

By the Committee on Judiciary; and Senator Wright

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1                   A bill to be entitled  
2           An act relating to fines and fees; amending s. 28.24,  
3           F.S.; removing the option for a monthly processing  
4           charge for certain payment plans established with the  
5           clerk of the circuit court; authorizing certain  
6           persons to make partial payments of an existing  
7           administrative processing charge; amending s. 28.246  
8           F.S.; revising the methods by which the clerk of the  
9           circuit court may accept payments for certain fees,  
10          charges, costs, and fines; requiring certain persons  
11          to apply to the clerk to enroll in a payment plan  
12          within a specified timeframe; requiring clerks to  
13          coordinate with courts to develop a specified process;  
14          providing requirements and court procedures for the  
15          payment plan; conforming a cross-reference;  
16          authorizing clerks of court to establish multicounty  
17          governmental authorities to administer payment plans;  
18          amending s. 28.42, F.S.; requiring the clerks of  
19          court, in consultation with the Florida Clerks of  
20          Court Operations Corporation, to develop a uniform  
21          payment plan form by a specified date; providing  
22          requirements for such form; requiring clerks of court,  
23          beginning on a specified date, to utilize such forms  
24          when establishing payment plans; amending s. 318.15,  
25          F.S.; expanding requirements for specified orders  
26          issued by the Department of Highway Safety and Motor  
27          Vehicles to include information related to a person's  
28          option to enter into a certain payment plan; amending  
29          s. 318.20, F.S.; requiring that a notification form

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30 and the uniform traffic citation include certain  
 31 information about paying a civil penalty; amending s.  
 32 322.245, F.S.; expanding requirements for specified  
 33 notices issued by the clerks of court to the  
 34 Department of Highway Safety and Motor Vehicles to  
 35 include information related to a person's option to  
 36 enter into a certain payment plan; amending ss. 27.52,  
 37 34.191, and 57.082, F.S.; conforming cross-references;  
 38 providing an effective date.

40 Be It Enacted by the Legislature of the State of Florida:

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

44 28.24 Service charges.—The clerk of the circuit court shall  
 45 charge for services rendered manually or electronically by the  
 46 clerk's office in recording documents and instruments and in  
 47 performing other specified duties. These charges may not exceed  
 48 those specified in this section, except as provided in s.  
 49 28.345.

50 (26) (a) For receiving and disbursing all restitution  
 51 payments, per payment: 3.50, from which the clerk shall remit  
 52 0.50 per payment to the Department of Revenue for deposit into  
 53 the General Revenue Fund.

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

58 ~~(c) For setting up a payment plan, a one-time~~

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59 administrative processing charge ~~in lieu of a per month charge~~  
60 ~~under paragraph (b)~~.....25.00

61 (c) A person may pay the one-time administrative charge in  
62 paragraph (b) in no more than five equal monthly payments.

63 Section 2. Present subsections (5) and (6) of section  
64 28.246, Florida Statutes, are redesignated as subsections (6)  
65 and (7), respectively, a new subsection (5) is added to that  
66 section, subsection (4) and present subsection (5) of that  
67 section are amended, and subsection (8) is added to that  
68 section, to read:

69 28.246 Payment of court-related fines or other monetary  
70 penalties, fees, charges, and costs; partial payments;  
71 distribution of funds.-

72 (4) Each ~~The~~ clerk of the circuit court shall accept  
73 scheduled ~~partial~~ payments for court-related fees, service  
74 charges, costs, and fines electronically, by mail, or in person,  
75 in accordance with the terms of an established payment plan and  
76 shall enroll- an individual seeking to defer payment of fees,  
77 service charges, costs, or fines imposed by operation of law or  
78 order of the court under any provision of general law shall  
79 apply to the clerk for enrollment in a payment plan no later  
80 than 30 calendar days after the date the court enters the order  
81 assessing fines, service charges, fees, and costs. If the  
82 individual is incarcerated, he or she shall apply to the clerk  
83 for enrollment in a payment plan within 30 calendar days after  
84 release. Each clerk shall coordinate with the court to develop a  
85 process in which the individual will meet with the clerk upon  
86 sentencing or as soon as thereafter as practical. If the clerk  
87 enters ~~shall enter~~ into a payment plan with an individual who

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88 the court determines is indigent for costs, ~~the~~. A monthly  
89 payment amount, calculated based upon all fees and all  
90 anticipated finer, service charges, fees, and costs, is presumed  
91 to correspond to the person's ability to pay if the amount does  
92 not exceed 2 percent of the person's annual net income, as  
93 defined in s. 27.52(1), divided by 12 or \$10, whichever is  
94 greater. The clerk shall establish all payment plan terms other  
95 than the total amount due and the court may review the  
96 reasonableness of the payment plan and may, on its own or by  
97 petition, waive, modify, or convert the outstanding fees,  
98 service charges, costs, or fines to community service if the  
99 court determines that the individual is indigent or due to  
100 compelling circumstances is unable to comply with the terms of  
101 the payment plan.

102 (5) The clerk shall send notice within 5 days to an  
103 individual who fails to make a timely payment due under a  
104 payment plan. Such notice may be made by mail or electronically.  
105 The clerk shall transmit notice to the Department of Highway  
106 Safety and Motor Vehicles if any payment due under a payment  
107 plan is not received within 30 days after the due date unless  
108 the individual makes alternate payment arrangements or enters  
109 into a revised payment plan with the clerk before such date.

110 (6) ~~(5)~~ When receiving partial payment of fees, service  
111 charges, court costs, and fines, clerks shall distribute funds  
112 according to the following order of priority:

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

116 (b) That portion of fees, service charges, court costs, and

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117 fines required to be retained by the clerk of the court or  
118 deposited into the Clerks of the Court Trust Fund within the  
119 Department of Revenue.

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

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

131  
132 To offset processing costs, clerks shall impose ~~may impose~~  
133 ~~either a per-month service charge pursuant to s. 28.24(26)(b) or~~  
134 a one-time administrative processing service charge at the  
135 inception of the payment plan pursuant to s. 28.24(26)(b) ~~s.~~  
136 ~~28.24(26)(e)~~.

137 (8) A clerk of court may establish a multicounty  
138 intergovernmental authority pursuant to chapter 163 for the  
139 administration of payment plans in the various participating  
140 counties.

141 Section 3. Section 28.42, Florida Statutes, is amended to  
142 read:

143 28.42 Manual of filing fees, charges, costs, and fines;  
144 uniform payment plan forms.-

145 (1) The clerks of court, through their association and in

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146 consultation with the Office of the State Courts Administrator,  
147 shall prepare and disseminate a manual of filing fees, service  
148 charges, costs, and fines imposed pursuant to state law, for  
149 each type of action and offense, and classified as mandatory or  
150 discretionary. The manual also shall classify the fee, charge,  
151 cost, or fine as court-related revenue or noncourt-related  
152 revenue. The clerks, through their association, shall  
153 disseminate this manual to the chief judge, state attorney,  
154 public defender, and court administrator in each circuit and to  
155 the clerk of the court in each county. The clerks, through their  
156 association and in consultation with the Office of the State  
157 Courts Administrator, shall at a minimum update and disseminate  
158 this manual on July 1 of each year.

159 (2) By October 1, 2020, the clerks of court, through their  
160 association, in consultation with the Florida Clerks of Court  
161 Operations Corporation, shall develop a uniform payment plan  
162 form for use by persons seeking to establish a payment plan in  
163 accordance with s. 28.246. The form shall inform the person  
164 about the minimum payment due each month, the term of the plan,  
165 acceptable payment methods, and the circumstances under which a  
166 case may be sent to collections for nonpayment.

167 (3) Beginning on January 1, 2021, each clerk of the court  
168 shall utilize the uniform payment plan form described in  
169 subsection (2) when establishing payment plans.

170 Section 4. Paragraph (a) of subsection (1) of section  
171 318.15, Florida Statutes, is amended to read:

172 318.15 Failure to comply with civil penalty or to appear;  
173 penalty.—

174 (1) (a) If a person fails to comply with the civil penalties

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175 provided in s. 318.18 within the time period specified in s.  
176 318.14(4), fails to enter into or comply with the terms of a  
177 penalty payment plan with the clerk of the court in accordance  
178 with ss. 318.14 and 28.246, fails to attend driver improvement  
179 school, or fails to appear at a scheduled hearing, the clerk of  
180 the court shall notify the Department of Highway Safety and  
181 Motor Vehicles of such failure within 10 days after such  
182 failure, except as provided herein. Upon receipt of such notice,  
183 the department shall immediately issue an order suspending the  
184 driver license and privilege to drive of such person effective  
185 20 days after the date the order of suspension is mailed in  
186 accordance with s. 322.251(1), (2), and (6). The order must also  
187 contain information that the person may contact the clerk of the  
188 court to establish a payment plan pursuant to s. 28.246(4) to  
189 make partial payments for court-related fees, service charges,  
190 costs, and fines. Any such suspension of the driving privilege  
191 which has not been reinstated, including a similar suspension  
192 imposed outside Florida, shall remain on the records of the  
193 department for a period of 7 years from the date imposed and  
194 shall be removed from the records after the expiration of 7  
195 years from the date it is imposed. The department may not accept  
196 the resubmission of such suspension.

197 Section 5. Section 318.20, Florida Statutes, is amended to  
198 read:

199 318.20 Notification; duties of department.—The department  
200 shall prepare a notification form to be appended to, or  
201 incorporated as a part of, the Florida uniform traffic citation  
202 issued in accordance with s. 316.650. The notification form  
203 shall contain language informing persons charged with

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204 infractions to which this chapter applies of the procedures  
205 available to them under this chapter. Such notification shall  
206 contain a statement that, if the official determines that no  
207 infraction has been committed, no costs or penalties shall be  
208 imposed and any costs or penalties which have been paid shall be  
209 returned. A uniform traffic citation that is produced  
210 electronically must also include the information required by  
211 this section. The notification form and the uniform traffic  
212 citation must include information on paying the civil penalty to  
213 the clerk of the court.

214 Section 6. Subsection (1) and paragraph (a) of subsection  
215 (5) of section 322.245, Florida Statutes, are amended to read:

216 322.245 Suspension of license upon failure of person  
217 charged with specified offense under chapter 316, chapter 320,  
218 or this chapter to comply with directives ordered by traffic  
219 court or upon failure to pay child support in non-IV-D cases as  
220 provided in chapter 61 or failure to pay any financial  
221 obligation in any other criminal case.—

222 (1) If a person charged with a violation of any of the  
223 criminal offenses enumerated in s. 318.17 or with the commission  
224 of any offense constituting a misdemeanor under chapter 320 or  
225 this chapter fails to comply with all of the directives of the  
226 court within the time allotted by the court, the clerk of the  
227 traffic court shall mail to the person, at the address specified  
228 on the uniform traffic citation, a notice of such failure,  
229 notifying him or her that, if he or she does not comply with the  
230 directives of the court within 30 days after the date of the  
231 notice and pay a delinquency fee of up to \$25 to the clerk, from  
232 which the clerk shall remit \$10 to the Department of Revenue for



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233 deposit into the General Revenue Fund, his or her driver license  
234 will be suspended. The notice shall be mailed no later than 5  
235 days after such failure, except as provided herein. The  
236 delinquency fee may be retained by the office of the clerk to  
237 defray the operating costs of the office.

238 (5) (a) When the department receives notice from a clerk of  
239 the court that a person licensed to operate a motor vehicle in  
240 this state under the provisions of this chapter has failed to  
241 pay financial obligations for any criminal offense other than  
242 those specified in subsection (1), in full or in part under a  
243 payment plan pursuant to s. 28.246(4), the department shall  
244 suspend the license of the person named in the notice. The  
245 notice must also contain information that the person may contact  
246 the clerk of the court to establish a payment plan pursuant to  
247 s. 28.246(4) to make partial payments for court-related fees,  
248 service charges, costs, and fines.

249 Section 7. Paragraph (i) of subsection (5) of section  
250 27.52, Florida Statutes, is amended to read:

251 27.52 Determination of indigent status.—

252 (5) INDIGENT FOR COSTS.—A person who is eligible to be  
253 represented by a public defender under s. 27.51 but who is  
254 represented by private counsel not appointed by the court for a  
255 reasonable fee as approved by the court or on a pro bono basis,  
256 or who is proceeding pro se, may move the court for a  
257 determination that he or she is indigent for costs and eligible  
258 for the provision of due process services, as prescribed by ss.  
259 29.006 and 29.007, funded by the state.

260 (i) A defendant who is found guilty of a criminal act by a  
261 court or jury or enters a plea of guilty or nolo contendere and

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262 who received due process services after being found indigent for  
263 costs under this subsection is liable for payment of due process  
264 costs expended by the state.

265 1. The attorney representing the defendant, or the  
266 defendant if he or she is proceeding pro se, shall provide an  
267 accounting to the court delineating all costs paid or to be paid  
268 by the state within 90 days after disposition of the case  
269 notwithstanding any appeals.

270 2. The court shall issue an order determining the amount of  
271 all costs paid by the state and any costs for which prepayment  
272 was waived under this section or s. 57.081. The clerk shall  
273 cause a certified copy of the order to be recorded in the  
274 official records of the county, at no cost. The recording  
275 constitutes a lien against the person in favor of the state in  
276 the county in which the order is recorded. The lien may be  
277 enforced in the same manner prescribed in s. 938.29.

278 3. If the attorney or the pro se defendant fails to provide  
279 a complete accounting of costs expended by the state and  
280 consequently costs are omitted from the lien, the attorney or  
281 pro se defendant may not receive reimbursement or any other form  
282 of direct or indirect payment for those costs if the state has  
283 not paid the costs. The attorney or pro se defendant shall repay  
284 the state for those costs if the state has already paid the  
285 costs. The clerk of the court may establish a payment plan under  
286 s. 28.246 and may charge the attorney or pro se defendant a one-  
287 time administrative processing charge under s. 28.24(26)(b) ~~s.~~  
288 ~~28.24(26)(e)~~.

289 Section 8. Subsection (1) of section 34.191, Florida  
290 Statutes, is amended to read:

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291 34.191 Fines and forfeitures; dispositions.—

292 (1) All fines and forfeitures arising from offenses tried  
293 in the county court shall be collected and accounted for by the  
294 clerk of the court and, other than the charge provided in s.  
295 318.1215, disbursed in accordance with ss. 28.2402, 34.045,  
296 142.01, and 142.03 and subject to the provisions of s. 28.246(6)  
297 and (7) ~~s. 28.246(5) and (6)~~. Notwithstanding the provisions of  
298 this section, all fines and forfeitures arising from operation  
299 of the provisions of s. 318.1215 shall be disbursed in  
300 accordance with that section.

301 Section 9. Subsection (6) of section 57.082, Florida  
302 Statutes, is amended to read:

303 57.082 Determination of civil indigent status.—

304 (6) PROCESSING CHARGE; PAYMENT PLANS.—A person who the  
305 clerk or the court determines is indigent for civil proceedings  
306 under this section shall be enrolled in a payment plan under s.  
307 28.246 and shall be charged a one-time administrative processing  
308 charge under s. 28.24(26)(b) ~~s. 28.24(26)(c)~~. A monthly payment  
309 amount, calculated based upon all fees and all anticipated  
310 costs, is presumed to correspond to the person's ability to pay  
311 if it does not exceed 2 percent of the person's annual net  
312 income, as defined in subsection (1), divided by 12. The person  
313 may seek review of the clerk's decisions regarding a payment  
314 plan established under s. 28.246 in the court having  
315 jurisdiction over the matter. A case may not be impeded in any  
316 way, delayed in filing, or delayed in its progress, including  
317 the final hearing and order, due to nonpayment of any fees or  
318 costs by an indigent person. Filing fees waived from payment  
319 under s. 57.081 may not be included in the calculation related

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320 to a payment plan established under this section.

321 Section 10. This act shall take effect July 1, 2020.