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576-02592-22

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.; revising the calculation
used to determine the presumed ability to pay certain
fees, charges, costs, and fines; providing a formula
for determining a specified down payment; providing
construction; amending s. 28.35, F.S.; requiring the
Florida Clerks of Court Operations Corporation to
provide a recommendation on the distribution of
specified fines, fees, charges, and costs; requiring
the corporation to complete specified duties under
certain circumstances; requiring the corporation to
annually prepare a specified budget request; providing
that such a request is not subject to change by the
Justice Administrative Commission; requiring the
commission to submit the request to the Governor for
transmittal to the Legislature; amending s. 40.29,
F.S.; authorizing clerks of the circuit court to
submit, at prescribed intervals, to the commission
certified requests for reimbursement of specified
petitions and orders at a certain rate per petition or
order; amending s. 57.082, F.S.; authorizing clerks of
the court to conduct a review of specified records;
requiring the clerks to maintain the results of such
review in a specified manner and provide the results
to the court under certain circumstances; amending s.
322.29, F.S.; requiring the Department of Highway



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28 Safety and Motor Vehicles to work with a specified
29 association to ensure that their technology systems
30 have specified capabilities; providing an effective
31 date.

32

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

34

35 Section 1. Paragraph (b) of subsection (4) of section
36 28.246, Florida Statutes, is amended to read:

37 28.246 Payment of court-related fines or other monetary
38 penalties, fees, charges, and costs; partial payments;
39 distribution of funds.—

40 (4)

41 (b) An individual seeking to defer payment of fees, service
42 charges, court costs, or fines imposed by operation of law or
43 order of the court under any provision of general law shall
44 apply to the clerk for enrollment in a payment plan. The clerk
45 shall enter into a payment plan with an individual who the court
46 determines is indigent for costs. It is the responsibility of an
47 individual who is released from incarceration and has
48 outstanding court obligations to contact the clerk within 30
49 days after release to pay fees, service charges, court costs,
50 and fines in full, or to apply for enrollment in a payment plan.

51 1. A monthly payment amount, calculated based upon all fees
52 and all anticipated fees, service charges, court costs, and
53 fines, is presumed to correspond to the person's ability to pay
54 if the amount does not exceed the greater of:

55 a. Two ~~2~~ percent of the person's annual net income, as
56 defined in s. 27.52(1), divided by 12; or



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57 b. \$25.

58 2. Any amount required by the clerk as a down payment to
59 initially establish a payment plan shall be the lesser of 10
60 percent of the total amount owed or \$100. The amount does not
61 include the imposition of a service charge pursuant to s.
62 28.24(27) (b) or (c). The clerk shall establish all terms of a
63 payment plan, and the court may review the reasonableness of the
64 payment plan.

65 Section 2. Paragraph (c) of subsection (2) of section
66 28.35, Florida Statutes, is amended, and paragraph (i) is added
67 to that subsection, to read:

68 28.35 Florida Clerks of Court Operations Corporation.—

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

71 (c) 1. Recommending to the Legislature changes in the
72 amounts and distribution of the various court-related fines,
73 fees, service charges, and costs established by law to ensure
74 reasonable and adequate funding of the clerks of the court in
75 the performance of their court-related functions.

76 2. If the number of judges under s. 26.031 or s. 34.022
77 increases:

78 a. Developing a formula to estimate the total cost
79 associated with clerk support for circuit and county judges
80 statewide.

81 b. Making a recommendation for consideration by the
82 Legislature on any need for additional funding using the formula
83 approved in sub-subparagraph a.

84 (i) Annually preparing a budget request that,
85 notwithstanding chapter 216 and in accordance with s. 216.351,



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86 provides the anticipated amount necessary for reimbursement
87 pursuant to s. 40.29(6). The request for the anticipated
88 reimbursement amount must be submitted in the form and manner
89 prescribed by the Justice Administrative Commission. Such
90 request is not subject to change by the Justice Administrative
91 Commission except for technical changes necessary to conform to
92 the legislative budget instructions and must be submitted by the
93 Justice Administrative Commission to the Governor for
94 transmittal to the Legislature.

95 Section 3. Section 40.29, Florida Statutes, is amended to
96 read:

97 40.29 Payment of due-process costs; reimbursement for
98 petitions and orders.-

99 (1) Each clerk of the circuit court, on behalf of the state
100 attorney, private court-appointed counsel, the public defender,
101 and the criminal conflict and civil regional counsel, shall
102 forward to the Justice Administrative Commission, by county, a
103 quarterly estimate of funds necessary to pay for ordinary
104 witnesses, including, but not limited to, witnesses in civil
105 traffic cases and witnesses of the state attorney, the public
106 defender, criminal conflict and civil regional counsel, private
107 court-appointed counsel, and persons determined to be indigent
108 for costs. Each quarter of the state fiscal year, the
109 commission, based upon the estimates, shall advance funds to
110 each clerk to pay for these ordinary witnesses from state funds
111 specifically appropriated for the payment of ordinary witnesses.

112 (2) Upon receipt of an estimate pursuant to subsection (1),
113 the Justice Administrative Commission shall endorse the amount
114 deemed necessary for payment by the clerk of the court during



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115 the quarterly fiscal period and shall submit a request for
116 payment to the Chief Financial Officer.

117 (3) Upon receipt of the funds from the Chief Financial
118 Officer, the clerk of the court shall pay all invoices approved
119 and submitted by the state attorney, the public defender,
120 criminal conflict and civil regional counsel, and private court-
121 appointed counsel for the items enumerated in subsection (1).

122 (4) After review for compliance with applicable rates and
123 requirements, the Justice Administrative Commission shall pay
124 all due process service related invoices, except those
125 enumerated in subsection (1), approved and submitted by the
126 state attorney, the public defender, criminal conflict and civil
127 regional counsel, or private court-appointed counsel in
128 accordance with the applicable requirements of ss. 29.005,
129 29.006, and 29.007.

130 (5) The Justice Administrative Commission shall reimburse
131 funds to the clerks of the court to compensate jurors, to pay
132 for meals or lodging provided to jurors, and to pay for jury-
133 related personnel costs as provided in this section. Each clerk
134 of the court must submit a request for reimbursement to the
135 Florida Clerks of Court Operations Corporation within 20 days
136 after each quarter attesting to the clerk's actual costs to
137 compensate jurors, to pay for meals or lodging provided to
138 jurors, and to pay for jury-related personnel costs. The Florida
139 Clerks of Court Operations Corporation must review the request
140 for reimbursement to ensure that the costs are reasonably and
141 directly related to jury management. The Florida Clerks of Court
142 Operations Corporation must forward to the Justice
143 Administrative Commission the amount necessary to reimburse each



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144 clerk of the court for its personnel and other costs related to
145 jury management unless the total request for reimbursement by
146 the clerks exceeds the quarterly funds available to the Justice
147 Administrative Commission, in which case the Florida Clerks of
148 Court Operations Corporation shall adjust the cumulative total
149 to match the available funds before submitting the request to
150 the Justice Administrative Commission. Upon receipt of each
151 request for reimbursement, the Justice Administrative Commission
152 must review the amount deemed necessary for payment to the
153 clerks of the court for the most recently completed quarter,
154 determine if the total payment amount is available, and submit a
155 request for payment to the Chief Financial Officer. The clerks
156 of the court are responsible for any compensation to jurors, for
157 payments for meals or lodging provided to jurors, and for jury-
158 related personnel costs that exceed the funding provided in the
159 General Appropriations Act for these purposes.

160 (6) Subject to legislative appropriation, the clerk of the
161 circuit court may, on a quarterly basis, submit to the Justice
162 Administrative Commission a certified request for reimbursement
163 for petitions and orders filed under ss. 394.459, 394.463,
164 394.467, 394.917, and 397.6814, at the rate of \$40 per petition
165 or order. Such request for reimbursement must be submitted in
166 the form and manner prescribed by the Justice Administrative
167 Commission pursuant to s. 28.35(2)(i).

168 Section 4. Paragraphs (a) and (d) of subsection (2) of
169 section 57.082, Florida Statutes, are amended to read:

170 57.082 Determination of civil indigent status.—

171 (2) DETERMINATION BY THE CLERK.—The clerk of the court
172 shall determine whether an applicant seeking such designation is



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173 indigent based upon the information provided in the application
174 and the criteria prescribed in this subsection.

175 (a)1. An applicant, including an applicant who is a minor
176 or an adult tax-dependent person, is indigent if the applicant's
177 income is equal to or below 200 percent of the then-current
178 federal poverty guidelines prescribed for the size of the
179 household of the applicant by the United States Department of
180 Health and Human Services.

181 2. There is a presumption that the applicant is not
182 indigent if the applicant owns, or has equity in, any intangible
183 or tangible personal property or real property or the expectancy
184 of an interest in any such property having a net equity value of
185 \$2,500 or more, excluding the value of the person's homestead
186 and one vehicle having a net value not exceeding \$5,000.

187 3. Notwithstanding the information provided by the
188 applicant, the clerk may conduct a review of the property
189 records for the county in which the applicant resides and the
190 motor vehicle title records of this state to identify any
191 property interests of the applicant under this paragraph. The
192 clerk may evaluate and consider the results of the review in
193 making a determination under this subsection. If a review is
194 conducted, the clerk must maintain the results of the review in
195 a file with the application and provide the file to the court if
196 an applicant seeks a review under subsection (4) of the clerk's
197 determination of indigent status.

198 (d) The duty of the clerk in determining whether an
199 applicant is indigent is limited to receiving the application,
200 conducting a review of records under subparagraph (a)3., and
201 comparing the information provided in the application and



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202 identified in the review of records to the criteria prescribed
203 in this subsection. The determination of indigent status is a
204 ministerial act of the clerk and ~~may~~ not a decision ~~be~~ based on
205 further investigation or the exercise of independent judgment by
206 the clerk. The clerk may contract with third parties to perform
207 functions assigned to the clerk under this section.

208 Section 5. Subsection (3) is added to section 322.29,
209 Florida Statutes, to read:

210 322.29 Surrender and return of license.—

211 (3) The department shall work with the clerks of court,
212 through their association, to ensure the ability within their
213 technology systems for clerks of court to reinstate suspended
214 driver licenses for failure to pay court obligations.

215 Section 6. This act shall take effect July 1, 2022.