations occurring in any unincorporated areas of the  
321 county or to the municipality for any violations occurring in  
322 the incorporated boundaries of the municipality in which the  
323 infraction occurred, \$10 shall be remitted to the Department of  
324 Revenue for deposit into the Department of Health Emergency  
325 Medical Services Trust Fund for distribution as provided in s.  
326 395.4036(1), and \$3 shall be remitted to the Department of  
327 Revenue for deposit into the Brain and Spinal Cord Injury Trust  
328 Fund.

329         3. One hundred and fifty-eight dollars for a violation of  
330 s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to  
331 stop at a traffic signal and when enforced by a county's or  
332 municipality's traffic infraction enforcement officer. Seventy-  
333 five dollars shall be distributed to the county or municipality  
334 issuing the traffic citation, \$70 shall be remitted to the  
335 Department of Revenue for deposit into the General Revenue Fund,  
336 \$10 shall be remitted to the Department of Revenue for deposit  
337 into the Department of Health Emergency Medical Services Trust  
338 Fund for distribution as provided in s. 395.4036(1), and \$3  
339 shall be remitted to the Department of Revenue for deposit into  
340 the Brain and Spinal Cord Injury Trust Fund.

341         Section 7. Paragraphs (a) and (f) of subsection (2) of  
342 section 318.21, Florida Statutes, are amended to read:

343         318.21 Disposition of civil penalties by county courts.—All  
344 civil penalties received by a county court pursuant to the  
345 provisions of this chapter shall be distributed and paid monthly  
346 as follows:

347                 (2) Of the remainder:

348                 (a) Ten ~~Twenty~~ and six-tenths percent shall be remitted to

576-03493-17

20172506\_\_

349 the Department of Revenue for deposit into the General Revenue  
350 Fund of the state, except that the first \$300,000 shall be  
351 deposited into the Grants and Donations Trust Fund in the  
352 Justice Administrative Commission for administrative costs,  
353 training costs, and costs associated with the implementation and  
354 maintenance of Florida foster care citizen review panels in a  
355 constitutional charter county as provided for in s. 39.702.

356 (f) Ten and five-tenths percent shall be deposited into the  
357 fine and forfeiture fund established pursuant to s. 142.01 ~~paid~~  
358 ~~to the clerk of the court for administrative costs.~~

359 Section 8. Subsection (1) of section 775.083, Florida  
360 Statutes, is amended to read:

361 775.083 Fines.—

362 (1) A person who has been convicted of an offense other  
363 than a capital felony may be sentenced to pay a fine in addition  
364 to any punishment described in s. 775.082; when specifically  
365 authorized by statute, he or she may be sentenced to pay a fine  
366 in lieu of any punishment described in s. 775.082. A person who  
367 has been convicted of a noncriminal violation may be sentenced  
368 to pay a fine. Fines for designated crimes and for noncriminal  
369 violations shall not exceed:

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

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

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

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

377 (e) \$500, when the conviction is of a misdemeanor of the

576-03493-17

20172506\_\_

378 second degree or a noncriminal violation.

379 (f) Any higher amount equal to double the pecuniary gain  
380 derived from the offense by the offender or double the pecuniary  
381 loss suffered by the victim.

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

383

384 Fines imposed in this subsection shall be deposited by the clerk  
385 of the court in the fine and forfeiture fund established  
386 pursuant to s. 142.01, ~~except that the clerk shall remit fines~~  
387 ~~imposed when adjudication is withheld to the Department of~~  
388 ~~Revenue for deposit in the General Revenue Fund.~~ If a defendant  
389 is unable to pay a fine, the court may defer payment of the fine  
390 to a date certain. As used in this subsection, the term  
391 "convicted" or "conviction" means a determination of guilt which  
392 is the result of a trial or the entry of a plea of guilty or  
393 nolo contendere, regardless of whether adjudication is withheld.  
394 Section 9. This act shall take effect upon becoming a law.