



785038

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
01/30/2020	.	
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	.	
	.	

The Committee on Judiciary (Wright) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (26) of section 28.24, Florida
Statutes, is amended to read:

28.24 Service charges.—The clerk of the circuit court shall
charge for services rendered manually or electronically by the
clerk's office in recording documents and instruments and in
performing other specified duties. These charges may not exceed
those specified in this section, except as provided in s.



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12 28.345.

13 (26) (a) For receiving and disbursing all restitution
14 payments, per payment: 3.50, from which the clerk shall remit
15 0.50 per payment to the Department of Revenue for deposit into
16 the General Revenue Fund.

17 ~~(b) For receiving and disbursing all partial payments,~~
18 ~~other than restitution payments, for which an administrative~~
19 ~~processing service charge is not imposed pursuant to s. 28.246,~~
20 ~~per month.....5.00~~

21 ~~(c) For setting up a payment plan, a one-time~~
22 ~~administrative processing charge in lieu of a per month charge~~
23 ~~under paragraph (b).....25.00~~

24 (c) In lieu of the administrative processing charge in
25 paragraph (b), a one-time administrative processing charge that
26 covers all payment plans within a particular county for a person
27 who is indigent pursuant to s. 27.52, is receiving public
28 assistance as defined in s. 409.2554, or whose household income
29 is below 200 percent of the federal poverty level, based on the
30 current year's federal poverty guidelines.....5.00

31 Section 2. Section 28.246, Florida Statutes, is amended to
32 read:

33 28.246 Payment of court-related fines or other monetary
34 penalties, fees, charges, and costs; monthly ~~partial~~ payments;
35 community service; distribution of funds.-

36 (1) The clerk of the circuit court shall report the
37 following information to the Legislature and the Florida Clerks
38 of Court Operations Corporation on a form, and using guidelines
39 developed by the clerks of court, through their association and
40 in consultation with the Office of the State Courts



41 Administrator:

42 (a) The total amount of mandatory fees, service charges,
43 and costs assessed; the total amount underassessed, if any,
44 which is the amount less than the minimum amount required by law
45 to be assessed; and the total amount collected.

46 (b) The total amount of discretionary fees, service
47 charges, and costs assessed and the total amount collected.

48 (c) The total amount of mandatory fines and other monetary
49 penalties assessed; the total amount underassessed, if any,
50 which is the amount less than the minimum amount required by law
51 to be assessed; and the total amount collected.

52 (d) The total amount of discretionary fines and other
53 monetary penalties assessed and the total amount collected.

54
55 The clerk, in reporting to the Legislature and corporation,
56 shall separately identify the monetary amount assessed and
57 subsequently discharged or converted to community service, to a
58 judgment or lien, or to time served. The form developed by the
59 clerks shall include separate entries for recording the amount
60 discharged and the amount converted. If a court waives,
61 suspends, or reduces an assessment as authorized by law, the
62 portion waived, suspended, or reduced may not be deemed assessed
63 or underassessed for purposes of the reporting requirements of
64 this section. The clerk also shall report a collection rate for
65 mandatory and discretionary assessments. In calculating the
66 rate, the clerk shall deduct amounts discharged or converted
67 from the amount assessed. The clerk shall submit the report on
68 an annual basis 90 days after the end of the county fiscal year.
69 The clerks and the courts shall develop by October 1, 2012, the



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70 form and guidelines to govern the accurate and consistent
71 reporting statewide of assessments as provided in this section.
72 The clerk shall use the new reporting form and guidelines in
73 submitting the report for the county fiscal year ending
74 September 30, 2013, and for each year thereafter.

75 (2) The clerk of the circuit court shall establish and
76 maintain a system of accounts receivable for court-related fees,
77 charges, and costs.

78 (3) Court costs, fines, and other dispositional assessments
79 shall be enforced by order of the courts, collected by the
80 clerks of the circuit and county courts, and disbursed in
81 accordance with authorizations and procedures as established by
82 general law.

83 (4) The clerk of the circuit court shall accept monthly
84 ~~partial~~ payments for court-related fees, service charges, costs,
85 and fines electronically, by mail, and in person in accordance
86 with the terms of an established payment plan and shall enroll
87 in a monthly payment plan— an individual seeking to defer
88 payment of fees, service charges, costs, or fines imposed by
89 operation of law or order of the court under any provision of
90 general law ~~shall apply to the clerk for enrollment in a payment~~
91 ~~plan~~. The clerk may provide a discount or waive fees for
92 individuals who enroll in automatic monthly payment plan
93 arrangements and shall encourage individuals to elect that
94 payment option. The shall enter into a payment plan with an
95 ~~individual who the court determines is indigent for costs. A~~
96 ~~monthly payment amount,~~ shall be calculated based upon all
97 fines, fees, service charges, and all anticipated costs and
98 must, ~~is presumed to~~ correspond to the person's ability to pay.



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99 The monthly payment plan shall be no less than \$10 per month,
100 provided such payment does not exceed ~~if the amount does not~~
101 ~~exceed~~ 2 percent of the person's annual net income, as defined
102 in s. 27.52(1), divided by 12. The court may review the
103 reasonableness of the payment plan.

104 (a) If a person is not in custody, he or she has 30 days to
105 notify the clerk of his or her intention to set up a payment
106 plan and shall have up to 30 days after establishing a payment
107 plan to make the first payment. If a person is in custody, he or
108 she has 30 days from the date of release to notify the clerk of
109 his or her intention to set up a payment plan and shall have up
110 to 30 days after establishing a payment plan to make the first
111 payment. The clerk shall send notice to the Department of
112 Highway Safety and Motor Vehicles in accordance with s. 318.15
113 if a person fails to pay the fines, fees, service charges, and
114 costs that have been assessed or enter into a payment plan.

115 (b) If a county has more than one case open for a person
116 against whom fines, fees, service charges, and costs have been
117 assessed, the clerk shall notify the Department of Highway
118 Safety and Motor Vehicles to release all driver license
119 suspensions for failure to pay, provided the individual is not
120 in default under such plans.

121 (c) The clerk shall send notice within 5 days to an
122 individual who fails to make timely payment under a payment
123 plan. Such notice may be made by mail or electronically. The
124 clerk shall transmit notice to the Department of Highway Safety
125 and Motor Vehicles if any payment due under a payment plan has
126 not been received within 45 days of the due date, unless the
127 individual makes alternate payment arrangements or enters into a



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128 revised payment plan with the clerk before such date.

129 (d) The court, on its own motion or by petition, may waive,
130 modify, or convert the outstanding fees, services charges,
131 costs, or fines to community service if the court determines
132 that the individual is indigent or, due to compelling
133 circumstances, is unable to comply with the terms of the payment
134 plan.

135 (5) When receiving partial payment of fees, service
136 charges, court costs, and fines, clerks shall distribute funds
137 according to the following order of priority:

138 (a) That portion of fees, service charges, court costs, and
139 fines to be remitted to the state for deposit into the General
140 Revenue Fund.

141 (b) That portion of fees, service charges, court costs, and
142 fines required to be retained by the clerk of the court or
143 deposited into the Clerks of the Court Trust Fund within the
144 Department of Revenue.

145 (c) That portion of fees, service charges, court costs, and
146 fines payable to state trust funds, allocated on a pro rata
147 basis among the various authorized funds if the total collection
148 amount is insufficient to fully fund all such funds as provided
149 by law.

150 (d) That portion of fees, service charges, court costs, and
151 fines payable to counties, municipalities, or other local
152 entities, allocated on a pro rata basis among the various
153 authorized recipients if the total collection amount is
154 insufficient to fully fund all such recipients as provided by
155 law.

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157 To offset processing costs, clerks may impose ~~either a per-month~~
158 ~~service charge pursuant to s. 28.24(26) (b) or~~ a one-time
159 administrative processing service charge at the inception of the
160 payment plan pursuant to s. 28.24(26) (b) ~~s. 28.24(26) (e)~~.

161 (6) A clerk of court shall pursue the collection of any
162 fees, service charges, fines, court costs, and liens for the
163 payment of attorney fees and costs pursuant to s. 938.29 which
164 remain unpaid after 90 days by referring the account to a
165 private attorney who is a member in good standing of The Florida
166 Bar or collection agent who is registered and in good standing
167 pursuant to chapter 559. In pursuing the collection of such
168 unpaid financial obligations through a private attorney or
169 collection agent, the clerk of the court must have attempted to
170 collect the unpaid amount through a collection court,
171 collections docket, or other collections process, if any,
172 established by the court, find this to be cost-effective and
173 follow any applicable procurement practices. The collection fee,
174 including any reasonable attorney's fee, paid to any attorney or
175 collection agent retained by the clerk may be added to the
176 balance owed in an amount not to exceed 40 percent of the amount
177 owed at the time the account is referred to the attorney or
178 agent for collection. The clerk shall give the private attorney
179 or collection agent the application for the appointment of
180 court-appointed counsel regardless of whether the court file is
181 otherwise confidential from disclosure.

182 Section 3. Section 28.42, Florida Statutes, is amended to
183 read

184 28.42 Manual of filing fees, charges, costs, and fines;
185 uniform payment plan forms and work plan.-



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186 (1) The clerks of court, through their association and in
187 consultation with the Office of the State Courts Administrator,
188 shall prepare and disseminate a manual of filing fees, service
189 charges, costs, and fines imposed pursuant to state law, for
190 each type of action and offense, and classified as mandatory or
191 discretionary. The manual also shall classify the fee, charge,
192 cost, or fine as court-related revenue or noncourt-related
193 revenue. The clerks, through their association, shall
194 disseminate this manual to the chief judge, state attorney,
195 public defender, and court administrator in each circuit and to
196 the clerk of the court in each county. The clerks, through their
197 association and in consultation with the Office of the State
198 Courts Administrator, shall at a minimum update and disseminate
199 this manual on July 1 of each year.

200 (2) By October 1, 2020, the Office of the State Courts
201 Administrator, in consultation with the clerks of court, through
202 their association, shall develop a Uniform Payment Plan form and
203 informational materials to be used for individuals seeking to
204 establish a payment plan in accordance with s. 28.246. The form
205 and informational materials must inform the individual about the
206 minimum payment due each month, the term of the plan, available
207 payment options for acceptance of payment by the clerk, the
208 contact information for the applicable clerk's office, and the
209 consequences for nonpayment of fines, fees, service charges, and
210 costs, including driver license suspension and collections
211 referral.

212 (3) By January 1, 2021, the Office of the State Courts
213 Administrator, the Department of Highway Safety and Motor
214 Vehicles, and the clerks of court, through their association,



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215 shall develop and submit a work plan to the Governor, the
216 President of the Senate, and the Speaker of the House of
217 Representatives which identifies opportunities for increased
218 collaboration between the parties and other relevant
219 stakeholders, examines opportunities to work with nonprofit and
220 community-based groups to help increase awareness of payment
221 plans, and outlines best practices, including use of text
222 messaging or other technology, to help improve plan compliance,
223 improve collection rates, and reduce the number of individuals
224 who lose their driving privilege due to the nonpayment of fines,
225 fees, service charges, and costs.

226 Section 4. Section 322.245, Florida Statutes, is amended to
227 read:

228 322.245 Suspension of license upon failure of person
229 charged with specified offense under chapter 316, chapter 320,
230 or this chapter to comply with directives ordered by traffic
231 court or upon failure to pay child support in non-IV-D cases as
232 provided in chapter 61 or failure to pay any financial
233 obligation in any other criminal case.—

234 (1) If a person charged with a violation of any of the
235 criminal offenses enumerated in s. 318.17 or with the commission
236 of any offense constituting a misdemeanor under chapter 320 or
237 this chapter fails to comply with all of the directives of the
238 court, within the time allotted by the court, other than the
239 payment of fines, fees, costs, and service charges, the clerk of
240 the traffic court shall mail to the person, at the address
241 specified on the uniform traffic citation, a notice of such
242 failure, notifying him or her that, if he or she does not comply
243 with the directives of the court within 30 days after the date



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244 of the notice and pay a delinquency fee of up to \$25 to the
245 clerk, from which the clerk shall remit \$10 to the Department of
246 Revenue for deposit into the General Revenue Fund, his or her
247 driver license will be suspended. The notice shall be mailed no
248 later than 5 days after such failure. The delinquency fee may be
249 retained by the office of the clerk to defray the operating
250 costs of the office.

251 (2) In non-IV-D cases, if a person fails to pay child
252 support under chapter 61 and the obligee so requests, the
253 depository or the clerk of the court shall mail in accordance
254 with s. 61.13016 the notice specified in that section, notifying
255 him or her that if he or she does not comply with the
256 requirements of that section and pay a delinquency fee of \$25 to
257 the depository or the clerk, his or her driver license and motor
258 vehicle registration will be suspended. The delinquency fee may
259 be retained by the depository or the office of the clerk to
260 defray the operating costs of the office after the clerk remits
261 \$15 to the Department of Revenue for deposit into the General
262 Revenue Fund.

263 (3) If the person fails to comply with the directives of
264 the court within the 30-day period, or, in non-IV-D cases, fails
265 to comply with the requirements of s. 61.13016 within the period
266 specified in that statute, the depository or the clerk of the
267 court shall electronically notify the department of such failure
268 within 10 days. Upon electronic receipt of the notice, the
269 department shall immediately issue an order suspending the
270 person's driver license and privilege to drive effective 20 days
271 after the date the order of suspension is mailed in accordance
272 with s. 322.251(1), (2), and (6).



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273 (4) After suspension of the driver license of a person
274 pursuant to subsection (1), subsection (2), or subsection (3),
275 the license may not be reinstated until the person complies with
276 all court directives imposed upon him or her, including payment
277 of the delinquency fee imposed by subsection (1), and presents
278 certification of such compliance to a driver licensing office
279 and complies with the requirements of this chapter or, in the
280 case of a license suspended for nonpayment of child support in
281 non-IV-D cases, until the person complies with the reinstatement
282 provisions of s. 322.058 and makes payment of the delinquency
283 fee imposed by subsection (2).

284 (5) ~~(a)~~ A person whose driver license was suspended before
285 October 1, 2020, pursuant to this section solely for the
286 nonpayment of financial obligations in a criminal case may,
287 except when there was a court-ordered directive for payment
288 which remains unpaid or involves an offense listed under s.
289 318.17, and if otherwise eligible, apply to have his or her
290 license reinstated upon payment of a reinstatement fee ~~When the~~
291 ~~department receives notice from a clerk of the court that a~~
292 ~~person licensed to operate a motor vehicle in this state under~~
293 ~~the provisions of this chapter has failed to pay financial~~
294 ~~obligations for any criminal offense other than those specified~~
295 ~~in subsection (1), in full or in part under a payment plan~~
296 ~~pursuant to s. 28.246(4), the department shall suspend the~~
297 ~~license of the person named in the notice.~~

298 ~~(b) The department must reinstate the driving privilege~~
299 ~~when the clerk of the court provides an affidavit to the~~
300 ~~department stating that:~~

301 ~~1. The person has satisfied the financial obligation in~~



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302 ~~full or made all payments currently due under a payment plan;~~
303 ~~2. The person has entered into a written agreement for~~
304 ~~payment of the financial obligation if not presently enrolled in~~
305 ~~a payment plan; or~~

306 ~~3. A court has entered an order granting relief to the~~
307 ~~person ordering the reinstatement of the license.~~

308 ~~(6)(e)~~ The department shall not be held liable for any
309 license suspension resulting from the discharge of its duties
310 under this section.

311 Section 5. This act shall take effect July 1, 2020.

312
313 ===== T I T L E A M E N D M E N T =====

314 And the title is amended as follows:

315 Delete everything before the enacting clause
316 and insert:

317 A bill to be entitled
318 An act relating to fines and fees; amending s. 28.24,
319 F.S.; revising specified service charges for certain
320 one-time administrative processing by the clerk of the
321 circuit court; amending s. 28.246, F.S.; revising the
322 methods by which the clerk of the circuit court may
323 accept payments for certain fees, charges, costs, and
324 fines; requiring the court to enroll certain persons
325 in a monthly payment plan under certain circumstances;
326 authorizing the court to provide discounts or waive
327 fees for certain individuals; providing requirements
328 and court procedures for the payment plan; authorizing
329 a court to convert certain fees, services charges,
330 costs, or fines to community service under specified



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331 circumstances; conforming a cross-reference; amending
332 s. 28.42, F.S.; requiring the Office of the State
333 Courts Administrator, in consultation with the clerks
334 of court and by a specified date, to develop a Uniform
335 Payment Plan form and informational materials;
336 providing requirements for such form and materials;
337 requiring the office, the Department of Highway Safety
338 and Motor Vehicles, and the clerks of court to develop
339 and submit a work plan to the Governor and the
340 Legislature by a specified date; specifying
341 requirements for the work plan; amending s. 322.245,
342 F.S.; conforming provisions to changes made by the
343 act; authorizing a person who meets specified criteria
344 to apply to have his or her driver license reinstated;
345 deleting provisions related to the department's duty
346 to suspend and reinstate driver licenses; providing an
347 effective date.