

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 criteria for the form; requiring clerks of court to
21 use such forms by a specified date; amending s.
22 57.082, F.S.; conforming a cross-reference and
23 provisions to changes made by the act; amending s.
24 318.15, F.S.; specifying application of certain
25 provisions to a person who is not incarcerated;

26 | authorizing, rather than requiring, clerks of court to
 27 | notify the Department of Highway Safety and Motor
 28 | Vehicles if such a person fails to perform certain
 29 | actions; extending the timeframe for issuing such
 30 | notice; amending s. 318.20, F.S.; requiring that a
 31 | notification form and the uniform traffic citation
 32 | include certain information about paying a civil
 33 | penalty; providing an effective date.

34 |

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

36 |

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

39 | 27.52 Determination of indigent status.—

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

48 | (i) A defendant who is found guilty of a criminal act by a
 49 | court or jury or enters a plea of guilty or nolo contendere and
 50 | who received due process services after being found indigent for

51 costs under this subsection is liable for payment of due process
52 costs expended by the state.

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

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

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

76 ~~28.24(26)(c).~~

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

79 28.24 Service charges.—The clerk of the circuit court
80 shall charge for services rendered manually or electronically by
81 the clerk's office in recording documents and instruments and in
82 performing other specified duties. These charges may not exceed
83 those specified in this section, except as provided in s.
84 28.345.

85 (26) (a) For receiving and disbursing all restitution
86 payments, per payment: 3.50, from which the clerk shall remit
87 0.50 per payment to the Department of Revenue for deposit into
88 the General Revenue Fund.

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

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

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

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

101 28.246 Payment of court-related fines or other monetary
 102 penalties, fees, charges, and costs; partial payments;
 103 distribution of funds.-

104 (4) Each ~~The~~ clerk of the circuit court shall accept
 105 scheduled partial payments for court-related fees, service
 106 charges, costs, and fines electronically, by mail, or in person,
 107 in accordance with the terms of an established payment plan and
 108 enroll- an individual seeking to defer payment of fees, service
 109 charges, costs, or fines imposed by operation of law or order of
 110 the court under any provision of general law no later than 30
 111 calendar days after the date the court enters the order
 112 assessing any such fees, service charges, costs, or fines. If
 113 the individual is incarcerated, the individual shall apply to
 114 the clerk for enrollment in a payment plan within 30 calendar
 115 days after release. The clerk of court may not refer a case to
 116 collection or send notice to the department to suspend an
 117 individual's driver license for nonpayment or failure to comply
 118 with the terms of a payment plan if the individual is still
 119 incarcerated. The clerk shall enroll individuals with a deposit
 120 or credit card account, or with other means of automatic
 121 withdrawal, in an automatic payment plan arrangement to ensure
 122 timely payment under the plan. Each clerk shall work with the
 123 court to develop a process in which the individual will meet
 124 with the clerk upon disposition or as soon thereafter as
 125 practicable. If the clerk enters ~~shall enter~~ into a payment plan

126 | with an individual who the court determines is indigent for
 127 | costs, the. ~~A monthly payment amount shall be,~~ calculated based
 128 | upon all fees and all anticipated fees, service charges, costs,
 129 | and fines owed within the county, and is presumed to correspond
 130 | to the person's ability to pay if the amount does not exceed 2
 131 | percent of the person's annual net income, as defined in s.
 132 | 27.52(1), divided by 12 or \$10, whichever is greater. The court
 133 | may review the reasonableness of the payment plan and may, on
 134 | its own motion or by petition, waive, modify, or convert the
 135 | outstanding fines, fees, costs, or service charges to community
 136 | service if the court determines that the individual is indigent
 137 | or, due to compelling circumstances, is unable to comply with
 138 | the terms of the payment plan.

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

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

144 | 1.(a) That portion of fees, service charges, court costs,
 145 | and fines to be remitted to the state for deposit into the
 146 | General Revenue Fund.

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

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

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

162
 163 To offset processing costs, clerks may impose ~~either a per-month~~
 164 ~~service charge pursuant to s. 28.24(26)(b) or~~ a one-time
 165 administrative processing service charge at the inception of the
 166 payment plan pursuant to s. 28.24(26)(b) ~~s. 28.24(26)(c)~~. The
 167 clerk of court may waive this fee for any individual who enrolls
 168 in an automatic electronic debit payment plan.

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

171 28.42 Manual of filing fees, charges, costs, and fines;
 172 uniform payment plan forms.—

173 (1) The clerks of court, through their association and in
 174 consultation with the Office of the State Courts Administrator,
 175 shall prepare and disseminate a manual of filing fees, service

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

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

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

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

200 57.082 Determination of civil indigent status.—

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

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

222 318.15 Failure to comply with civil penalty or to appear;
 223 penalty.—

224 (1) (a) If a person who is not incarcerated fails to comply
 225 with the civil penalties provided in s. 318.18 within the time

226 | period specified in s. 318.14(4), fails to enter into or comply
227 | with the terms of a penalty payment plan with the clerk of the
228 | court in accordance with ss. 318.14 and 28.246, fails to attend
229 | driver improvement school, or fails to appear at a scheduled
230 | hearing, the clerk of the court may ~~shall~~ notify the Department
231 | of Highway Safety and Motor Vehicles of such failure within 30
232 | ~~10~~ days after such failure, except as provided in paragraphs (b)
233 | and (c). Upon receipt of such notice, the department shall
234 | immediately issue an order suspending the driver license and
235 | privilege to drive of such person effective 20 days after the
236 | date the order of suspension is mailed in accordance with s.
237 | 322.251(1), (2), and (6). Any such suspension of the driving
238 | privilege which has not been reinstated, including a similar
239 | suspension imposed outside Florida, shall remain on the records
240 | of the department for a period of 7 years from the date imposed
241 | and shall be removed from the records after the expiration of 7
242 | years from the date it is imposed. The department may not accept
243 | the resubmission of such suspension.

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

246 | 318.20 Notification; duties of department.—The department
247 | shall prepare a notification form to be appended to, or
248 | incorporated as a part of, the Florida uniform traffic citation
249 | issued in accordance with s. 316.650. The notification form
250 | shall contain language informing persons charged with

251 | infractions to which this chapter applies of the procedures
252 | available to them under this chapter. Such notification shall
253 | contain a statement that, if the official determines that no
254 | infraction has been committed, no costs or penalties shall be
255 | imposed and any costs or penalties which have been paid shall be
256 | returned. A uniform traffic citation that is produced
257 | electronically must also include the information required by
258 | this section. The notification and the uniform traffic citation
259 | must include information on paying the civil penalty to the
260 | clerk of the court and information that the person may contact
261 | the clerk of the court to establish a payment plan pursuant to
262 | s. 28.246(4) to make partial payments for court-related fines,
263 | fees, costs, and service charges.

264 | Section 8. This act shall take effect July 1, 2021.