

By Senator Calatayud

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1 A bill to be entitled
2 An act relating to fines and fees; amending s. 28.24,
3 F.S.; authorizing the clerk of the circuit court to
4 accept payments for a certain administrative charge in
5 monthly installments; conforming provisions to changes
6 made by the act; amending s. 28.246, F.S.; revising
7 the methods by which the clerk of the circuit court
8 may accept payments for certain fees, charges, costs,
9 and fines; providing requirements for the payment
10 plan; authorizing the court to modify the payment plan
11 or reduce, waive, or convert to community service the
12 outstanding fees, service charges, costs, or fines;
13 providing construction; requiring payment plans to
14 reflect all fines, fees, and court costs incurred by
15 an individual; prohibiting the clerk from sending an
16 incarcerated individual's account to a collection
17 agency for collection or sending a notice to the
18 Department of Highway Safety and Motor Vehicles to
19 suspend an incarcerated individual's driver license;
20 providing for the early termination of a payment plan
21 for an indigent individual if certain conditions
22 exist; authorizing the clerk to send certain notices;
23 conforming a cross-reference; conforming provisions to
24 changes made by the act; amending ss. 318.15 and
25 322.245, F.S.; conforming provisions to changes made
26 by the act; amending s. 322.29, F.S.; specifying that
27 a single nonrefundable service fee should be collected
28 when a license is reinstated after certain conditions
29 are met; making technical changes; amending ss. 27.52,

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30 34.191, and 57.082, F.S.; conforming cross-references;
31 conforming provisions to changes made by the act;
32 reenacting ss. 318.20, 775.083(3), and 938.27(2)(a),
33 F.S., relating to notification, fines, and judgments
34 for costs of prosecution and investigation,
35 respectively, to incorporate the amendment made to s.
36 28.246, F.S., in references thereto; providing an
37 effective date.

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

40
41 Section 1. Subsection (27) of section 28.24, Florida
42 Statutes, is amended to read:

43 28.24 Service charges.—The clerk of the circuit court shall
44 charge for services rendered manually or electronically by the
45 clerk's office in recording documents and instruments and in
46 performing other specified duties. These charges may not exceed
47 those specified in this section, except as provided in s.
48 28.345.

49 (27) (a) For receiving and disbursing all restitution
50 payments, per payment: 3.50, from which the clerk shall remit
51 0.50 per payment to the Department of Revenue for deposit into
52 the General Revenue Fund.

53 ~~(b) For receiving and disbursing all partial payments,~~
54 ~~other than restitution payments, for which an administrative~~
55 ~~processing service charge is not imposed pursuant to s. 28.246,~~
56 ~~per month: 5.00.~~

57 ~~(c) For setting up a payment plan, a one-time~~
58 administrative processing charge of ~~in lieu of a per month~~

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59 ~~charge under paragraph (b):~~ 25.00. The charge may be paid in
60 five equal monthly payments of 5.00.

61 Section 2. Section 28.246, Florida Statutes, is amended to
62 read:

63 28.246 Payment of court-related fines or other monetary
64 penalties, fees, charges, and costs; monthly ~~partial~~ payments;
65 community service; distribution of funds.-

66 (1) The clerk of the circuit court shall report the
67 following information to the Legislature and the Florida Clerks
68 of Court Operations Corporation on a form, and using guidelines
69 developed by the clerks of court, through their association and
70 in consultation with the Office of the State Courts
71 Administrator:

72 (a) The total amount of mandatory fees, service charges,
73 and costs assessed; the total amount underassessed, if any,
74 which is the amount less than the minimum amount required by law
75 to be assessed; and the total amount collected.

76 (b) The total amount of discretionary fees, service
77 charges, and costs assessed and the total amount collected.

78 (c) The total amount of mandatory fines and other monetary
79 penalties assessed; the total amount underassessed, if any,
80 which is the amount less than the minimum amount required by law
81 to be assessed; and the total amount collected.

82 (d) The total amount of discretionary fines and other
83 monetary penalties assessed and the total amount collected.

84
85 The clerk, in reporting to the Legislature and corporation,
86 shall separately identify the monetary amount assessed and
87 subsequently discharged or converted to community service, to a

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88 judgment or lien, or to time served. The form developed by the
89 clerks must ~~shall~~ include separate entries for recording the
90 amount discharged and the amount converted. If a court waives,
91 suspends, or reduces an assessment as authorized by law, the
92 portion waived, suspended, or reduced may not be deemed assessed
93 or underassessed for purposes of the reporting requirements of
94 this section. The clerk also shall report a collection rate for
95 mandatory and discretionary assessments. In calculating the
96 rate, the clerk shall deduct amounts discharged or converted
97 from the amount assessed. The clerk shall submit the report on
98 an annual basis 90 days after the end of the county fiscal year.
99 The clerks and the courts shall develop by October 1, 2012, the
100 form and guidelines to govern the accurate and consistent
101 reporting statewide of assessments as provided in this section.
102 The clerk shall use the new reporting form and guidelines in
103 submitting the report for the county fiscal year ending
104 September 30, 2013, and for each year thereafter.

105 (2) The clerk of the circuit court shall establish and
106 maintain a system of accounts receivable for court-related fees,
107 charges, and costs.

108 (3) Court costs, fines, and other dispositional assessments
109 shall be enforced by order of the courts, collected by the
110 clerks of the circuit and county courts, and disbursed in
111 accordance with authorizations and procedures as established by
112 general law.

113 (4) (a) Each clerk of the circuit court shall accept monthly
114 ~~partial~~ payments for each case type for court-related fees,
115 service charges, court costs, and fines electronically, by mail,
116 or in person in accordance with the terms of the ~~an~~ established

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117 uniform payment plan form ~~developed by the clerk.~~

118 (b) An individual seeking to defer payment of fees, service
119 charges, court costs, or fines imposed by operation of law or
120 order of the court under any provision of general law must ~~shall~~
121 apply to the clerk for enrollment in a payment plan. The clerk
122 must ~~shall~~ enter into a payment plan with an individual who the
123 court determines is indigent for costs. If an individual is not
124 in custody, the plan must provide a 30-day grace period for the
125 person to make the first payment. It is the responsibility of an
126 individual who is released from incarceration and has
127 outstanding court obligations to contact the clerk within 30
128 days after release to pay fees, service charges, court costs,
129 and fines in full, or to apply for enrollment in a payment plan.
130 If an individual is released from incarceration, the plan must
131 provide a 90-day grace period from the day of release for the
132 person to make the first payment.

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

- 137 a. Two percent of the person's annual net income, as
138 defined in s. 27.52(1), divided by 12; or
139 b. Twenty-five dollars.

140 2. Any amount required by the clerk as down payment to
141 initially establish a payment plan shall be the lesser of 10
142 percent of the total amount owed or \$100. The amount does not
143 include the imposition of a service charge pursuant to s.
144 28.24(27) (b), and both the service charge and down payment may
145 be paid monthly as provided in s. 28.24(27) (b) ~~or (c).~~ The clerk

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146 shall establish all terms of a payment plan, and the court may,
147 on its own motion or by petition, review and modify the
148 reasonableness of the payment plan or reduce, waive, or convert
149 to community service the outstanding fees, service charges,
150 costs, or fines. Nothing in this subparagraph shall be construed
151 to allow or waive restitution or child support.

152 3. If a county has more than one case open for an
153 individual against whom fines, service charges, fees, or court
154 costs have been assessed, the monthly payment plan must include
155 the amounts assessed for all of the cases.

156 (c) If an individual is incarcerated, the clerk may not
157 refer the individual's account to collections as provided in
158 subsection (7) or send a notice to the Department of Highway
159 Safety and Motor Vehicles to suspend the individual's driver
160 license for nonpayment or failure to comply with the terms of a
161 payment plan.

162 (5) An individual who is indigent as described in s.
163 27.52(2), an individual who receives public assistance as
164 defined in s. 409.2554(12), or an individual whose income is
165 below 200 percent of the federal poverty level based on the
166 current year's federal poverty guidelines may petition the court
167 to declare that the financial obligations under the payment plan
168 have been met and to terminate the payment plan if, up to the
169 date of the petition, the individual made timely payments for:

170 (a) Twelve consecutive months for any financial obligation
171 that was \$500 or less;

172 (b) Twenty-four consecutive months for any financial
173 obligation that was more than \$500, but less than or equal to
174 \$1,000; or

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175 (c) Thirty-six consecutive months for any financial
176 obligation that was greater than \$1,000.

177 (6) (a) The clerk may send notices electronically or by mail
178 to remind an individual of an upcoming or missed payment.

179 (b) When receiving monthly ~~partial~~ payment of fees, service
180 charges, court costs, and fines, clerks shall distribute funds
181 according to the following order of priority:

182 1. ~~(a)~~ That portion of fees, service charges, court costs,
183 and fines to be remitted to the state for deposit into the
184 General Revenue Fund.

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

189 3. ~~(c)~~ That portion of fees, service charges, court costs,
190 and fines payable to state trust funds, allocated on a pro rata
191 basis among the various authorized funds if the total collection
192 amount is insufficient to fully fund all such funds as provided
193 by law.

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

200
201 To offset processing costs, clerks may impose ~~either a per-month~~
202 ~~service charge pursuant to s. 28.24(27) (b) or~~ a one-time
203 administrative processing service charge at the inception of the

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204 payment plan pursuant to s. 28.24(27)(b) ~~s. 28.24(27)(c)~~.

205 (7)~~(6)~~ A clerk of court shall pursue the collection of any
206 fees, service charges, fines, court costs, and liens for the
207 payment of attorney fees and costs pursuant to s. 938.29 which
208 remain unpaid after 90 days, except for an individual who is
209 incarcerated, by referring the account to a private attorney who
210 is a member in good standing of The Florida Bar or collection
211 agent who is registered and in good standing pursuant to chapter
212 559. In pursuing the collection of such unpaid financial
213 obligations through a private attorney or collection agent, the
214 clerk of the court must have attempted to collect the unpaid
215 amount through a collection court, collections docket, or other
216 collections process, if any, established by the court, find this
217 to be cost-effective and follow any applicable procurement
218 practices. The collection fee, including any reasonable attorney
219 ~~attorney's~~ fee, paid to any attorney or collection agent
220 retained by the clerk may be added to the balance owed in an
221 amount not to exceed 40 percent of the amount owed at the time
222 the account is referred to the attorney or agent for collection.
223 The clerk shall give the private attorney or collection agent
224 the application for the appointment of court-appointed counsel
225 regardless of whether the court file is otherwise confidential
226 from disclosure.

227 Section 3. Paragraph (a) of subsection (1) and subsection
228 (2) of section 318.15, Florida Statutes, are amended to read:

229 318.15 Failure to comply with civil penalty or to appear;
230 penalty.-

231 (1) (a) If a person fails to comply with the civil penalties
232 provided in s. 318.18 within the time period specified in s.

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233 318.14(4), fails to enter into or comply with the terms of a
234 penalty payment plan with the clerk of the court in accordance
235 with ss. 318.14 and 28.246, fails to attend driver improvement
236 school, or fails to appear at a scheduled hearing, the clerk of
237 the court must notify the Department of Highway Safety and Motor
238 Vehicles of such failure within 10 days after such failure. Upon
239 receipt of such notice, the department must immediately issue an
240 order suspending the driver license and privilege to drive of
241 such person effective 20 days after the date the order of
242 suspension is mailed in accordance with s. 322.251(1), (2), and
243 (6). The order also must inform the person that he or she may
244 contact the clerk of the court to establish a payment plan
245 pursuant to s. 28.246(4) to make monthly ~~partial~~ payments for
246 court-related fines, fees, service charges, and court costs. Any
247 such suspension of the driving privilege which has not been
248 reinstated, including a similar suspension imposed outside of
249 this state, must remain on the records of the department for a
250 period of 7 years from the date imposed and must be removed from
251 the records after the expiration of 7 years from the date it is
252 imposed. The department may not accept the resubmission of such
253 suspension.

254 (2) After the suspension of a person's driver license and
255 privilege to drive under subsection (1), the license and
256 privilege may not be reinstated until the person complies with
257 the terms of a periodic payment plan or a revised payment plan
258 with the clerk of the court pursuant to ss. 318.14 and 28.246 or
259 with all obligations and penalties imposed under s. 318.18 and
260 presents to a driver license office a certificate of compliance
261 issued by the court, together with a single nonrefundable

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262 service fee ~~charge~~ of \$60 imposed under s. 322.29, or presents a
263 certificate of compliance and pays the service fee ~~charge~~ to the
264 clerk of the court or a driver licensing agent authorized under
265 s. 322.135 clearing such suspension. Of the charge collected,
266 \$22.50 shall be remitted to the Department of Revenue to be
267 deposited into the Highway Safety Operating Trust Fund. Such
268 person must also be in compliance with requirements of chapter
269 322 before reinstatement.

270 Section 4. Subsections (2) and (3) and paragraphs (a) and
271 (c) of subsection (5) of section 322.245, Florida Statutes, are
272 amended to read:

273 322.245 Suspension of license upon failure of person
274 charged with specified offenses ~~offense~~ under chapter 316,
275 chapter 320, or this chapter to comply with directives ordered
276 by traffic court or upon failure to pay child support in non-IV-
277 D cases as provided in chapter 61 or failure to pay any
278 financial obligation in any other criminal case.-

279 (2) In non-IV-D cases, if a person fails to pay child
280 support under chapter 61 and the obligee so requests, the
281 depository or the clerk of the court must ~~shall~~ mail in
282 accordance with s. 61.13016 the notice specified in that
283 section, notifying him or her that if he or she does not comply
284 with the requirements of that section and pay a delinquency fee
285 of \$25 to the depository or the clerk, his or her driver license
286 and motor vehicle registration will be suspended. The
287 delinquency fee may be retained by the depository or the office
288 of the clerk to defray the operating costs of the office after
289 the clerk remits \$15 to the Department of Revenue for deposit
290 into the General Revenue Fund.

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291 (3) If the person fails to comply with the directives of
292 the court within the 30-day period, or, in non-IV-D cases, fails
293 to comply with the requirements of s. 61.13016 within the period
294 specified in that statute, the depository or the clerk of the
295 court must electronically notify the department of such failure
296 within 10 days. Upon electronic receipt of the notice, the
297 department shall immediately issue an order suspending the
298 person's driver license and privilege to drive effective 20 days
299 after the date the order of suspension is mailed in accordance
300 with s. 322.251(1), (2), and (6). The order of suspension must
301 also contain information specifying that the person may contact
302 the clerk of the court to establish a payment plan pursuant to
303 s. 28.246(4) to make monthly ~~partial~~ payments for fines, fees,
304 service charges, and court costs.

305 (5) (a) When the department receives notice from a clerk of
306 the court that a person licensed to operate a motor vehicle in
307 this state under ~~the provisions of~~ this chapter has failed to
308 pay financial obligations for any criminal offense other than
309 those specified in subsection (1), in full or in part under a
310 payment plan pursuant to s. 28.246(4), the department must
311 suspend the license of the person named in the notice. The
312 department shall mail an order of suspension in accordance with
313 s. 322.251(1), (2), and (6), which must also contain information
314 specifying that the person may contact the clerk of the court to
315 establish a payment plan pursuant to s. 28.246(4) to make
316 monthly ~~partial~~ payments for fines, fees, service charges, and
317 court costs.

318 (c) The department may ~~shall~~ not be held liable for any
319 license suspension resulting from the discharge of its duties

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320 under this section.

321 Section 5. Subsection (2) of section 322.29, Florida
322 Statutes, is amended to read:

323 322.29 Surrender and return of license.—

324 (2) Notwithstanding subsection (1), an examination is not
325 required for the return of a license suspended under s. 318.15
326 or s. 322.245 unless an examination is otherwise required by
327 this chapter. A person applying for the return of a license
328 suspended under s. 318.15 or s. 322.245 must present to the
329 department certification from the clerk of the court that he or
330 she has complied with all obligations and penalties imposed
331 pursuant to s. 318.15 or, in the case of a suspension pursuant
332 to s. 322.245, that he or she has complied with all directives
333 of the court and the requirements of s. 322.245 and must ~~shall~~
334 pay to the department a single nonrefundable service fee of \$60,
335 of which \$37.50 shall be deposited into the General Revenue Fund
336 and \$22.50 shall be deposited into the Highway Safety Operating
337 Trust Fund. If reinstated by the clerk of the court or tax
338 collector, \$37.50 must ~~shall~~ be retained and \$22.50 must ~~shall~~
339 be remitted to the Department of Revenue for deposit into the
340 Highway Safety Operating Trust Fund. However, the service fee is
341 not required if the person is required to pay a \$45 fee or \$75
342 fee under s. 322.21(8).

343 Section 6. Paragraph (i) of subsection (5) of section
344 27.52, Florida Statutes, is amended to read:

345 27.52 Determination of indigent status.—

346 (5) INDIGENT FOR COSTS.—A person who is eligible to be
347 represented by a public defender under s. 27.51 but who is
348 represented by private counsel not appointed by the court for a

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349 reasonable fee as approved by the court or on a pro bono basis,
350 or who is proceeding pro se, may move the court for a
351 determination that he or she is indigent for costs and eligible
352 for the provision of due process services, as prescribed by ss.
353 29.006 and 29.007, funded by the state.

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

359 1. The attorney representing the defendant, or the
360 defendant if he or she is proceeding pro se, shall provide an
361 accounting to the court delineating all costs paid or to be paid
362 by the state within 90 days after disposition of the case
363 notwithstanding any appeals.

364 2. The court shall issue an order determining the amount of
365 all costs paid by the state and any costs for which prepayment
366 was waived under this section or s. 57.081. The clerk shall
367 cause a certified copy of the order to be recorded in the
368 official records of the county, at no cost. The recording
369 constitutes a lien against the person in favor of the state in
370 the county in which the order is recorded. The lien may be
371 enforced in the same manner prescribed in s. 938.29.

372 3. If the attorney or the pro se defendant fails to provide
373 a complete accounting of costs expended by the state and
374 consequently costs are omitted from the lien, the attorney or
375 pro se defendant may not receive reimbursement or any other form
376 of direct or indirect payment for those costs if the state has
377 not paid the costs. The attorney or pro se defendant must ~~shall~~

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378 repay the state for those costs if the state has already paid
 379 the costs. The clerk of the court may establish a payment plan
 380 under s. 28.246 and may charge the attorney or pro se defendant
 381 a one-time administrative processing charge under s.
 382 28.24(27)(b) ~~s. 28.24(27)(c)~~.

383 Section 7. Subsection (1) of section 34.191, Florida
 384 Statutes, is amended to read:

385 34.191 Fines and forfeitures; dispositions.—

386 (1) All fines and forfeitures arising from offenses tried
 387 in the county court must ~~shall~~ be collected and accounted for by
 388 the clerk of the court and, other than the charge provided in s.
 389 318.1215, disbursed in accordance with ss. 28.2402, 34.045,
 390 142.01, and 142.03 and subject to s. 28.246(6) and (7) ~~the~~
 391 ~~provisions of s. 28.246(5) and (6)~~. Notwithstanding the
 392 provisions of this section, all fines and forfeitures arising
 393 from operation of the provisions of s. 318.1215 must ~~shall~~ be
 394 disbursed in accordance with that section.

395 Section 8. Subsection (6) of section 57.082, Florida
 396 Statutes, is amended to read:

397 57.082 Determination of civil indigent status.—

398 (6) PROCESSING CHARGE; PAYMENT PLANS.—A person who the
 399 clerk or the court determines is indigent for civil proceedings
 400 under this section must ~~shall~~ be enrolled in a payment plan
 401 under s. 28.246 and must ~~shall~~ be charged a one-time
 402 administrative processing charge under s. 28.24(27)(b) ~~s.~~
 403 ~~28.24(27)(c)~~. ~~A monthly payment amount, calculated based upon~~
 404 ~~all fees and all anticipated costs, is presumed to correspond to~~
 405 ~~the person's ability to pay if it does not exceed 2 percent of~~
 406 ~~the person's annual net income, as defined in subsection (1),~~

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407 ~~divided by 12.~~ The person may seek review of the clerk's
408 decisions regarding a payment plan established under s. 28.246
409 in the court having jurisdiction over the matter. A case may not
410 be impeded in any way, delayed in filing, or delayed in its
411 progress, including the final hearing and order, due to
412 nonpayment of any fees or costs by an indigent person. Filing
413 fees waived from payment under s. 57.081 may not be included in
414 the calculation related to a payment plan established under this
415 section.

416 Section 9. For the purpose of incorporating the amendment
417 made by this act to section 28.246, Florida Statutes, in a
418 reference thereto, section 318.20, Florida Statutes, is
419 reenacted to read:

420 318.20 Notification; duties of department.—The department
421 shall prepare a notification form to be appended to, or
422 incorporated as a part of, the Florida uniform traffic citation
423 issued in accordance with s. 316.650. The notification form must
424 contain language informing persons charged with infractions to
425 which this chapter applies of the procedures available to them
426 under this chapter. Such notification form must contain a
427 statement that, if the official determines that no infraction
428 has been committed, no costs or penalties may be imposed and any
429 costs or penalties that have been paid will be returned.
430 Additionally, the notification form must include information on
431 paying the civil penalty to the clerk of the court and the
432 ability to establish a payment plan pursuant to s. 28.246(4). A
433 uniform traffic citation that is produced electronically must
434 also include the information required by this section.

435 Section 10. For the purpose of incorporating the amendment

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436 made by this act to section 28.246, Florida Statutes, in a
437 reference thereto, subsection (3) of section 775.083, Florida
438 Statutes, is reenacted to read:

439 775.083 Fines.—

440 (3) The clerk of the court of each county is the entity
441 responsible for collecting payment of fines, fees, service
442 charges, and court costs. Unless otherwise designated by the
443 court, a person who has been ordered to pay court obligations
444 under this section shall immediately contact the clerk to pay
445 fines, fees, service charges, and court costs in full or to
446 apply for enrollment in a payment plan pursuant to s. 28.246(4).

447 Section 11. For the purpose of incorporating the amendment
448 made by this act to section 28.246, Florida Statutes, in a
449 reference thereto, paragraph (a) of subsection (2) of section
450 938.27, Florida Statutes, is reenacted to read:

451 938.27 Judgment for costs of prosecution and
452 investigation.—

453 (2) (a) The court shall impose the costs of prosecution and
454 investigation notwithstanding the defendant's present ability to
455 pay. The court shall require the defendant to pay the costs
456 within a specified period or pursuant to a payment plan under s.
457 28.246(4).

458 Section 12. This act shall take effect July 1, 2024.