

By Senator Wright

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1 A bill to be entitled
2 An act relating to payments to clerks of the circuit
3 courts; amending s. 27.52, F.S.; conforming a cross-
4 reference; amending s. 28.24, F.S.; providing
5 procedures for payment plans; amending s. 28.246,
6 F.S.; revising the methods by which clerks of the
7 circuit courts must accept payments for certain fees,
8 charges, costs, and fines; providing requirements for
9 entering into payment plans; authorizing a court to
10 waive, modify, and convert certain fines and fees into
11 community service under specified circumstances;
12 authorizing the clerks of court to send specified
13 notices relating to payment plans; authorizing the
14 clerks of court to waive certain fees for individuals
15 who enroll in automatic electronic debit payment
16 plans; amending s. 28.42, F.S.; requiring the clerks
17 of court, in consultation with the Florida Clerks of
18 Court Operations Corporation, to develop a uniform
19 payment plan form by a specified date; providing
20 minimum criteria for the form; requiring clerks of
21 court to use such forms by a specified date; amending
22 s. 57.082, F.S.; conforming a cross-reference and
23 provisions to changes made by the act; amending s.
24 318.15, F.S.; authorizing, rather than requiring,
25 clerks of court to notify the Department of Highway
26 Safety and Motor Vehicles under certain circumstances;
27 extending the timeframe for issuing certain notices;
28 amending s. 318.20, F.S.; requiring that a
29 notification form and the uniform traffic citation

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30 include certain information about paying a civil
31 penalty; amending s. 322.245, F.S.; authorizing
32 certain persons to apply for reinstatement of their
33 suspended licenses under certain circumstances;
34 providing an effective date.

35
36 Be It Enacted by the Legislature of the State of Florida:

37
38 Section 1. Paragraph (i) of subsection (5) of section
39 27.52, Florida Statutes, is amended to read:

40 27.52 Determination of indigent status.—

41 (5) INDIGENT FOR COSTS.—A person who is eligible to be
42 represented by a public defender under s. 27.51 but who is
43 represented by private counsel not appointed by the court for a
44 reasonable fee as approved by the court or on a pro bono basis,
45 or who is proceeding pro se, may move the court for a
46 determination that he or she is indigent for costs and eligible
47 for the provision of due process services, as prescribed by ss.
48 29.006 and 29.007, funded by the state.

49 (i) A defendant who is found guilty of a criminal act by a
50 court or jury or enters a plea of guilty or nolo contendere and
51 who received due process services after being found indigent for
52 costs under this subsection is liable for payment of due process
53 costs expended by the state.

54 1. The attorney representing the defendant, or the
55 defendant if he or she is proceeding pro se, shall provide an
56 accounting to the court delineating all costs paid or to be paid
57 by the state within 90 days after disposition of the case
58 notwithstanding any appeals.

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59 2. The court shall issue an order determining the amount of
60 all costs paid by the state and any costs for which prepayment
61 was waived under this section or s. 57.081. The clerk shall
62 cause a certified copy of the order to be recorded in the
63 official records of the county, at no cost. The recording
64 constitutes a lien against the person in favor of the state in
65 the county in which the order is recorded. The lien may be
66 enforced in the same manner prescribed in s. 938.29.

67 3. If the attorney or the pro se defendant fails to provide
68 a complete accounting of costs expended by the state and
69 consequently costs are omitted from the lien, the attorney or
70 pro se defendant may not receive reimbursement or any other form
71 of direct or indirect payment for those costs if the state has
72 not paid the costs. The attorney or pro se defendant shall repay
73 the state for those costs if the state has already paid the
74 costs. The clerk of the court may establish a payment plan under
75 s. 28.246 and may charge the attorney or pro se defendant a one-
76 time administrative processing charge under s. 28.24(26)(b) ~~s.~~
77 ~~28.24(26)(c)~~.

78 Section 2. Subsection (26) of section 28.24, Florida
79 Statutes, is amended to read:

80 28.24 Service charges.—The clerk of the circuit court shall
81 charge for services rendered manually or electronically by the
82 clerk's office in recording documents and instruments and in
83 performing other specified duties. These charges may not exceed
84 those specified in this section, except as provided in s.
85 28.345.

86 (26) (a) For receiving and disbursing all restitution
87 payments, per payment: 3.50, from which the clerk shall remit

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88 0.50 per payment to the Department of Revenue for deposit into
89 the General Revenue Fund.

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

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

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

100 Section 3. Subsections (4) and (5) of section 28.246,
101 Florida Statutes, are amended to read:

102 28.246 Payment of court-related fines or other monetary
103 penalties, fees, charges, and costs; partial payments;
104 distribution of funds.-

105 (4) Each ~~The~~ clerk of the circuit court shall accept
106 scheduled partial payments for court-related fees, service
107 charges, costs, and fines electronically, by mail, or in person,
108 in accordance with the terms of an established payment plan and
109 enroll- an individual seeking to defer payment of fees, service
110 charges, costs, or fines imposed by operation of law or order of
111 the court under any provision of general law no later than 30
112 calendar days after the date the court enters the order
113 assessing any such fees, service charges, costs, and fines. If
114 the individual is incarcerated, the individual shall apply to
115 the clerk for enrollment in a payment plan within 30 calendar
116 days after release. The clerk of court may not refer a case to

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117 collection or send notice to the department to suspend an
118 individual's driver license for nonpayment or failure to comply
119 with the terms of a payment plan if the individual is still
120 incarcerated. The clerk shall enroll individuals with a deposit
121 or credit card account, or with other means of automatic
122 withdrawal, in an automatic payment plan arrangement to ensure
123 timely payment under the plan. Each clerk shall work with the
124 court to develop a process in which the individual will meet
125 with the clerk upon disposition or as soon thereafter as
126 practicable. If the clerk enters ~~shall enter~~ into a payment plan
127 with an individual who the court determines is indigent for
128 costs, ~~the~~. A monthly payment amount shall be, calculated based
129 upon all fees and all anticipated fees, service charges, costs,
130 and fines owed within the county, and ~~is presumed to~~ correspond
131 to the person's ability to pay if the amount does not exceed 2
132 percent of the person's annual net income, as defined in s.
133 27.52(1), divided by 12 or \$10, whichever is greater. The court
134 may review the reasonableness of the payment plan and may, on
135 its own motion or by petition, waive, modify, or convert the
136 outstanding fines, fees, costs, or service charges to community
137 service if the court determines that the individual is indigent
138 or, due to compelling circumstances, is unable to comply with
139 the terms of the payment plan.

140 (5) (a) The clerk may send notices, electronically or by
141 mail, to remind an individual of an upcoming or missed payment.

142 (b) When receiving partial payment of fees, service
143 charges, court costs, and fines, clerks shall distribute funds
144 according to the following order of priority:

145 1. ~~(a)~~ That portion of fees, service charges, court costs,

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146 and fines to be remitted to the state for deposit into the
147 General Revenue Fund.

148 2.~~(b)~~ That portion of fees, service charges, court costs,
149 and fines required to be retained by the clerk of the court or
150 deposited into the Clerks of the Court Trust Fund within the
151 Department of Revenue.

152 3.~~(e)~~ That portion of fees, service charges, court costs,
153 and fines payable to state trust funds, allocated on a pro rata
154 basis among the various authorized funds if the total collection
155 amount is insufficient to fully fund all such funds as provided
156 by law.

157 4.~~(d)~~ That portion of fees, service charges, court costs,
158 and fines payable to counties, municipalities, or other local
159 entities, allocated on a pro rata basis among the various
160 authorized recipients if the total collection amount is
161 insufficient to fully fund all such recipients as provided by
162 law.

163
164 To offset processing costs, clerks may impose ~~either a per-month~~
165 ~~service charge pursuant to s. 28.24(26)(b) or a one-time~~
166 administrative processing service charge at the inception of the
167 payment plan pursuant to s. 28.24(26)(b) ~~s. 28.24(26)(c)~~. The
168 clerk of court may waive this fee for any individual who enrolls
169 in an automatic electronic debit payment plan.

170 Section 4. Section 28.42, Florida Statutes, is amended to
171 read:

172 28.42 Manual of filing fees, charges, costs, and fines;
173 uniform payment plan forms.—

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

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175 consultation with the Office of the State Courts Administrator,
176 shall prepare and disseminate a manual of filing fees, service
177 charges, costs, and fines imposed pursuant to state law, for
178 each type of action and offense, and classified as mandatory or
179 discretionary. The manual also shall classify the fee, charge,
180 cost, or fine as court-related revenue or noncourt-related
181 revenue. The clerks, through their association, shall
182 disseminate this manual to the chief judge, state attorney,
183 public defender, and court administrator in each circuit and to
184 the clerk of the court in each county. The clerks, through their
185 association and in consultation with the Office of the State
186 Courts Administrator, shall at a minimum update and disseminate
187 this manual on July 1 of each year.

188 (2) By October 1, 2021, the clerks of court, through their
189 association, in consultation with the Florida Clerks of Court
190 Operations Corporation, shall develop a uniform payment plan
191 form for use by individuals seeking to establish a payment plan
192 in accordance with s. 28.246. The form shall inform the
193 individual about the minimum payment due each month, the term of
194 the plan, acceptable payment methods, and the circumstances
195 under which a case may be sent to collections for nonpayment.

196 (3) By January 1, 2022, each clerk of the court shall use
197 the uniform payment plan form described in subsection (2) when
198 establishing payment plans.

199 Section 5. Subsection (6) of section 57.082, Florida
200 Statutes, is amended to read:

201 57.082 Determination of civil indigent status.—

202 (6) PROCESSING CHARGE; PAYMENT PLANS.—A person who the
203 clerk or the court determines is indigent for civil proceedings

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204 under this section shall be enrolled in a payment plan under s.
205 28.246 and shall be charged a one-time administrative processing
206 charge under s. 28.24(26)(b) ~~s. 28.24(26)(c)~~. A monthly payment
207 amount must be, calculated based upon all finances and fees and all
208 anticipated costs owed within that county and must, ~~is presumed~~
209 ~~to~~ correspond to the person's ability to pay. The monthly
210 payment plan amount must be the greater of \$10 or if it does not
211 exceed 2 percent of the person's annual net income, as defined
212 in subsection (1), divided by 12. The person may seek review of
213 the clerk's decisions regarding a payment plan established under
214 s. 28.246 in the court having jurisdiction over the matter. A
215 case may not be impeded in any way, delayed in filing, or
216 delayed in its progress, including the final hearing and order,
217 due to nonpayment of any fees or costs by an indigent person.
218 Filing fees waived from payment under s. 57.081 may not be
219 included in the calculation related to a payment plan
220 established under this section.

221 Section 6. Paragraph (a) of subsection (1) of section
222 318.15, Florida Statutes, is amended to read:

223 318.15 Failure to comply with civil penalty or to appear;
224 penalty.-

225 (1) (a) If a person who is not incarcerated fails to comply
226 with the civil penalties provided in s. 318.18 within the time
227 period specified in s. 318.14(4), fails to enter into or comply
228 with the terms of a penalty payment plan with the clerk of the
229 court in accordance with ss. 318.14 and 28.246, fails to attend
230 driver improvement school, or fails to appear at a scheduled
231 hearing, the clerk of the court may ~~shall~~ notify the Department
232 of Highway Safety and Motor Vehicles of such failure within 30

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233 ~~10~~ days after such failure, except as provided in paragraphs (b)
234 and (c). Upon receipt of such notice, the department shall
235 immediately issue an order suspending the driver license and
236 privilege to drive of such person effective 20 days after the
237 date the order of suspension is mailed in accordance with s.
238 322.251(1), (2), and (6). Any such suspension of the driving
239 privilege which has not been reinstated, including a similar
240 suspension imposed outside Florida, shall remain on the records
241 of the department for a period of 7 years from the date imposed
242 and shall be removed from the records after the expiration of 7
243 years from the date it is imposed. The department may not accept
244 the resubmission of such suspension.

245 Section 7. Section 318.20, Florida Statutes, is amended to
246 read:

247 318.20 Notification; duties of department.—The department
248 shall prepare a notification form to be appended to, or
249 incorporated as a part of, the Florida uniform traffic citation
250 issued in accordance with s. 316.650. The notification form
251 shall contain language informing persons charged with
252 infractions to which this chapter applies of the procedures
253 available to them under this chapter. Such notification shall
254 contain a statement that, if the official determines that no
255 infraction has been committed, no costs or penalties shall be
256 imposed and any costs or penalties which have been paid shall be
257 returned. A uniform traffic citation that is produced
258 electronically must also include the information required by
259 this section. The notification and the uniform traffic citation
260 must include information on paying the civil penalty to the
261 clerk of the court and information that the person may contact

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262 the clerk of the court to establish a payment plan pursuant to
263 s. 28.246(4) to make partial payments for court-related fines,
264 fees, costs, and service charges.

265 Section 8. Section 322.245, Florida Statutes, is amended to
266 read:

267 322.245 Suspension of license upon failure of person
268 charged with specified offense under chapter 316, chapter 320,
269 or this chapter to comply with directives ordered by traffic
270 court or upon failure to pay child support in non-IV-D cases as
271 provided in chapter 61 or failure to pay any financial
272 obligation in any other driving-related criminal case.—

273 (1) If a person charged with a violation of any driving-
274 related ~~of the~~ criminal offenses enumerated in s. 318.17 or with
275 the commission of any driving-related offense constituting a
276 misdemeanor under chapter 320 or this chapter fails to comply
277 with all of the directives of the court, within the time
278 allotted by the court, the clerk of the traffic court shall mail
279 to the person, at the address specified on the uniform traffic
280 citation, a notice of such failure, notifying him or her that,
281 if he or she does not comply with the directives of the court
282 within 30 days after the date of the notice and pay a
283 delinquency fee of up to \$25 to the clerk, from which the clerk
284 shall remit \$10 to the Department of Revenue for deposit into
285 the General Revenue Fund, his or her driver license will be
286 suspended. The notice shall be mailed no later than 5 days after
287 such failure. The delinquency fee may be retained by the office
288 of the clerk to defray the operating costs of the office.

289 (2) In non-IV-D cases, if a person fails to pay child
290 support under chapter 61 and the obligee so requests, the

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291 depository or the clerk of the court shall mail in accordance
292 with s. 61.13016 the notice specified in that section, notifying
293 him or her that if he or she does not comply with the
294 requirements of that section and pay a delinquency fee of \$25 to
295 the depository or the clerk, his or her driver license and motor
296 vehicle registration will be suspended. The delinquency fee may
297 be retained by the depository or the office of the clerk to
298 defray the operating costs of the office after the clerk remits
299 \$15 to the Department of Revenue for deposit into the General
300 Revenue Fund.

301 (3) If the person fails to comply with the directives of
302 the court within the 30-day period, or, in non-IV-D cases, fails
303 to comply with the requirements of s. 61.13016 within the period
304 specified in that statute, the depository or the clerk of the
305 court shall electronically notify the department of such failure
306 within 10 days. Upon electronic receipt of the notice, the
307 department shall immediately issue an order suspending the
308 person's driver license and privilege to drive effective 20 days
309 after the date the order of suspension is mailed in accordance
310 with s. 322.251(1), (2), and (6).

311 (4) After suspension of the driver license of a person
312 pursuant to subsection (1), subsection (2), or subsection (3),
313 the license may not be reinstated until the person complies with
314 all court directives imposed upon him or her, including payment
315 of the delinquency fee imposed by subsection (1), and presents
316 certification of such compliance to a driver licensing office
317 and complies with the requirements of this chapter or, in the
318 case of a license suspended for nonpayment of child support in
319 non-IV-D cases, until the person complies with the reinstatement

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320 provisions of s. 322.058 and makes payment of the delinquency
321 fee imposed by subsection (2).

322 (5) (a) A person whose driver license was suspended before
323 July 1, 2021, pursuant to this section solely for the nonpayment
324 of fines, fees, or costs in a criminal case not involving
325 operation of a motor vehicle, if otherwise eligible, may apply
326 to have his or her license reinstated upon payment of a
327 reinstatement fee.

328 (b) When the department receives notice from a clerk of the
329 court that a person licensed to operate a motor vehicle in this
330 state under the provisions of this chapter has failed to pay
331 financial obligations, in full or in part under a payment plan
332 established pursuant to s. 28.246(4), for any criminal offense
333 involving operation of a motor vehicle by the person licensed
334 ~~other than those specified in subsection (1), in full or in part~~
335 ~~under a payment plan pursuant to s. 28.246(4),~~ the department
336 shall suspend the license of the person named in the notice.

337 (c) ~~(b)~~ The department must reinstate the driving privilege
338 when the clerk of the court provides an affidavit to the
339 department stating that:

340 1. The person has satisfied the financial obligation in
341 full or made all payments currently due under a payment plan;

342 2. The person has entered into a written agreement for
343 payment of the financial obligation if not presently enrolled in
344 a payment plan; or

345 3. A court has entered an order granting relief to the
346 person ordering the reinstatement of the license.

347 (d) ~~(c)~~ The department shall not be held liable for any
348 license suspension resulting from the discharge of its duties

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349 under this section.

350 Section 9. This act shall take effect July 1, 2021.