



761372

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/10/2021	.	
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	.	
	.	

The Committee on Judiciary (Boyd) recommended the following:

Senate Amendment (with title amendment)

Delete lines 70 - 518

and insert:

Section 2. Effective upon this act becoming a law, paragraph (f) of subsection (2) and paragraph (a) of subsection (3) of section 28.35, Florida Statutes, are amended, and paragraphs (i) and (j) are added to subsection (2) of that section, to read:

28.35 Florida Clerks of Court Operations Corporation.-



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11 (2) The duties of the corporation shall include the
12 following:

13 (f) Approving the proposed budgets submitted by clerks of
14 the court pursuant to s. 28.36. The corporation must ensure that
15 the total combined budgets of the clerks of the court do not
16 exceed the total estimated revenues from fees, service charges,
17 court costs, and fines for court-related functions available for
18 court-related expenditures as determined by the most recent
19 Revenue Estimating Conference, plus the total of unspent
20 budgeted funds for court-related functions carried forward by
21 the clerks of the court from the previous county fiscal year,
22 ~~and~~ plus the balance of funds remaining in the Clerks of the
23 Court Trust Fund after the transfer of funds to the General
24 Revenue Fund required pursuant to s. 28.37(4)(b), and plus any
25 appropriations for court-related functions ~~s. 28.37(3)(b)~~. The
26 corporation may amend any individual clerk of the court budget
27 to ensure compliance with this paragraph and must consider
28 performance measures, workload performance standards, workload
29 measures, and expense data before modifying the budget. As part
30 of this process, the corporation shall:

31 1. Calculate the minimum amount of revenue necessary for
32 each clerk of the court to efficiently perform the list of
33 court-related functions specified in paragraph (3)(a). The
34 corporation shall apply the workload measures appropriate for
35 determining the individual level of review required to fund the
36 clerk's budget.

37 2. Prepare a cost comparison of similarly situated clerks
38 of the court, based on county population and numbers of filings,
39 using the standard list of court-related functions specified in



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40 paragraph (3) (a).

41 3. Conduct an annual base budget review and an annual
42 budget exercise examining the total budget of each clerk of the
43 court. The review shall examine revenues from all sources,
44 expenses of court-related functions, and expenses of noncourt-
45 related functions as necessary to determine that court-related
46 revenues are not being used for noncourt-related purposes. The
47 review and exercise shall identify potential targeted budget
48 reductions in the percentage amount provided in Schedule VIII-B
49 of the state's previous year's legislative budget instructions,
50 as referenced in s. 216.023(3), or an equivalent schedule or
51 instruction as may be adopted by the Legislature.

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

55 5. Identify those clerks projected to have court-related
56 revenues insufficient to fund their anticipated court-related
57 expenditures.

58 6. Use revenue estimates based on the official estimate for
59 funds from fees, service charges, court costs, and fines for
60 court-related functions accruing to the clerks of the court made
61 by the Revenue Estimating Conference, as well as any unspent
62 budgeted funds for court-related functions carried forward by
63 the clerks of the court from the previous county fiscal year and
64 the balance of funds remaining in the Clerks of the Court Trust
65 Fund after the transfer of funds to the General Revenue Fund
66 required pursuant to s. 28.37(4) (b), plus any appropriations for
67 the purpose of funding court-related functions ~~s. 28.37(3) (b)~~.

68 7. Identify pay and benefit increases in any proposed clerk



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69 budget, including, but not limited to, cost of living increases,
70 merit increases, and bonuses.

71 8. Identify increases in anticipated expenditures in any
72 clerk budget that exceeds the current year budget by more than 3
73 percent.

74 9. Identify the budget of any clerk which exceeds the
75 average budget of similarly situated clerks by more than 10
76 percent.

77 10. Request the Governor to order, pursuant to s.
78 215.18(1), a temporary transfer of moneys from unobligated funds
79 in the State Treasury to the Clerks of the Court Trust Fund in
80 the Department of Revenue to meet temporary deficiencies in that
81 fund.

82 11. Determine if the estimated revenue available for the
83 upcoming county fiscal year is adequate to fund court-related
84 functions, and certify and submit any aggregate difference to
85 the chairs of the legislative appropriations committees and the
86 Executive Office of the Governor for consideration, at least 30
87 days before the start of the next regular session of the
88 Legislature.

89
90 For the purposes of this paragraph, the term "unspent budgeted
91 funds for court-related functions" means undisbursed funds
92 included in the clerks of the courts budgets for court-related
93 functions established pursuant to this section and s. 28.36.

94 (i) If the corporation determines that the cumulative
95 budget for all clerks will vary by more than 5 percent from the
96 approved cumulative budget for the previous year, certify to the
97 Legislature the specific causes for the variance and how each



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98 variance relates to the clerks' responsibilities in performing
99 their court-related functions.

100 (j) Prepare and submit legislative budget requests to the
101 Legislature, consistent with the requirements of s. 216.023.
102 Such requests must be submitted for any fiscal year for which
103 the corporation determines that new duties or financial
104 obligations under s. 28.36(4), beyond those funded in prior
105 fiscal years, have been imposed on the court-related functions
106 of clerks of the court; and for any fiscal year for which the
107 corporation determines that the total estimated revenues
108 available for court-related expenditures as determined by the
109 most recent Revenue Estimating Conference, unspent revenues
110 carried forward from the previous fiscal year, and budget
111 amendments and appropriations made by law for the purpose of
112 funding court-related functions will be inadequate to provide
113 funding for court-related functions of clerks of the court at
114 the current level of operations.

115 (3) (a) The list of court-related functions that clerks may
116 fund from filing fees, service charges, court costs, and fines
117 is limited to those functions expressly authorized by law or
118 court rule. Those functions include the following: case
119 maintenance; records management; court preparation and
120 attendance; processing the assignment, reopening, and
121 reassignment of cases; processing of appeals; collection and
122 distribution of fines, fees, service charges, and court costs;
123 processing of bond forfeiture payments; data collection and
124 reporting; determinations of indigent status; and paying
125 reasonable administrative support costs to enable the clerk of
126 the court to carry out these court-related functions.



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127 Section 3. Effective upon this act becoming a law, present
128 subsection (3) of section 28.36, Florida Statutes, is
129 redesignated as subsection (4), a new subsection (3) is added to
130 that section, and subsection (1), paragraph (b) of subsection
131 (2), and present subsection (4) of that section are amended, to
132 read:

133 28.36 Budget procedure.—There is established a budget
134 procedure for the court-related functions of the clerks of the
135 court.

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

139 (2) Each proposed budget shall further conform to the
140 following requirements:

141 (b) The proposed budget must be balanced such that the
142 total of the estimated revenues available equals or exceeds the
143 total of the anticipated expenditures. Such revenues include
144 revenue projected to be received from fees, service charges,
145 court costs, and fines for court-related functions during the
146 fiscal period covered by the budget, plus the total of unspent
147 budgeted funds for court-related functions carried forward by
148 the clerk of the court from the previous county fiscal year and
149 plus the portion of the balance of funds remaining in the Clerks
150 of the Court Trust Fund after the transfer of funds to the
151 General Revenue Fund required pursuant to s. 28.37(4)(b) ~~s.~~
152 ~~28.37(3)(b)~~ which has been allocated to each respective clerk of
153 the court by the Florida Clerks of Court Operations Corporation.
154 For the purposes of this paragraph, the term "unspent budgeted
155 funds for court-related functions" means undisbursed funds



156 included in the clerk of the courts' budget for court related
157 functions established pursuant to s. 28.35 and this section. The
158 anticipated expenditures must be itemized as required by the
159 corporation.

160 (3) (a) The Florida Clerks of Court Operations Corporation
161 shall establish and manage a reserve for contingencies within
162 the Clerks of the Court Trust Fund which must consist of an
163 amount not to exceed 16 percent of the total budget authority
164 for the clerks of court during the current county fiscal year,
165 to be carried forward at the end of the fiscal year. Funds to be
166 held in reserve include transfers of cumulative excess, as
167 provided in s. 28.37(4) (b), from the Clerks of the Court Trust
168 Fund and may also include revenues provided by law or moneys
169 appropriated by the Legislature.

170 (b) The corporation shall provide a reporting of the
171 balance and use of these funds during each county fiscal year as
172 part of the corporation's annual report submitted under s.
173 28.35(2) (h) .

174 (c) The corporation may use the reserve to ensure the
175 clerks of court can perform the court-related functions as
176 provided in s. 28.35(3) (a). Moneys in the Clerks of the Court
177 Trust Fund which are held in reserve may be used by the
178 corporation under the following circumstances:

179 1. To offset a current deficit between the revenue
180 available and the original budget authority. A deficit is deemed
181 to occur when the revenue available to the clerks of court falls
182 below the original revenue projection for that county fiscal
183 year.

184 2. To provide funding for an emergency, as defined in s.



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185 252.34(4). The emergency must have been declared by the
186 Governor, pursuant to s. 252.36, or otherwise declared by law.

187 3. If, after the corporation has notified the Legislature
188 of a deficit under s. 28.35(2)(f)11., there remains a deficit
189 between the total revenues available and the total budget from
190 the current county fiscal year, to provide funds in the
191 development of the total aggregate budget of the clerks of court
192 to ensure that a minimum continuation budget is met. For
193 purposes of this sub-paragraph, a minimum continuation budget is
194 the budget approved for the current county fiscal year or some
195 lesser amount adopted by the corporation.

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

198 (5)-(4) The corporation may approve increases or decreases
199 to the previously authorized budgets approved for individual
200 clerks of the court pursuant to s. 28.35 for court-related
201 functions, if:

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

205 (b) The additional budget authority is necessary to pay the
206 cost of supporting increases in the number of judges or
207 magistrates authorized by the Legislature, or for increases in
208 the use of hearing officers and senior judges assigned by the
209 courts.

210 Section 4. Effective upon this act becoming a law, section
211 28.37, Florida Statutes, is amended to read:

212 28.37 Fines, fees, service charges, and costs remitted to
213 the state.-



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214 (1) Pursuant to s. 14(b), Art. V of the State Constitution,
215 selected salaries, costs, and expenses of the state courts
216 system and court-related functions shall be funded from a
217 portion of the revenues derived from statutory fines, fees,
218 service charges, and court costs collected by the clerks of the
219 court, and from adequate and appropriate supplemental funding
220 from state revenues as appropriated by the Legislature.

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

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

226 (b) “Original revenue projection” means the official
227 estimate, as determined by the Revenue Estimating Conference, of
228 revenues from fines, fees, service charges, and court costs
229 available for court-related functions for the county fiscal year
230 covered by the projection.

231 (3) The Beginning November 1, 2013, that portion of all
232 fines, fees, service charges, and costs collected by the clerks
233 of the court for the previous month which is in excess of one-
234 twelfth of the clerks’ total budget for the performance of
235 court-related functions must ~~shall~~ be remitted to the Department
236 of Revenue for deposit into the Clerks of the Court Trust Fund.
237 Such collections do not include funding received for the
238 operation of the Title IV-D child support collections and
239 disbursement program. The clerk of the court shall remit the
240 revenues collected during the previous month due to the state on
241 or before the 10th day of each month.

242 (4) (a) ~~(3) (a)~~ Each year, no later than January 25, for the



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243 previous county fiscal year, the clerks of court, in
244 consultation with the Florida Clerks of Court Operations
245 Corporation, shall remit to the Department of Revenue for
246 deposit in the Clerks of the Court Trust Fund the cumulative
247 excess of all fines, fees, service charges, and court costs
248 retained by the clerks of the court, plus any funds received by
249 the clerks of the court from the Clerks of the Court Trust Fund
250 under s. 28.36(4) ~~s. 28.36(3)~~, which exceed the amount needed to
251 meet their authorized budget amounts established under s. 28.35.

252 (b) No later than February 1, 2022, and each February 1
253 thereafter, the Department of Revenue shall transfer 50 percent
254 of the cumulative excess of the original revenue projection from
255 the Clerks of the Court Trust Fund to the General Revenue Fund.
256 The remaining 50 percent in the Clerks of the Court Trust Fund
257 may be used in the development of the total combined budgets of
258 the clerks of the court as provided in s. 28.35(2)(f)6. However,
259 a minimum of 10 percent of the clerk-retained portion of the
260 cumulative excess amount must be held in reserve until such
261 funds reach an amount equal to at least 16 percent of the total
262 budget authority from the current county fiscal year, as
263 provided in s. 28.36(3)(a) 1. No later than February 1, 2020,
264 ~~the Department of Revenue shall transfer from the Clerks of the~~
265 ~~Court Trust Fund to the General Revenue Fund the sum of the~~
266 ~~cumulative excess of all fines, fees, service charges, and costs~~
267 ~~submitted by the clerks of court pursuant to subsection (2) and~~
268 ~~the cumulative excess of all fines, fees, service charges, and~~
269 ~~costs remitted by the clerks of court pursuant to paragraph (a)~~
270 ~~in excess of \$10 million.~~

271 ~~2. No later than February 1, 2021, the Department of~~



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272 ~~Revenue shall transfer from the Clerks of the Court Trust Fund~~
273 ~~to the General Revenue Fund not less than 50 percent of the sum~~
274 ~~of the cumulative excess of all fines, fees, service charges,~~
275 ~~and costs submitted by the clerks of court pursuant to~~
276 ~~subsection (2) and the cumulative excess of all fines, fees,~~
277 ~~service charges, and costs remitted by the clerks of court~~
278 ~~pursuant to paragraph (a); provided however, the balance~~
279 ~~remaining in the Clerks of Courts Trust Fund after such transfer~~
280 ~~may not be more than \$20 million.~~

281 ~~3. No later than February 1, 2022, the Department of~~
282 ~~Revenue shall transfer from the Clerks of the Court Trust Fund~~
283 ~~to the General Revenue Fund not less than 50 percent of the sum~~
284 ~~of the cumulative excess of all fines, fees, service charges,~~
285 ~~and costs submitted by the clerks of court pursuant to~~
286 ~~subsection (2) and the cumulative excess of all fines, fees,~~
287 ~~service charges, and costs remitted by the clerks of court~~
288 ~~pursuant to paragraph (a); provided however, the balance~~
289 ~~remaining in the Clerks of Courts Trust Fund after such transfer~~
290 ~~may not be more than \$20 million.~~

291 ~~4. No later than February 1, 2023, and each February 1~~
292 ~~thereafter, the Department of Revenue shall transfer from the~~
293 ~~Clerks of the Court Trust Fund to the General Revenue Fund the~~
294 ~~cumulative excess of all fines, fees, service charges, and costs~~
295 ~~submitted by the clerks of court pursuant to subsection (2) and~~
296 ~~the cumulative excess of all fines, fees, service charges, and~~
297 ~~costs remitted by the clerks of court pursuant to paragraph (a).~~

298 ~~(5)-(4)~~ The Department of Revenue shall collect any funds
299 that the Florida Clerks of Court Operations Corporation
300 determines upon investigation were due but not remitted to the



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301 Department of Revenue. The corporation shall notify the clerk of
302 the court and the Department of Revenue of the amount due to the
303 Department of Revenue. The clerk of the court shall remit the
304 amount due no later than the 10th day of the month following the
305 month in which notice is provided by the corporation to the
306 clerk of the court.

307 ~~(6)-(5)~~ Ten percent of all court-related fines collected by
308 the clerk, except for penalties or fines distributed to counties
309 or municipalities under s. 316.0083(1)(b)3. or s. 318.18(15)(a),
310 must ~~shall~~ be deposited into the fine and forfeiture fund to be
311 used exclusively for clerk court-related functions, as provided
312 in s. 28.35(3)(a).

313 Section 5. Section 28.42, Florida Statutes, is amended to
314 read:

315 28.42 Manual of filing fees, charges, costs, and fines;
316 payment plan form.-

317 (1) The clerks of court, through their association and in
318 consultation with the Office of the State Courts Administrator,
319 shall prepare and disseminate a manual of filing fees, service
320 charges, costs, and fines imposed pursuant to state law, for
321 each type of action and offense, and classified as mandatory or
322 discretionary. The manual also shall classify the fee, charge,
323 cost, or fine as court-related revenue or noncourt-related
324 revenue. The clerks, through their association, shall
325 disseminate this manual to the chief judge, state attorney,
326 public defender, and court administrator in each circuit and to
327 the clerk of the court in each county. The clerks, through their
328 association and in consultation with the Office of the State
329 Courts Administrator, shall at a minimum update and disseminate



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330 this manual on July 1 of each year.

331 (2) By October 1, 2021, the clerks of court, through the
332 Florida Clerks of Court Operations Corporation, shall develop a
333 uniform payment plan form for use by persons seeking to
334 establish a payment plan in accordance with s. 28.246(4). The
335 form must inform the person of the minimum payment due each
336 month, the term of the plan, acceptable payment methods, and the
337 circumstances under which a case may be sent to collections for
338 nonpayment.

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

342 Section 6. Paragraph (a) of subsection (1) of section
343 318.15, Florida Statutes, is amended to read:

344 318.15 Failure to comply with civil penalty or to appear;
345 penalty.-

346 (1) (a) If a person fails to comply with the civil penalties
347 provided in s. 318.18 within the time period specified in s.
348 318.14(4), fails to enter into or comply with the terms of a
349 penalty payment plan with the clerk of the court in accordance
350 with ss. 318.14 and 28.246, fails to attend driver improvement
351 school, or fails to appear at a scheduled hearing, the clerk of
352 the court must ~~shall~~ notify the Department of Highway Safety and
353 Motor Vehicles of such failure within 10 days after such
354 failure. Upon receipt of such notice, the department must ~~shall~~
355 immediately issue an order suspending the driver license and
356 privilege to drive of such person effective 20 days after the
357 date the order of suspension is mailed in accordance with s.
358 322.251(1), (2), and (6). The order also must inform the person



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359 that he or she may contact the clerk of the court to establish a
360 payment plan pursuant to s. 28.246(4) to make partial payments
361 for court-related fines, fees, service charges, and court costs.
362 Any such suspension of the driving privilege which has not been
363 reinstated, including a similar suspension imposed outside of
364 this state Florida, must shall remain on the records of the
365 department for a period of 7 years from the date imposed and
366 must shall be removed from the records after the expiration of 7
367 years from the date it is imposed. The department may not accept
368 the resubmission of such suspension.

369 Section 7. Section 318.20, Florida Statutes, is amended to
370 read:

371 318.20 Notification; duties of department.—The department
372 shall prepare a notification form to be appended to, or
373 incorporated as a part of, the Florida uniform traffic citation
374 issued in accordance with s. 316.650. The notification form must
375 shall contain language informing persons charged with
376 infractions to which this chapter applies of the procedures
377 available to them under this chapter. Such notification form
378 must shall contain a statement that, if the official determines
379 that no infraction has been committed, no costs or penalties may
380 shall be imposed and any costs or penalties that which have been
381 paid will shall be returned. Additionally, the notification form
382 must include information on paying the civil penalty to the
383 clerk of the court and the ability to establish a payment plan
384 pursuant to s. 28.246(4). A uniform traffic citation that is
385 produced electronically must also include the information
386 required by this section.

387 Section 8. Subsections (1) and (3) and paragraph (a) of



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388 subsection (5) of section 322.245, Florida Statutes, are amended
389 to read:

390 322.245 Suspension of license upon failure of person
391 charged with specified offense under chapter 316, chapter 320,
392 or this chapter to comply with directives ordered by traffic
393 court or upon failure to pay child support in non-IV-D cases as
394 provided in chapter 61 or failure to pay any financial
395 obligation in any other criminal case.—

396 (1) If a person charged with a violation of any of the
397 criminal offenses enumerated in s. 318.17 or with the commission
398 of any offense constituting a misdemeanor under chapter 320 or
399 this chapter fails to comply with all of the directives of the
400 court within the time allotted by the court, the clerk of the
401 traffic court must provide ~~shall mail to~~ the person, either
402 electronically or by mail sent to ~~at~~ the address specified on
403 the uniform traffic citation, a notice of such failure,
404 notifying him or her that, if he or she does not comply with the
405 directives of the court within 30 days after the date of the
406 notice and pay a delinquency fee of up to \$25 to the clerk, from
407 which the clerk shall remit \$10 to the Department of Revenue for
408 deposit into the General Revenue Fund, his or her driver license
409 will be suspended. The notice must ~~shall~~ be sent ~~mailed~~ no later
410 than 5 days after such failure. The delinquency fee may be
411 retained by the office of the clerk to defray the operating
412 costs of the office.

413 (3) If the person fails to comply with the directives of
414 the court within the 30-day period, or, in non-IV-D cases, fails
415 to comply with the requirements of s. 61.13016 within the period
416 specified in that statute, the depository or the clerk of the



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417 court must ~~shall~~ electronically notify the department of such
418 failure within 10 days. Upon electronic receipt of the notice,
419 the department shall immediately issue an order suspending the
420 person's driver license and privilege to drive effective 20 days
421 after the date the order of suspension is mailed in accordance
422 with s. 322.251(1), (2), and (6). The order of suspension must
423 also contain information specifying that the person may contact
424 the clerk of the court to establish a payment plan pursuant to
425 s. 28.246(4) to make partial payments for fines, fees, service
426 charges, and court costs.

427 (5) (a) When the department receives notice from a clerk of
428 the court that a person licensed to operate a motor vehicle in
429 this state under the provisions of this chapter has failed to
430 pay financial obligations for any criminal offense other than
431 those specified in subsection (1), in full or in part under a
432 payment plan pursuant to s. 28.246(4), the department must ~~shall~~
433 suspend the license of the person named in the notice. The
434 department shall mail an order of suspension in accordance with
435 s. 322.251(1), (2), and (6), which must also contain information
436 specifying that the person may contact the clerk of the court to
437 establish a payment plan pursuant to s. 28.246(4) to make
438 partial payments for fines, fees, service charges, and court
439 costs.

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

443 775.083 Fines.—

444 (3) The clerk of the court of each county is the entity
445 responsible for collecting payment of fines, fees, service



446 charges, and court costs. Unless otherwise designated by the
447 court, a person who has been ordered to pay court obligations
448 under this section shall immediately contact the clerk to pay
449 finances, fees, service charges, and court costs in full, or to
450 apply for enrollment in a payment plan, pursuant to s.
451 28.246(4).

452 Section 10. Except as otherwise expressly provided in this
453 act and except for this section, which shall take effect upon
454 this act becoming a law, this shall take effect July 1, 2021.

455
456 ===== T I T L E A M E N D M E N T =====

457 And the title is amended as follows:

458 Delete lines 19 - 40

459 and insert:

460 procedures for the release of such funds; amending s.
461 28.37, F.S.; modifying a provision regarding state
462 court system funding; defining terms; revising
463 provisions governing the transfer of certain funds
464 from the Clerks of the Court Trust Fund to the General
465 Revenue Fund by the Department of Revenue; conforming
466 a cross-reference; amending s. 28.42, F.S.; requiring
467 the clerks to develop a uniform payment plan form by a
468 specified date; prescribing requirements for the form;
469 requiring the clerks to use such form by a specified
470 date; amending ss. 318.15, 318.20, and 322.245, F.S.;
471 requiring orders and notifications for certain traffic
472 citations and suspensions to include information
473 regarding payment plans; amending s. 775.083, F.S.;
474 designating the clerk as the entity responsible for



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475 collecting payment of certain court obligations;
476 requiring a person ordered to pay such obligations to
477 contact the clerk in order to pay or establish a
478 payment plan, unless otherwise provided; providing
479 effective dates.