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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to clerks of the circuit court;
amending s. 28.246, F.S.; clarifying the
responsibility of an individual released from
incarceration regarding enrolling in a payment plan
for any outstanding court obligations; modifying the
manner of calculating a monthly payment amount under a
payment plan; requiring the clerk to establish all
terms of a payment plan; amending s. 28.35, F.S.;
conforming provisions to changes made by the act;
amending s. 28.36, F.S.; conforming a cross-reference;
requiring the corporation to establish and manage a
contingency reserve within the Clerks of the Court
Trust Fund for specified purposes; prescribing
reporting requirements; specifying circumstances under
which moneys held in reserve may be used; prescribing
procedures for the release of such funds; amending s.
28.37, F.S.; modifying a provision regarding state
court system funding; defining terms; conforming a
cross-reference; revising provisions governing the
transfer of certain funds from the Clerks of the Court
Trust Fund to the General Revenue Fund by the
Department of Revenue; amending s. 28.42, F.S.;
requiring the clerks to develop a uniform payment plan
form by a specified date; prescribing requirements for
the form; requiring the clerks to use such form by a
specified date; amending ss. 318.15, 318.20, and



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28 322.245, F.S.; requiring orders and notifications for
29 certain traffic citations and suspensions to include
30 information regarding payment plans; amending s.
31 775.083, F.S.; designating the clerk as the entity
32 responsible for collecting payment of certain court
33 obligations; requiring a person ordered to pay such
34 obligations to contact the clerk in order to pay or
35 establish a payment plan, unless otherwise provided;
36 providing effective dates.

37

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

39

40 Section 1. Subsection (4) of section 28.246, Florida
41 Statutes, is amended to read:

42 28.246 Payment of court-related fines or other monetary
43 penalties, fees, charges, and costs; partial payments;
44 distribution of funds.—

45 (4) (a) Each ~~The~~ clerk of the circuit court shall accept
46 partial payments for each case type for court-related fees,
47 service charges, court costs, and fines in accordance with the
48 terms of an established payment plan developed by the clerk.

49 (b) An individual seeking to defer payment of fees, service
50 charges, court costs, or fines imposed by operation of law or
51 order of the court under any provision of general law shall
52 apply to the clerk for enrollment in a payment plan. The clerk
53 shall enter into a payment plan with an individual who the court
54 determines is indigent for costs. It is the responsibility of an
55 individual who is released from incarceration and has
56 outstanding court obligations to contact the clerk within 30



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57 days after release to pay fees, service charges, court costs,
58 and fines in full, or to apply for enrollment in a payment plan.
59 A monthly payment amount, calculated based upon all fees and all
60 anticipated fees, service charges, court costs, and fines, is
61 presumed to correspond to the person's ability to pay if the
62 amount does not exceed 2 percent of the person's annual net
63 income, as defined in s. 27.52(1), divided by 12. The clerk
64 shall establish all terms of a payment plan and the court may
65 review the reasonableness of the payment plan.

66 Section 2. Effective upon this act becoming a law,
67 paragraph (f) of subsection (2) and paragraph (a) of subsection
68 (3) of section 28.35, Florida Statutes, are amended to read:

69 28.35 Florida Clerks of Court Operations Corporation.—

70 (2) The duties of the corporation shall include the
71 following:

72 (f) Approving the proposed budgets submitted by clerks of
73 the court pursuant to s. 28.36. The corporation must ensure that
74 the total combined budgets of the clerks of the court do not
75 exceed the total estimated revenues from fees, service charges,
76 court costs, and fines for court-related functions available for
77 court-related expenditures as determined by the most recent
78 Revenue Estimating Conference, plus the total of unspent
79 budgeted funds for court-related functions carried forward by
80 the clerks of the court from the previous county fiscal year,
81 and plus the balance of funds remaining in the Clerks of the
82 Court Trust Fund after the transfer of funds to the General
83 Revenue Fund required pursuant to s. 28.37(4)(b), and plus any
84 appropriations for court-related functions s. 28.37(3)(b). The
85 corporation may amend any individual clerk of the court budget



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86 to ensure compliance with this paragraph and must consider
87 performance measures, workload performance standards, workload
88 measures, and expense data before modifying the budget. As part
89 of this process, the corporation shall:

90 1. Calculate the minimum amount of revenue necessary for
91 each clerk of the court to efficiently perform the list of
92 court-related functions specified in paragraph (3) (a). The
93 corporation shall apply the workload measures appropriate for
94 determining the individual level of review required to fund the
95 clerk's budget.

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

100 3. Conduct an annual base budget review and an annual
101 budget exercise examining the total budget of each clerk of the
102 court. The review shall examine revenues from all sources,
103 expenses of court-related functions, and expenses of noncourt-
104 related functions as necessary to determine that court-related
105 revenues are not being used for noncourt-related purposes. The
106 review and exercise shall identify potential targeted budget
107 reductions in the percentage amount provided in Schedule VIII-B
108 of the state's previous year's legislative budget instructions,
109 as referenced in s. 216.023(3), or an equivalent schedule or
110 instruction as may be adopted by the Legislature.

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

114 5. Identify those clerks projected to have court-related



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115 revenues insufficient to fund their anticipated court-related
116 expenditures.

117 6. Use revenue estimates based on the official estimate for
118 funds from fees, service charges, court costs, and fines for
119 court-related functions accruing to the clerks of the court made
120 by the Revenue Estimating Conference, as well as any unspent
121 budgeted funds for court-related functions carried forward by
122 the clerks of the court from the previous county fiscal year and
123 the balance of funds remaining in the Clerks of the Court Trust
124 Fund after the transfer of funds to the General Revenue Fund
125 required pursuant to s. 28.37(4)(b), plus any appropriations for
126 the purpose of funding court-related functions ~~s. 28.37(3)(b)~~.

127 7. Identify pay and benefit increases in any proposed clerk
128 budget, including, but not limited to, cost of living increases,
129 merit increases, and bonuses.

130 8. Identify increases in anticipated expenditures in any
131 clerk budget that exceeds the current year budget by more than 3
132 percent.

133 9. Identify the budget of any clerk which exceeds the
134 average budget of similarly situated clerks by more than 10
135 percent.

136

137 For the purposes of this paragraph, the term "unspent budgeted
138 funds for court-related functions" means undisbursed funds
139 included in the clerks of the courts budgets for court-related
140 functions established pursuant to this section and s. 28.36.

141 (3)(a) The list of court-related functions that clerks may
142 fund from filing fees, service charges, court costs, and fines
143 is limited to those functions expressly authorized by law or



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144 court rule. Those functions include the following: case
145 maintenance; records management; court preparation and
146 attendance; processing the assignment, reopening, and
147 reassignment of cases; processing of appeals; collection and
148 distribution of fines, fees, service charges, and court costs;
149 processing of bond forfeiture payments; data collection and
150 reporting; determinations of indigent status; and paying
151 reasonable administrative support costs to enable the clerk of
152 the court to carry out these court-related functions.

153 Section 3. Effective upon this act becoming a law, present
154 subsections (3) and (4) of section 28.36, Florida Statutes, are
155 redesignated as subsections (4) and (5), a new subsection (3) is
156 added to that section, and subsection (1), paragraph (b) of
157 subsection (2), and present subsection (4) of that section are
158 amended, to read:

159 28.36 Budget procedure.—There is established a budget
160 procedure for the court-related functions of the clerks of the
161 court.

162 (1) Only those functions listed in s. 28.35(3)(a) may be
163 funded from fees, service charges, court costs, and fines
164 retained by the clerks of the court.

165 (2) Each proposed budget shall further conform to the
166 following requirements:

167 (b) The proposed budget must be balanced such that the
168 total of the estimated revenues available equals or exceeds the
169 total of the anticipated expenditures. Such revenues include
170 revenue projected to be received from fees, service charges,
171 court costs, and fines for court-related functions during the
172 fiscal period covered by the budget, plus the total of unspent



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173 budgeted funds for court-related functions carried forward by
174 the clerk of the court from the previous county fiscal year and
175 plus the portion of the balance of funds remaining in the Clerks
176 of the Court Trust Fund after the transfer of funds to the
177 General Revenue Fund required pursuant to s. 28.37(4)(b) ~~s.~~
178 ~~28.37(3)(b)~~ which has been allocated to each respective clerk of
179 the court by the Florida Clerks of Court Operations Corporation.
180 For the purposes of this paragraph, the term "unspent budgeted
181 funds for court-related functions" means undisbursed funds
182 included in the clerk of the courts' budget for court related
183 functions established pursuant to s. 28.35 and this section. The
184 anticipated expenditures must be itemized as required by the
185 corporation.

186 (3) (a) The Florida Clerks of Court Operations Corporation
187 shall establish and manage a reserve for contingencies within
188 the Clerks of the Court Trust Fund which must consist of an
189 amount not to exceed 16 percent of the total budget authority
190 for the clerks of court during the current county fiscal year,
191 to be carried forward at the end of the fiscal year. Funds to be
192 held in reserve include transfers of cumulative excess, as
193 provided in s. 28.37(4)(b), from the Clerks of the Court Trust
194 Fund and may also include revenues provided by law or moneys
195 appropriated by the Legislature.

196 (b) The corporation shall provide a reporting of the
197 balance and use of these funds during each county fiscal year as
198 part of the corporation's annual report submitted under s.
199 28.35(2)(h).

200 (c) The corporation may use the reserve to ensure the
201 clerks of court can perform the court-related functions as



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202 provided in s. 28.35(3)(a). Moneys in the Clerks of the Court
203 Trust Fund which are held in reserve may be used by the
204 corporation under the following circumstances:

205 1. To offset a current deficit between the revenue
206 available and the original budget authority. A deficit is deemed
207 to occur when the revenue available to the clerks of court falls
208 below the original revenue projection for that county fiscal
209 year.

210 2. To provide funding for an emergency, as defined in s.
211 252.34(4). The emergency must have been declared by the
212 Governor, pursuant to s. 252.36, or otherwise declared by law.

213 3. To provide funds in the development of the total
214 aggregate budget of the clerks of court to ensure that a minimum
215 continuation budget is met. For purposes of this subparagraph, a
216 minimum continuation budget is the budget approved for the
217 current county fiscal year or some lesser amount adopted by the
218 corporation.

219 (d) To use the reserve, the corporation must request a
220 budget amendment pursuant to s. 216.292.

221 (5)-(4) The corporation may approve increases or decreases
222 to the previously authorized budgets approved for individual
223 clerks of the court pursuant to s. 28.35 for court-related
224 functions, if:

225 (a) The additional budget authority is necessary to pay the
226 cost of performing new or additional functions required by
227 changes in law or court rule; or

228 (b) The additional budget authority is necessary to pay the
229 cost of supporting increases in the number of judges or
230 magistrates authorized by the Legislature, or for increases in



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231 the use of hearing officers and senior judges assigned by the
232 courts.

233 Section 4. Effective upon this act becoming a law, section
234 28.37, Florida Statutes, is amended to read:

235 28.37 Fines, fees, service charges, and costs remitted to
236 the state.—

237 (1) Pursuant to s. 14(b), Art. V of the State Constitution,
238 selected salaries, costs, and expenses of the state courts
239 system and court-related functions shall be funded from a
240 portion of the revenues derived from statutory fines, fees,
241 service charges, and court costs collected by the clerks of the
242 court, and from adequate and appropriate supplemental funding
243 from state revenues as appropriated by the Legislature.

244 (2) DEFINITIONS.—As used in this section, the term:

245 (a) “Cumulative excess” means revenues derived from fines,
246 fees, service charges, and court costs collected by the clerks
247 of the court which are greater than the original revenue
248 projection.

249 (b) “Original revenue projection” means the official
250 estimate, as determined by the Revenue Estimating Conference, of
251 revenues from fines, fees, service charges, and court costs
252 available for court-related functions for the county fiscal year
253 covered by the projection.

254 (3) The ~~Beginning November 1, 2013,~~ that portion of all
255 fines, fees, service charges, and costs collected by the clerks
256 of the court for the previous month which is in excess of one-
257 twelfth of the clerks’ total budget for the performance of
258 court-related functions ~~shall~~ must be remitted to the Department
259 of Revenue for deposit into the Clerks of the Court Trust Fund.



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260 Such collections do not include funding received for the
261 operation of the Title IV-D child support collections and
262 disbursement program. The clerk of the court shall remit the
263 revenues collected during the previous month due to the state on
264 or before the 10th day of each month.

265 (4) (a) ~~(3) (a)~~ Each year, no later than January 25, for the
266 previous county fiscal year, the clerks of court, in
267 consultation with the Florida Clerks of Court Operations
268 Corporation, shall remit to the Department of Revenue for
269 deposit in the Clerks of the Court Trust Fund the cumulative
270 excess of all fines, fees, service charges, and court costs
271 retained by the clerks of the court, plus any funds received by
272 the clerks of the court from the Clerks of the Court Trust Fund
273 under s. 28.36(4) ~~s. 28.36(3)~~, which exceed the amount needed to
274 meet their authorized budget amounts established under s. 28.35.

275 (b) No later than February 1, 2022, and each February 1
276 thereafter, the Department of Revenue shall transfer 50 percent
277 of the cumulative excess of the original revenue projection from
278 the Clerks of the Court Trust Fund to the General Revenue Fund.
279 The remaining 50 percent in the Clerks of the Court Trust Fund
280 may be used in the development of the total combined budgets of
281 the clerks of the court as provided in s. 28.35(2)(f)6. However,
282 a minimum of 10 percent of the clerk-retained portion of the
283 cumulative excess amount must be held in reserve until such
284 funds reach an amount equal to at least 16 percent of the total
285 budget authority from the current county fiscal year, as
286 provided in s. 28.36(3)(a)

287 ~~1. No later than February 1, 2020, the Department of~~
288 ~~Revenue shall transfer from the Clerks of the Court Trust Fund~~



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289 ~~to the General Revenue Fund the sum of the cumulative excess of~~
290 ~~all fines, fees, service charges, and costs submitted by the~~
291 ~~clerks of court pursuant to subsection (2) and the cumulative~~
292 ~~excess of all fines, fees, service charges, and costs remitted~~
293 ~~by the clerks of court pursuant to paragraph (a) in excess of~~
294 ~~\$10 million.~~

295 ~~2. No later than February 1, 2021, the Department of~~
296 ~~Revenue shall transfer from the Clerks of the Court Trust Fund~~
297 ~~to the General Revenue Fund not less than 50 percent of the sum~~
298 ~~of the cumulative excess of all fines, fees, service charges,~~
299 ~~and costs submitted by the clerks of court pursuant to~~
300 ~~subsection (2) and the cumulative excess of all fines, fees,~~
301 ~~service charges, and costs remitted by the clerks of court~~
302 ~~pursuant to paragraph (a); provided however, the balance~~
303 ~~remaining in the Clerks of Courts Trust Fund after such transfer~~
304 ~~may not be more than \$20 million.~~

305 ~~3. No later than February 1, 2022, the Department of~~
306 ~~Revenue shall transfer from the Clerks of the Court Trust Fund~~
307 ~~to the General Revenue Fund not less than 50 percent of the sum~~
308 ~~of the cumulative excess of all fines, fees, service charges,~~
309 ~~and costs submitted by the clerks of court pursuant to~~
310 ~~subsection (2) and the cumulative excess of all fines, fees,~~
311 ~~service charges, and costs remitted by the clerks of court~~
312 ~~pursuant to paragraph (a); provided however, the balance~~
313 ~~remaining in the Clerks of Courts Trust Fund after such transfer~~
314 ~~may not be more than \$20 million.~~

315 ~~4. No later than February 1, 2023, and each February 1~~
316 ~~thereafter, the Department of Revenue shall transfer from the~~
317 ~~Clerks of the Court Trust Fund to the General Revenue Fund the~~



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318 ~~cumulative excess of all fines, fees, service charges, and costs~~
319 ~~submitted by the clerks of court pursuant to subsection (2) and~~
320 ~~the cumulative excess of all fines, fees, service charges, and~~
321 ~~costs remitted by the clerks of court pursuant to paragraph (a).~~

322 (5)~~(4)~~ The Department of Revenue shall collect any funds
323 that the Florida Clerks of Court Operations Corporation
324 determines upon investigation were due but not remitted to the
325 Department of Revenue. The corporation shall notify the clerk of
326 the court and the Department of Revenue of the amount due to the
327 Department of Revenue. The clerk of the court shall remit the
328 amount due no later than the 10th day of the month following the
329 month in which notice is provided by the corporation to the
330 clerk of the court.

331 (6)~~(5)~~ Ten percent of all court-related fines collected by
332 the clerk, except for penalties or fines distributed to counties
333 or municipalities under s. 316.0083(1)(b)3. or s. 318.18(15)(a),
334 must ~~shall~~ be deposited into the fine and forfeiture fund to be
335 used exclusively for clerk court-related functions, as provided
336 in s. 28.35(3)(a).

337 Section 5. Section 28.42, Florida Statutes, is amended to
338 read:

339 28.42 Manual of filing fees, charges, costs, and fines;
340 payment plan form.—

341 (1) The clerks of court, through their association and in
342 consultation with the Office of the State Courts Administrator,
343 shall prepare and disseminate a manual of filing fees, service
344 charges, costs, and fines imposed pursuant to state law, for
345 each type of action and offense, and classified as mandatory or
346 discretionary. The manual also shall classify the fee, charge,



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347 cost, or fine as court-related revenue or noncourt-related
348 revenue. The clerks, through their association, shall
349 disseminate this manual to the chief judge, state attorney,
350 public defender, and court administrator in each circuit and to
351 the clerk of the court in each county. The clerks, through their
352 association and in consultation with the Office of the State
353 Courts Administrator, shall at a minimum update and disseminate
354 this manual on July 1 of each year.

355 (2) By October 1, 2021, the clerks of court, through the
356 Florida Clerks of Court Operations Corporation, shall develop a
357 uniform payment plan form for use by persons seeking to
358 establish a payment plan in accordance with s. 28.246(4). The
359 form must inform the person of the minimum payment due each
360 month, the term of the plan, acceptable payment methods, and the
361 circumstances under which a case may be sent to collections for
362 nonpayment.

363 (3) By January 1, 2022, each clerk of court shall use the
364 uniform payment plan form developed pursuant to subsection (2)
365 when establishing payment plans.

366 Section 6. Paragraph (a) of subsection (1) of section
367 318.15, Florida Statutes, is amended to read:

368 318.15 Failure to comply with civil penalty or to appear;
369 penalty.-

370 (1) (a) If a person fails to comply with the civil penalties
371 provided in s. 318.18 within the time period specified in s.
372 318.14(4), fails to enter into or comply with the terms of a
373 penalty payment plan with the clerk of the court in accordance
374 with ss. 318.14 and 28.246, fails to attend driver improvement
375 school, or fails to appear at a scheduled hearing, the clerk of



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376 the court must ~~shall~~ notify the Department of Highway Safety and
377 Motor Vehicles of such failure within 10 days after such
378 failure. Upon receipt of such notice, the department must ~~shall~~
379 immediately issue an order suspending the driver license and
380 privilege to drive of such person effective 20 days after the
381 date the order of suspension is mailed in accordance with s.
382 322.251(1), (2), and (6). The order also must inform the person
383 that he or she may contact the clerk of the court to establish a
384 payment plan pursuant to s. 28.246(4) to make partial payments
385 for court-related fines, fees, service charges, and court costs.
386 Any such suspension of the driving privilege which has not been
387 reinstated, including a similar suspension imposed outside of
388 this state Florida, must ~~shall~~ remain on the records of the
389 department for a period of 7 years from the date imposed and
390 must ~~shall~~ be removed from the records after the expiration of 7
391 years from the date it is imposed. The department may not accept
392 the resubmission of such suspension.

393 Section 7. Section 318.20, Florida Statutes, is amended to
394 read:

395 318.20 Notification; duties of department.—The department
396 shall prepare a notification form to be appended to, or
397 incorporated as a part of, the Florida uniform traffic citation
398 issued in accordance with s. 316.650. The notification form must
399 ~~shall~~ contain language informing persons charged with
400 infractions to which this chapter applies of the procedures
401 available to them under this chapter. Such notification form
402 must ~~shall~~ contain a statement that, if the official determines
403 that no infraction has been committed, no costs or penalties may
404 ~~shall~~ be imposed and any costs or penalties that ~~which~~ have been



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405 paid will ~~shall~~ be returned. Additionally, the notification form
406 must include information on paying the civil penalty to the
407 clerk of the court and the ability to establish a payment plan
408 pursuant to s. 28.246(4). A uniform traffic citation that is
409 produced electronically must also include the information
410 required by this section.

411 Section 8. Subsections (1) and (3) and paragraph (a) of
412 subsection (5) of section 322.245, Florida Statutes, are amended
413 to read:

414 322.245 Suspension of license upon failure of person
415 charged with specified offense under chapter 316, chapter 320,
416 or this chapter to comply with directives ordered by traffic
417 court or upon failure to pay child support in non-IV-D cases as
418 provided in chapter 61 or failure to pay any financial
419 obligation in any other criminal case.—

420 (1) If a person charged with a violation of any of the
421 criminal offenses enumerated in s. 318.17 or with the commission
422 of any offense constituting a misdemeanor under chapter 320 or
423 this chapter fails to comply with all of the directives of the
424 court within the time allotted by the court, the clerk of the
425 ~~traffic court~~ must provide ~~shall mail to~~ the person, either
426 electronically or by mail sent to ~~at~~ the address specified on
427 the uniform traffic citation, a notice of such failure,
428 notifying him or her that, if he or she does not comply with the
429 directives of the court within 30 days after the date of the
430 notice and pay a delinquency fee of up to \$25 to the clerk, from
431 which the clerk shall remit \$10 to the Department of Revenue for
432 deposit into the General Revenue Fund, his or her driver license
433 will be suspended. The notice must ~~shall~~ be sent ~~mailed~~ no later



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434 than 5 days after such failure. The delinquency fee may be
435 retained by the office of the clerk to defray the operating
436 costs of the office.

437 (3) If the person fails to comply with the directives of
438 the court within the 30-day period, or, in non-IV-D cases, fails
439 to comply with the requirements of s. 61.13016 within the period
440 specified in that statute, the depository or the clerk of the
441 court must ~~shall~~ electronically notify the department of such
442 failure within 10 days. Upon electronic receipt of the notice,
443 the department shall immediately issue an order suspending the
444 person's driver license and privilege to drive effective 20 days
445 after the date the order of suspension is mailed in accordance
446 with s. 322.251(1), (2), and (6). The order of suspension must
447 also contain information specifying that the person may contact
448 the clerk of the court to establish a payment plan pursuant to
449 s. 28.246(4) to make partial payments for fines, fees, service
450 charges, and court costs.

451 (5) (a) When the department receives notice from a clerk of
452 the court that a person licensed to operate a motor vehicle in
453 this state under the provisions of this chapter has failed to
454 pay financial obligations for any criminal offense other than
455 those specified in subsection (1), in full or in part under a
456 payment plan pursuant to s. 28.246(4), the department must ~~shall~~
457 suspend the license of the person named in the notice. The
458 department shall mail an order of suspension in accordance with
459 s. 322.251(1), (2), and (6), which must also contain information
460 specifying that the person may contact the clerk of the court to
461 establish a payment plan pursuant to s. 28.246(4) to make
462 partial payments for fines, fees, service charges, and court



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463 costs.

464 Section 9. Present subsection (3) of section 775.083,
465 Florida Statutes, is redesignated as subsection (4), and a new
466 subsection (3) is added to that section, to read:

467 775.083 Fines.—

468 (3) The clerk of the court of each county is the entity
469 responsible for collecting payment of fines, fees, service
470 charges, and court costs. Unless otherwise designated by the
471 court, a person who has been ordered to pay court obligations
472 under this section shall immediately contact the clerk to pay
473 fines, fees, service charges, and court costs in full, or to
474 apply for enrollment in a payment plan, pursuant to s.
475 28.246(4).

476 Section 10. Except as otherwise expressly provided in this
477 act and except for this section, which shall take effect upon
478 this act becoming a law, this act shall take effect October 1,
479 2021.