

## Committee Substitute for Senate Bill No. 1790

An act relating to the state judicial system; amending s. 25.241, F.S.; requiring a fee for filing a notice of cross-appeal or certain joinder notices or intervenor motions with the Supreme Court; amending s. 26.57, F.S.; eliminating additional compensation for county judges presiding over circuit court cases; amending s. 27.511, F.S.; prescribing the types of civil proceedings in which assistant criminal conflict and civil regional counsel may not otherwise engage; authorizing part-time assistant regional counsel to practice criminal law with specified limitations; providing for the public defender to handle criminal appeals in certain cases for which trial representation was provided by the office of criminal conflict and civil regional counsel; providing an exception when the public defender has a conflict; amending s. 27.52, F.S.; increasing the application fee for determining indigent status for the purpose of receiving criminal representation by state-funded counsel; conforming provisions to changes made by the act; amending s. 27.562, F.S.; specifying that certain assessments collected from a defendant are in satisfaction of the application fee for a determination of indigent status; amending s. 28.24, F.S.; increasing charges for services rendered by the clerk of the circuit court in recording documents and instruments and performing other duties; amending s. 28.2401, F.S.; increasing services charges that the clerk of court is authorized to charge in probate matters; amending s. 28.241, F.S.; increasing filing fees for civil actions in circuit court; conforming provisions governing the remission of a portion of the fees to the General Revenue Fund; providing for a portion of the fees to be deposited in a designated trust fund in support of mediation activities; requiring a fee for filing cross-claims, counterclaims, and third-party pleadings; requiring a service charge for issuing a summons; increasing filing fees for instituting certain appellate proceedings; amending s. 28.35, F.S.; including the provision of meals and lodging for jurors within the court-related functions that the clerk of court may fund through fees, service charges, court costs, and fines; revising provisions to conform; clarifying duties of the Florida Clerks of Court Operations Corporation; reenacting s. 28.36(1), (2), (3)(a), (4), and (5), F.S., relating to budget procedures of the clerks of court, to incorporate the amendment to s. 28.35, F.S., in references thereto; amending s. 34.041, F.S.; increasing filing fees for civil actions in county court; conforming provisions governing the remission of a portion of the fees to the General Revenue Fund; providing for a portion of the fees to be deposited in a designated trust fund in support of mediation activities; requiring a fee for filing certain cross-claims, counterclaims, third-party pleadings, and certain appellate notices and motions; requiring a service charge for issuing a summons; amending s. 35.06, F.S.; reducing the number of judges in the Third District Court of Appeal; amending s. 35.22, F.S.; requiring a fee for filing a notice of cross-appeal or certain joinder notices or intervenor motions with a district court of appeal; amending s. 40.24, F.S.; providing for jurors to

be compensated by the clerk of the court rather than the state; amending s. 40.26, F.S.; providing for certain meals and lodging expenses for jurors to be paid by the clerk of the court; amending s. 40.29, F.S.; revising requirements for the clerk of the court relating to payment of ordinary witnesses; including the criminal conflict and regional civil counsel among the persons on whose behalf the clerk of the court estimates funds for payment of witnesses; eliminating a requirement that the clerk of the court provide an estimate of certain juror expenses; revising provisions to conform; amending s. 40.31, F.S.; revising provisions to conform to the payment of juror compensation from funds retained by the clerk of the court; authorizing the Justice Administrative Commission rather than the State Courts Administrator to apportion certain funds for payment of witnesses by the clerk of the court; amending s. 40.32, F.S.; requiring that certain juror expenses be paid by the clerk of the court from fees, service charges, court costs, and fines; amending s. 40.33, F.S.; revising procedures related to a deficiency in funds for the payment of witnesses; revising provisions to conform; amending s. 40.34, F.S.; eliminating requirements that the clerk of the court prepare a juror payroll and provide copies to the State Courts Administrator; requiring the clerk to submit a witness payroll to the Justice Administrative Commission; repealing s. 40.35, F.S., relating to an accounting by the clerk of the court to the State Courts Administrator for funds for juror and witness payments; amending s. 40.355, F.S.; revising requirements for the clerk of the court to account for certain funds, to conform to changes made by the act; amending s. 40.361, F.S., relating to the applicability of certain state budgeting laws; conforming a cross-reference; amending s. 44.108, F.S.; increasing fees for court-ordered mediation services; requiring the clerk of the court to report the fees collected and deposited into the Mediation and Arbitration Trust Fund; amending s. 45.035, F.S.; increasing service charges related to judicial sales procedures; amending s. 55.505, F.S.; increasing a service charge for issuing execution or process for enforcement of a foreign judgment; amending s. 57.082, F.S.; creating an application fee for a determination of indigent status and appointment of an attorney in certain proceedings relating to children; providing for fees collected to be deposited into the Indigent Civil Defense Trust Fund; authorizing the clerk of the court to retain a portion of the fees collected; providing for a person who cannot pay the fee to be enrolled in a payment plan; amending s. 61.14, F.S.; increasing service charges related to enforcement and modification of support, maintenance, or alimony agreements or orders; amending s. 316.193, F.S.; increasing fines for driving under the influence; amending s. 318.121, F.S.; specifying that a new administrative fee for civil traffic violations is not preempted; amending s. 318.14, F.S.; increasing the court costs that are assessed in certain noncriminal traffic cases; amending s. 318.15, F.S.; increasing the processing fee when a person is adjudicated guilty after failing to attend driver improvement school; amending s. 318.18, F.S.; increasing fees and court costs related to certain traffic infractions; creating an administrative fee for noncriminal moving and nonmoving traffic violations;

amending s. 322.245, F.S.; increasing delinquency fees that are imposed for failing to comply with traffic court directives and that must be paid to avoid suspension of a driver's license; amending s. 327.35, F.S.; increasing fines for boating under the influence; amending s. 327.73, F.S.; increasing dismissal fees and court costs related to certain noncriminal vessel safety infractions; increasing the maximum amount of court costs that may be imposed; amending s. 372.83, F.S.; increasing the costs assessed by the clerk or a hearing officer for verifying that a person possesses a certain wildlife license or permit; amending s. 713.24, F.S.; increasing the fees charged by the clerk for making and serving a certificate showing transfer of a lien from real property to certain security; amending s. 721.83, F.S.; increasing the additional filing fee for joining a timeshare estate in a consolidated foreclosure action; amending s. 744.365, F.S.; increasing the fee paid by a guardian from the ward's property upon the filing of a verified inventory of the ward's property; amending s. 744.3678, F.S.; increasing the fees paid by a guardian from the ward's estate as part of an annual accounting; amending s. 766.104, F.S.; increasing the filing fee for securing an automatic extension of the statute of limitations to allow for investigation in medical negligence cases; amending s. 938.05, F.S.; increasing the additional costs that a person must pay in felony, misdemeanor, or criminal traffic offenses; amending s. 938.27, F.S.; defining the term "convicted" for purposes of paying the costs of prosecution; providing for the payment of costs in violation-of-probation or community-control cases; providing for the imposition of such costs notwithstanding a defendant's present ability to pay; prescribing minimum costs of prosecution; authorizing the court to establish higher costs of prosecution; amending s. 938.29, F.S.; providing for the payment of attorney's fees and costs in violation-of-probation or community-control cases; providing that certain defendants are liable for the application fee to determine indigent status for purposes of appointing counsel; prescribing minimum attorney's fees and costs related to representation in criminal cases; authorizing the court to establish higher fees and costs; defining the term "convicted" for purposes of paying attorney's fees and costs related to such representation; providing for distribution of funds collected from a defendant for the application fee, attorney's fees, and costs; amending s. 984.08, F.S.; eliminating authority for counties to collect on liens to pay costs related to court-appointed counsel in certain cases involving children and families in need of services; providing for parents or legal guardians to be enrolled in payment plans; prohibiting the Florida Clerks of Court Operations Corporation from increasing the clerks' budgets based on increased revenues under the act; authorizing the corporation to increase budgets in the aggregate for increased clerk duties related to the payment of juror expenses; providing an effective date.

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

Section 1. Subsection (3) of section 25.241, Florida Statutes, is amended to read:

25.241 Clerk of Supreme Court; compensation; assistants; filing fees, etc.—

(3)(a) The Clerk of the Supreme Court is hereby required to collect, upon the filing of a certified copy of a notice of appeal or petition, \$300 for each case docketed, and for copying, certifying, or furnishing opinions, records, papers, or other instruments, except as otherwise herein provided, the same fees that are allowed clerks of the circuit court; however, no fee shall be less than \$1. The State of Florida or its agencies, when appearing as appellant or petitioner, is exempt from the filing fees required in this subsection. From each attorney appearing pro hac vice, the Clerk of the Supreme Court shall collect an additional fee of \$100 to be deposited into the General Revenue Fund.

(b) Upon the filing of a notice of cross-appeal, or a notice of joinder or motion to intervene as an appellant, cross-appellant, or petitioner, the Clerk of the Supreme Court shall charge and collect a filing fee of \$295. The clerk shall remit the fee to the Department of Revenue for deposit into the General Revenue Fund. The state and its agencies are exempt from the filing fee required in this paragraph.

Section 2. Section 26.57, Florida Statutes, is amended to read:

26.57 Temporary designation of county court judge to preside over circuit court cases.—In each county where there is no resident circuit judge and the county court judge has been a member of the bar for at least 5 years and is qualified to be a circuit judge, the county court judge may be designated on a temporary basis to preside over circuit court cases by the Chief Justice of the Supreme Court upon recommendation of the chief judge of the circuit, ~~and the judge so designated shall receive the same salary as a duly elected circuit judge for the time periods that the county judge is actually presiding over circuit court cases.~~ He or she may be assigned to exercise all county and circuit court jurisdiction in the county, except appeals from the county court. In addition, he or she may be required to perform the duties of circuit judge in other counties of the circuit as time may permit and as the need arises, as determined by the chief judge of the circuit.

Section 3. Subsections (4) and (8) of section 27.511, Florida Statutes, are amended to read:

27.511 Offices of criminal conflict and civil regional counsel; legislative intent; qualifications; appointment; duties.—

(4)(a) Each regional counsel shall serve on a full-time basis and may not engage in the private practice of law while holding office. Assistant regional counsel shall give priority and preference to their duties as assistant regional counsel and may not otherwise engage in the practice of criminal law. ~~Assistant regional counsel may not engage or~~ in civil proceedings for which the state compensates attorneys under s. 27.5304 ~~for representation.~~

(b) Notwithstanding paragraph (a), part-time assistant regional counsel may practice criminal law for private payment so long as the representation does not result in a legal or ethical conflict of interest with a case for which

the office of criminal conflict and civil regional council is providing representation. Assistant regional counsel may not accept criminal cases for reimbursement by the state under s. 27.5304. This paragraph expires June 30, 2010.

(8) The public defender for the judicial circuit specified in s. 27.51(4) office of criminal conflict and civil regional council shall, after the record on appeal is transmitted to the appellate court by the office of criminal conflict and civil regional council which handled the trial and if requested by the regional counsel for the indicated appellate district, handle all circuit court appeals authorized pursuant to paragraph (5)(f) within the state courts system and any authorized appeals to the federal courts which are required of the official making the request in cases in which the office of criminal conflict and civil regional council is appointed under this section. If the public defender certifies to the court that the public defender has a conflict consistent with the criteria prescribed in s. 27.5303 and moves to withdraw, the regional counsel shall handle the appeal, unless the regional counsel has a conflict, in which case the court shall appoint private counsel pursuant to s. 27.40.

Section 4. Paragraphs (b) and (c) of subsection (1) of section 27.52, Florida Statutes, are amended to read:

27.52 Determination of indigent status.—

(1) APPLICATION TO THE CLERK.—A person seeking appointment of a public defender under s. 27.51 based upon an inability to pay must apply to the clerk of the court for a determination of indigent status using an application form developed by the Florida Clerks of Court Operations Corporation with final approval by the Supreme Court.

(b) An applicant shall pay a ~~\$50~~ \$40 application fee to the clerk for each application for court-appointed counsel filed. The applicant shall pay the fee within 7 days after submitting the application. If the applicant does not pay the fee prior to the disposition of the case, the clerk shall notify the court, and the court shall:

1. Assess the application fee as part of the sentence or as a condition of probation; or
2. Assess the application fee pursuant to s. 938.29.

(c) Notwithstanding any provision of law, court rule, or administrative order, the clerk shall assign the first ~~\$50~~ \$40 of any fees or costs paid by an indigent person as payment of the application fee. A person found to be indigent may not be refused counsel or other required due process services for failure to pay the fee.

Section 5. Section 27.562, Florida Statutes, is amended to read:

27.562 Disposition of funds.—The first ~~\$50~~ \$40 of all funds collected pursuant to s. 938.29 shall be deposited into the Indigent Criminal Defense Trust Fund pursuant to s. 27.525 in satisfaction of the application fee for a

determination of indigent status under s. 27.52 if the fee was not paid. The remaining funds collected pursuant to s. 938.29 shall be distributed as follows:

(1) Twenty-five percent shall be remitted to the Department of Revenue for deposit into the Justice Administrative Commission’s Indigent Criminal Defense Trust Fund.

(2) Seventy-five percent shall be remitted to the Department of Revenue for deposit into the General Revenue Fund.

The Justice Administrative Commission shall account for funds deposited into the Indigent Criminal Defense Trust Fund by circuit. Appropriations from the fund shall be proportional to each circuit’s collections. All judgments entered pursuant to this part shall be in the name of the state.

Section 6. Section 28.24, Florida Statutes, is amended to read:

28.24 Service charges by clerk of the circuit court.—The clerk of the circuit court shall charge for services rendered by the clerk’s office in recording documents and instruments and in performing the duties enumerated in amounts not to exceed those specified in this section. Notwithstanding any other provision of this section, the clerk of the circuit court shall provide without charge to the state attorney, public defender, guardian ad litem, public guardian, attorney ad litem, criminal conflict and civil regional counsel, and private court-appointed counsel paid by the state, and to the authorized staff acting on behalf of each, access to and a copy of any public record, if the requesting party is entitled by law to view the exempt or confidential record, as maintained by and in the custody of the clerk of the circuit court as provided in general law and the Florida Rules of Judicial Administration. The clerk of the circuit court may provide the requested public record in an electronic format in lieu of a paper format when capable of being accessed by the requesting entity.

Charges

(1) For examining, comparing, correcting, verifying, and certifying transcripts of record in appellate proceedings, prepared by attorney for appellant or someone else other than clerk, per page . . . . . 5.00 ~~4.50~~

(2) For preparing, numbering, and indexing an original record of appellate proceedings, per instrument . . . . . 3.50 ~~3.00~~

(3) For certifying copies of any instrument in the public records . . . . . 2.00 ~~1.50~~

(4) For verifying any instrument presented for certification prepared by someone other than clerk, per page . . . . . 3.50 ~~3.00~~

(5)(a) For making copies by photographic process of any instrument in the public records consisting of pages of not more than 14 inches by 8½ inches, per page . . . . . 1.00

(b) For making copies by photographic process of any instrument in the public records of more than 14 inches by 8½ inches, per page . . . . . 5.00

(6) For making microfilm copies of any public records:

(a) 16 mm 100' microfilm roll . . . . . 42.00 37.50

(b) 35 mm 100' microfilm roll . . . . . 60.00 52.50

(c) Microfiche, per fiche . . . . . 3.50 3.00

(7) For copying any instrument in the public records by other than photographic process, per page . . . . . 6.00

(8) For writing any paper other than herein specifically mentioned, same as for copying, including signing and sealing . . . . . 7.00 6.00

(9) For indexing each entry not recorded . . . . . 1.00

(10) For receiving money into the registry of court:

(a)1. First \$500, percent . . . . . 3

2. Each subsequent \$100, percent . . . . . 1.5

(b) Eminent domain actions, per deposit . . . . . 170.00 150.00

(11) For examining, certifying, and recording plats and for recording condominium exhibits larger than 14 inches by 8½ inches:

(a) First page . . . . . 30.00

(b) Each additional page . . . . . 15.00

(12) For recording, indexing, and filing any instrument not more than 14 inches by 8½ inches, including required notice to property appraiser where applicable:

(a) First page or fraction thereof . . . . . 5.00

(b) Each additional page or fraction thereof . . . . . 4.00

(c) For indexing instruments recorded in the official records which contain more than four names, per additional name . . . . . 1.00

(d) An additional service charge shall be paid to the clerk of the circuit court to be deposited in the Public Records Modernization Trust Fund for each instrument listed in s. 28.222, except judgments received from the courts and notices of lis pendens, recorded in the official records:

1. First page . . . . . 1.00

2. Each additional page . . . . . 0.50

Said fund shall be held in trust by the clerk and used exclusively for equipment and maintenance of equipment, personnel training, and technical as-

sistance in modernizing the public records system of the office. In a county where the duty of maintaining official records exists in an office other than the office of the clerk of the circuit court, the clerk of the circuit court is entitled to 25 percent of the moneys deposited into the trust fund for equipment, maintenance of equipment, training, and technical assistance in modernizing the system for storing records in the office of the clerk of the circuit court. The fund may not be used for the payment of travel expenses, membership dues, bank charges, staff-recruitment costs, salaries or benefits of employees, construction costs, general operating expenses, or other costs not directly related to obtaining and maintaining equipment for public records systems or for the purchase of furniture or office supplies and equipment not related to the storage of records. On or before December 1, 1995, and on or before December 1 of each year immediately preceding each year during which the trust fund is scheduled for legislative review under s. 19(f)(2), Art. III of the State Constitution, each clerk of the circuit court shall file a report on the Public Records Modernization Trust Fund with the President of the Senate and the Speaker of the House of Representatives. The report must itemize each expenditure made from the trust fund since the last report was filed; each obligation payable from the trust fund on that date; and the percentage of funds expended for each of the following: equipment, maintenance of equipment, personnel training, and technical assistance. The report must indicate the nature of the system each clerk uses to store, maintain, and retrieve public records and the degree to which the system has been upgraded since the creation of the trust fund.

(e) An additional service charge of \$4 per page shall be paid to the clerk of the circuit court for each instrument listed in s. 28.222, except judgments received from the courts and notices of lis pendens, recorded in the official records. From the additional \$4 service charge collected:

1. If the counties maintain legal responsibility for the costs of the court-related technology needs as defined in s. 29.008(1)(f)2. and (h), 10 cents shall be distributed to the Florida Association of Court Clerks and Comptroller, Inc., for the cost of development, implementation, operation, and maintenance of the clerks' Comprehensive Case Information System, in which system all clerks shall participate on or before January 1, 2006; \$1.90 shall be retained by the clerk to be deposited in the Public Records Modernization Trust Fund and used exclusively for funding court-related technology needs of the clerk as defined in s. 29.008(1)(f)2. and (h); and \$2 shall be distributed to the board of county commissioners to be used exclusively to fund court-related technology, and court technology needs as defined in s. 29.008(1)(f)2. and (h) for the state trial courts, state attorney, public defender, and criminal conflict and civil regional counsel in that county. If the counties maintain legal responsibility for the costs of the court-related technology needs as defined in s. 29.008(1)(f)2. and (h), notwithstanding any other provision of law, the county is not required to provide additional funding beyond that provided herein for the court-related technology needs of the clerk as defined in s. 29.008(1)(f)2. and (h). All court records and official records are the property of the State of Florida, including any records generated as part of the Comprehensive Case Information System funded pursuant to this paragraph and the clerk of court is designated as the custodian of such records, except in a county where the duty of maintaining official records exists in



a county office other than the clerk of court or comptroller, such county office is designated the custodian of all official records, and the clerk of court is designated the custodian of all court records. The clerk of court or any entity acting on behalf of the clerk of court, including an association, shall not charge a fee to any agency as defined in s. 119.011, the Legislature, or the State Court System for copies of records generated by the Comprehensive Case Information System or held by the clerk of court or any entity acting on behalf of the clerk of court, including an association.

2. If the state becomes legally responsible for the costs of court-related technology needs as defined in s. 29.008(1)(f)2. and (h), whether by operation of general law or by court order, \$4 shall be remitted to the Department of Revenue for deposit into the General Revenue Fund.

(13) Oath, administering, attesting, and sealing, not otherwise provided for herein . . . . . 3.50 ~~3.00~~

(14) For validating certificates, any authorized bonds, each . . . . 3.50 ~~3.00~~

(15) For preparing affidavit of domicile . . . . . 5.00

(16) For exemplified certificates, including signing and sealing . . 7.00 ~~6.00~~

(17) For authenticated certificates, including signing and sealing . . . . . 7.00 ~~6.00~~

(18)(a) For issuing and filing a subpoena for a witness, not otherwise provided for herein (includes writing, preparing, signing, and sealing) . . . . . 7.00 ~~6.00~~

(b) For signing and sealing only . . . . . 2.00 ~~1.50~~

(19) For approving bond . . . . . 8.50 ~~7.50~~

(20) For searching of records, for each year's search . . . . . 2.00 ~~1.50~~

(21) For processing an application for a tax deed sale (includes application, sale, issuance, and preparation of tax deed, and disbursement of proceeds of sale), other than excess proceeds . . . . . 60.00

(22) For disbursement of excess proceeds of tax deed sale, first \$100 or fraction thereof . . . . . 10.00

(23) Upon receipt of an application for a marriage license, for preparing and administering of oath; issuing, sealing, and recording of the marriage license; and providing a certified copy . . . . . 30.00

(24) For solemnizing matrimony . . . . . 30.00

(25) For sealing any court file or expungement of any record . . 42.00 ~~37.50~~

(26)(a) For receiving and disbursing all restitution payments, per payment . . . . . 3.50 ~~3.00~~

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

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

(27) Postal charges incurred by the clerk of the circuit court in any mailing by certified or registered mail shall be paid by the party at whose instance the mailing is made.

(28) For furnishing an electronic copy of information contained in a computer database: a fee as provided for in chapter 119.

Section 7. Subsection (1) of section 28.2401, Florida Statutes, is amended to read:

28.2401 Service charges in probate matters.—

(1) Except when otherwise provided, the clerk may impose service charges for the following services, not to exceed the following amounts:

(a) For the opening of any estate of one document or more, including, but not limited to, petitions and orders to approve settlement of minor’s claims; to open a safe-deposit box; to enter rooms and places; for the determination of heirs, if not formal administration; and for a foreign guardian to manage property of a nonresident; but not to include issuance of letters or order of summary administration . . . . . \$115 ~~\$100~~

(b) Caveat . . . . . \$40 ~~\$35~~

(c) Petition and order to admit foreign wills, authenticated copies, exemplified copies, or transcript to record . . . . . \$115 ~~\$100~~

(d) For disposition of personal property without administration . . . . . \$115 ~~\$100~~

(e) Summary administration—estates valued at \$1,000 or more . . . . . \$225 ~~\$200~~

(f) Summary administration—estates valued at less than \$1,000 . . . . . \$115 ~~\$100~~

(g) Formal administration, guardianship, ancillary, curatorship, or conservatorship proceedings . . . . . \$280 ~~\$250~~

(h) Guardianship proceedings of person only . . . . . \$115 ~~\$100~~

(i) Veterans’ guardianship pursuant to chapter 744 . . . . . \$115 ~~\$100~~

(j) Exemplified certificates . . . . . \$7 ~~\$6~~

(k) Petition for determination of incompetency . . . . . ~~\$115~~ \$100

Section 8. Subsections (1) and (2) of section 28.241, Florida Statutes, are amended to read:

28.241 Filing fees for trial and appellate proceedings.—

(1)(a) The party instituting any civil action, suit, or proceeding in the circuit court shall pay to the clerk of that court a filing fee of up to ~~\$295~~ \$250 in all cases in which there are not more than five defendants and an additional filing fee of up to ~~\$2.50~~ \$2 for each defendant in excess of five. Of the first ~~\$85~~ \$55 in filing fees, ~~\$80~~ \$50 must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, and ~~\$5~~ must be remitted to the Department of Revenue for deposit into the Department of Financial Services' Administrative Trust Fund to fund the contract with the Florida Clerks of Court Operations Corporation created in s. 28.35. The next \$15 of the filing fee collected shall be deposited in the state courts' Mediation and Arbitration Trust Fund. One-third of any filing fees collected by the clerk of the circuit court in excess of ~~\$100~~ \$55 shall be remitted to the Department of Revenue for deposit into the Department of Revenue Clerks of the Court Trust Fund. An additional filing fee of \$4 shall be paid to the clerk. The clerk shall remit \$3.50 to the Department of Revenue for deposit into the Court Education Trust Fund and shall remit 50 cents to the Department of Revenue for deposit into the Department of Financial Services Administrative Trust Fund to fund clerk education. An additional filing fee of up to ~~\$18~~ \$15 shall be paid by the party seeking each severance that is granted. The clerk may impose an additional filing fee of up to ~~\$85~~ \$75 for all proceedings of garnishment, attachment, replevin, and distress. Postal charges incurred by the clerk of the circuit court in making service by certified or registered mail on defendants or other parties shall be paid by the party at whose instance service is made. No additional fees, charges, or costs shall be added to the filing fees imposed under this section, except as authorized herein or by general law.

(b) A party reopening any civil action, suit, or proceeding in the circuit court shall pay to the clerk of court a filing fee set by the clerk in an amount not to exceed \$50. For purposes of this section, a case is reopened when a case previously reported as disposed of is resubmitted to a court and includes petitions for modification of a final judgment of dissolution. A party is exempt from paying the fee for any of the following:

1. A writ of garnishment;
2. A writ of replevin;
3. A distress writ;
4. A writ of attachment;
5. A motion for rehearing filed within 10 days;
6. A motion for attorney's fees filed within 30 days after entry of a judgment or final order;

7. A motion for dismissal filed after a mediation agreement has been filed;
8. A disposition of personal property without administration;
9. Any probate case prior to the discharge of a personal representative;
10. Any guardianship pleading prior to discharge;
11. Any mental health pleading;
12. Motions to withdraw by attorneys;
13. Motions exclusively for the enforcement of child support orders;
14. A petition for credit of child support;
15. A Notice of Intent to Relocate and any order issuing as a result of an uncontested relocation;
16. Stipulations;
17. Responsive pleadings; or
18. Cases in which there is no initial filing fee.

(c) Any party other than a party described in paragraph (a) who files a pleading in an original civil action in circuit court for affirmative relief by cross-claim, counterclaim, or third-party complaint shall pay the clerk of court a fee of \$295. The clerk shall remit the fee to the Department of Revenue for deposit into the General Revenue Fund.

(d) The clerk of court shall collect a service charge of \$10 for issuing a summons. The clerk shall assess the fee against the party seeking to have the summons issued.

(2) Upon the institution of any appellate proceeding from any lower court to the circuit court of any such county, including appeals filed by a county or municipality as provided in s. 34.041(5), or from the circuit court to an appellate court of the state, the clerk shall charge and collect from the party or parties instituting such appellate proceedings a filing fee not to exceed ~~\$280~~ \$250 for filing a notice of appeal from the county court to the circuit court and, in addition to the filing fee required under s. 25.241 or s. 35.22, ~~\$100~~ \$50 for filing a notice of appeal from the circuit court to the district court of appeal or to the Supreme Court. If the party is determined to be indigent, the clerk shall defer payment of the fee. The clerk shall remit the first ~~\$80~~ \$50 to the Department of Revenue for deposit into the General Revenue Fund. One-third of the fee collected by the clerk in excess of ~~\$80~~ \$50 also shall be remitted to the Department of Revenue for deposit into the Clerks of the Court Trust Fund.

Section 9. Subsections (2) and (4) of section 28.35, Florida Statutes, are amended to read:

## 28.35 Florida Clerks of Court Operations Corporation.—

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

(a) Adopting a plan of operation.

(b) Conducting the election of directors as required in paragraph (1)(a).

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

(d) Pursuant to contract with the Chief Financial Officer, establishing a process for the review and certification of proposed court-related budgets submitted by clerks of the court for completeness and compliance with this section and ss. 28.36 and 28.37. This process shall be designed and be of sufficient detail to permit independent verification and validation of the budget certification. The contract shall specify the process to be used in determining compliance by the corporation with this section and ss. 28.36 and 28.37.

(e) Developing and certifying a uniform system of performance measures and applicable performance standards for the functions specified in paragraph (4)(a) and clerk performance in meeting the performance standards. These measures and standards shall be designed to facilitate an objective determination of the performance of each clerk in accordance with minimum standards for fiscal management, operational efficiency, and effective collection of fines, fees, service charges, and court costs. When the corporation finds a clerk has not met the performance standards, the corporation shall identify the nature of each deficiency and any corrective action recommended and taken by the affected clerk of the court.

(f) Reviewing and certifying proposed budgets submitted by clerks of the court utilizing the process approved by the Chief Financial Officer pursuant to paragraph (d) for the purpose of making the certification in paragraph (3)(a). As part of this process, the corporation shall:

1. Calculate the maximum authorized annual budget pursuant to the requirements of s. 28.36.

2. Identify those proposed budgets exceeding the maximum annual budget pursuant to s. 28.36(5) for the standard list of court-related functions specified in paragraph (4)(a).

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

4. Identify those clerks projected to have court-related revenues insufficient to fund their anticipated court-related expenditures.

(g) Developing and conducting clerk education programs.

(h) Publishing a uniform schedule of actual fees, service charges, and costs charged by a clerk of the court for court-related functions pursuant to general law.

(4)(a) The list of court-related functions clerks may fund from filing fees, service charges, court costs, and fines shall be limited to those functions expressly authorized by law or court rule. Those functions must include the following: case maintenance; records management; court preparation and attendance; processing the assignment, reopening, and reassignment of cases; processing of appeals; collection and distribution of fines, fees, service charges, and court costs; processing of bond forfeiture payments; payment of jurors and witnesses; payment of expenses for meals or lodging provided to jurors; data collection and reporting; processing of jurors; determinations of indigent status; and reasonable administrative support costs to enable the clerk of the court to carry out these court-related functions.

(b) The list of functions clerks may not fund from filing fees, service charges, court costs, and fines shall include:

1. Those functions not specified within paragraph (a).
2. Functions assigned by administrative orders which are not required for the clerk to perform the functions in paragraph (a).
3. Enhanced levels of service which are not required for the clerk to perform the functions in paragraph (a).
4. Functions identified as local requirements in law or local optional programs.

~~(c) Publishing a uniform schedule of actual fees, service charges, and costs charged by a clerk of the court for court-related functions pursuant to general law.~~

Section 10. For the purpose of incorporating the amendment made by this act to section 28.35, Florida Statutes, in references thereto, subsections (1) and (2), paragraph (a) of subsection (3), and subsections (4) and (5) of section 28.36, Florida Statutes, are reenacted to read:

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

(1) Only those functions on the standard list developed pursuant to s. 28.35(4)(a) may be funded from fees, service charges, court costs, and fines retained by the clerks of the court. No clerk may use fees, service charges, court costs, and fines in excess of the maximum budget amounts as established in subsection (5).

(2) For the period July 1, 2004, through September 30, 2004, and for each county fiscal year ending September 30 thereafter, each clerk of the court shall prepare a budget relating solely to the performance of the standard list of court-related functions pursuant to s. 28.35(4)(a).

(3) Each proposed budget shall further conform to the following requirements:

(a) On or before August 15 for each fiscal year thereafter, the proposed budget shall be prepared, summarized, and submitted by the clerk in each county to the Clerks of Court Operations Corporation in the manner and form prescribed by the corporation. The proposed budget must provide detailed information on the anticipated revenues available and expenditures necessary for the performance of the standard list of court-related functions of the clerk's office developed pursuant to s. 28.35(4)(a) for the county fiscal year beginning the following October 1.

(4) If a clerk of the court estimates that available funds plus projected revenues from fines, fees, service charges, and costs for court-related services are insufficient to meet the anticipated expenditures for the standard list of court-related functions in s. 28.35(4)(a) performed by his or her office, the clerk must report the revenue deficit to the Clerks of Court Operations Corporation in the manner and form prescribed by the corporation pursuant to contract with the Chief Financial Officer. The corporation shall verify that the proposed budget is limited to the standard list of court-related functions in s. 28.35(4)(a).

(a) If the corporation verifies that the proposed budget is limited to the standard list of court-related functions in s. 28.35(4)(a) and a revenue deficit is projected, a clerk seeking to retain revenues pursuant to this subsection shall increase all fees, service charges, and any other court-related clerk fees and charges to the maximum amounts specified by law or the amount necessary to resolve the deficit, whichever is less. If, after increasing fees, service charges, and any other court-related clerk fees and charges to the maximum amounts specified by law, a revenue deficit is still projected, the corporation shall, pursuant to the terms of the contract with the Chief Financial Officer, certify a revenue deficit and notify the Department of Revenue that the clerk is authorized to retain revenues, in an amount necessary to fully fund the projected revenue deficit, which he or she would otherwise be required to remit to the Department of Revenue for deposit into the Department of Revenue Clerks of the Court Trust Fund pursuant to s. 28.37. If a revenue deficit is projected for that clerk after retaining all of the projected collections from the court-related fines, fees, service charges, and costs, the Department of Revenue shall certify the amount of the revenue deficit amount to the Executive Office of the Governor and request release authority for funds appropriated for this purpose from the Department of Revenue Clerks of the Court Trust Fund. Notwithstanding provisions of s. 216.192 related to the release of funds, the Executive Office of the Governor may approve the release of funds appropriated to resolve projected revenue deficits in accordance with the notice, review, and objection procedures set forth in s. 216.177 and shall provide notice to the Chief Financial Officer. The Department of Revenue is directed to request monthly distributions from the Chief Financial Officer in equal amounts to each clerk certified to have a revenue deficit, in accordance with the releases approved by the Governor.

(b) If the Chief Financial Officer finds the court-related budget proposed by a clerk includes functions not included in the standard list of court-related functions in s. 28.35(4)(a), the Chief Financial Officer shall notify the

clerk of the amount of the proposed budget not eligible to be funded from fees, service charges, costs, and fines for court-related functions and shall identify appropriate corrective measures to ensure budget integrity. The clerk shall then immediately discontinue all ineligible expenditures of court-related funds for this purpose and reimburse the Clerks of the Court Trust Fund for any previously ineligible expenditures made for non-court-related functions, and shall implement any corrective actions identified by the Chief Financial Officer.

(5)(a) For the county fiscal year October 1, 2004, through September 30, 2005, the maximum annual budget amount for the standard list of court-related functions of the clerks of court in s. 28.35(4)(a) that may be funded from fees, service charges, court costs, and fines retained by the clerks of the court shall not exceed:

1. One hundred and three percent of the clerk's estimated expenditures for the prior county fiscal year; or
2. One hundred and five percent of the clerk's estimated expenditures for the prior county fiscal year for those clerks in counties that for calendar years 1998-2002 experienced an average annual increase of at least 5 percent in both population and case filings for all case types as reported through the Summary Reporting System used by the state courts system.

(b) For the county fiscal year 2005-2006, the maximum budget amount for the standard list of court-related functions of the clerks of court in s. 28.35(4)(a) that may be funded from fees, service charges, court costs, and fines retained by the clerks of the court shall be the approved budget for county fiscal year 2004-2005 adjusted by the projected percentage change in revenue between the county fiscal years 2004-2005 and 2005-2006.

(c) For the county fiscal years 2006-2007 and thereafter, the maximum budget amount for the standard list of court-related functions of the clerks of court in s. 28.35(4)(a) that may be funded from fees, service charges, court costs, and fines retained by the clerks of the court shall be established by first rebasing the prior fiscal year budget to reflect the actual percentage change in the prior fiscal year revenue and then adjusting the rebased prior fiscal year budget by the projected percentage change in revenue for the proposed budget year. The rebasing calculations and maximum annual budget calculations shall be as follows:

1. For county fiscal year 2006-2007, the approved budget for county fiscal year 2004-2005 shall be adjusted for the actual percentage change in revenue between the two 12-month periods ending June 30, 2005, and June 30, 2006. This result is the rebased budget for the county fiscal year 2005-2006. Then the rebased budget for the county fiscal year 2005-2006 shall be adjusted by the projected percentage change in revenue between the county fiscal years 2005-2006 and 2006-2007. This result shall be the maximum annual budget amount for the standard list of court-related functions of the clerks of court in s. 28.35(4)(a) that may be funded from fees, service charges, court costs, and fines retained by the clerks of the court for each clerk for the county fiscal year 2006-2007.



2. For county fiscal year 2007-2008, the rebased budget for county fiscal year 2005-2006 shall be adjusted for the actual percentage change in revenue between the two 12-month periods ending June 30, 2006, and June 30, 2007. This result is the rebased budget for the county fiscal year 2006-2007. The rebased budget for county fiscal year 2006-2007 shall be adjusted by the projected percentage change in revenue between the county fiscal years 2006-2007 and 2007-2008. This result shall be the maximum annual budget amount for the standard list of court-related functions of the clerks of court in s. 28.35(4)(a) that may be funded from fees, service charges, court costs, and fines retained by the clerks of the court for county fiscal year 2007-2008.

3. For county fiscal years 2008-2009 and thereafter, the maximum budget amount for the standard list of court-related functions of the clerks of court in s. 28.35(4)(a) that may be funded from fees, service charges, court costs, and fines retained by the clerks of the court shall be calculated as the rebased budget for the prior county fiscal year adjusted by the projected percentage change in revenues between the prior county fiscal year and the county fiscal year for which the maximum budget amount is being authorized. The rebased budget for the prior county fiscal year shall always be calculated by adjusting the rebased budget for the year preceding the prior county fiscal year by the actual percentage change in revenues between the 12-month period ending June 30 of the year preceding the prior county fiscal year and the 12-month period ending June 30 of the prior county fiscal year.

Section 11. Subsection (1) of section 34.041, Florida Statutes, is amended to read:

34.041 Filing fees.—

(1)(a) Upon the institution of any civil action, suit, or proceeding in county court, the party shall pay the following filing fee, not to exceed:

- 1. For all claims less than \$100 . . . . . \$50.
- 2. For all claims of \$100 or more but not more than \$500 . . . . . \$75.
- 3. For all claims of more than \$500 but not more than \$2,500 . . . \$170  
~~\$150.~~
- 4. For all claims of more than \$2,500 . . . . . \$295 ~~\$250.~~
- 5. In addition, for all proceedings of garnishment, attachment, replevin, and distress . . . . . \$85 ~~\$75.~~
- 6. For removal of tenant action . . . . . \$265 ~~\$75.~~

(b) The first ~~\$80~~ \$50 of the filing fee collected under subparagraph (a)4. shall be remitted to the Department of Revenue for deposit into the General Revenue Fund. The next \$15 of the filing fee collected under subparagraph (a)4., and the first \$15 of each filing fee collected under subparagraph (a)6., shall be deposited in the state courts' Mediation and Arbitration Trust Fund. One-third of any filing fees collected by the clerk under this section in excess of the first ~~\$95~~ \$50 collected under subparagraph (a)4. shall be remitted to

the Department of Revenue for deposit into the Department of Revenue Clerks of the Court Trust Fund. An additional filing fee of \$4 shall be paid to the clerk. The clerk shall transfer \$3.50 to the Department of Revenue for deposit into the Court Education Trust Fund and shall transfer 50 cents to the Department of Revenue for deposit into the Department of Financial Services' Administrative Trust Fund to fund clerk education. Postal charges incurred by the clerk of the county court in making service by mail on defendants or other parties shall be paid by the party at whose instance service is made. Except as provided herein, filing fees and service charges for performing duties of the clerk relating to the county court shall be as provided in ss. 28.24 and 28.241. Except as otherwise provided herein, all filing fees shall be retained as fee income of the office of the clerk of circuit court. Filing fees imposed by this section may not be added to any penalty imposed by chapter 316 or chapter 318.

(c) Any party other than a party described in paragraph (a) who files a pleading in an original civil action in the county court for affirmative relief by cross-claim, counterclaim, or third-party complaint, or who files a notice of cross-appeal or notice of joinder or motion to intervene as an appellant, cross-appellant, or petitioner, shall pay the clerk of court a fee of \$295 if the relief sought by the party under this paragraph exceeds \$2,500. This fee shall not apply where the cross-claim, counterclaim, or third-party complaint requires transfer of the case from county to circuit court. The clerk shall remit the fee to the Department of Revenue for deposit into the General Revenue Fund.

(d) The clerk of court shall collect a service charge of \$10 for issuing a summons. The clerk shall assess the fee against the party seeking to have the summons issued.

Section 12. Section 35.06, Florida Statutes, is amended to read:

35.06 Organization of district courts of appeal.—A district court of appeal shall be organized in each of the five appellate districts to be named District Court of Appeal, .... District. The number of judges of each district court of appeal shall be as follows:

- (1) In the first district there shall be 15 judges.
- (2) In the second district there shall be 14 judges.
- (3) In the third district there shall be 10 ~~11~~ judges.
- (4) In the fourth district there shall be 12 judges.
- (5) In the fifth district there shall be 10 judges.

Section 13. Subsection (3) of section 35.22, Florida Statutes, is amended to read:

35.22 Clerk of district court; appointment; compensation; assistants; filing fees; teleconferencing.—

(3)(a) The clerk, upon the filing of a certified copy of a notice of appeal or petition, shall charge and collect a filing fee of \$300 for each case docketed, and service charges as provided in s. 28.24 for copying, certifying or furnishing opinions, records, papers or other instruments and for other services. The State of Florida or its agencies, when appearing as appellant or petitioner, is exempt from the filing fee required in this subsection. From each attorney appearance pro hac vice, the clerk shall collect a fee of \$100 for deposit as provided in this section.

(b) Upon the filing of a notice of cross-appeal, or a notice of joinder or motion to intervene as an appellant, cross-appellant, or petitioner, the clerk shall charge and collect a filing fee of \$295. The clerk shall remit the fee to the Department of Revenue for deposit into the General Revenue Fund. The state and its agencies are exempt from the filing fee required by this paragraph.

Section 14. Subsections (3), (4), and (5) of section 40.24, Florida Statutes, are amended to read:

#### 40.24 Compensation and reimbursement policy.—

(3)(a) Jurors who are regularly employed and who continue to receive regular wages while serving as a juror are not entitled to receive compensation from the clerk of the circuit court state for the first 3 days of juror service.

(b) Jurors who are not regularly employed or who do not continue to receive regular wages while serving as a juror are entitled to receive \$15 per day for the first 3 days of juror service.

(4) Each juror who serves more than 3 days is entitled to be paid by the clerk of the circuit court state for the fourth day of service and each day thereafter at the rate of \$30 per day of service.

(5) Jurors are not entitled to additional reimbursement by the clerk of the circuit court state for travel or other out-of-pocket expenses.

Section 15. Section 40.26, Florida Statutes, is amended to read:

40.26 Meals and lodging for jurors.—The sheriff, when required by order of the court, shall provide juries with meals and lodging, the expense to be ~~taxed against and~~ paid by the clerk of the circuit court state.

Section 16. Section 40.29, Florida Statutes, is amended to read:

#### 40.29 Payment of due-process costs.—

(1)(a) Each clerk of the circuit court, on behalf of ~~the courts,~~ the state attorney, private court-appointed counsel, and the public defender, and the criminal conflict and civil regional counsel, shall forward to the Justice Administrative Commission, by county, a quarterly estimate of funds necessary to pay for ordinary witnesses, including, but not limited to, witnesses in civil traffic cases and witnesses of the state attorney, the public defender, criminal conflict and civil regional counsel, private court-appointed counsel,

and persons determined to be indigent for costs. Each quarter of the state fiscal year, the commission, based upon the estimates, shall advance funds to each clerk to pay for these ordinary witnesses from state funds specifically appropriated for the payment of ordinary witnesses.

~~(b) Each clerk of the circuit court shall forward to the Office of the State Courts Administrator, by county, a quarterly estimate of funds necessary to pay juror compensation.~~

(2) Upon receipt of an estimate pursuant to subsection (1), the Justice Administrative Commission ~~or Office of State Courts Administrator, as applicable,~~ shall endorse the amount deemed necessary for payment by the clerk of the court during the quarterly fiscal period and shall submit a request for payment to the Chief Financial Officer.

(3) Upon receipt of the funds from the Chief Financial Officer, the clerk of the court shall pay all invoices approved and submitted by the state attorney, the public defender, criminal conflict and civil regional counsel, and private court-appointed counsel ~~circuit court administrator~~ for the items enumerated in subsection paragraphs (1)(a) and (b).

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

Section 17. Section 40.31, Florida Statutes, is amended to read:

40.31 Justice Administrative Commission ~~State Courts Administrator~~ may apportion appropriation.—~~If the Justice Administrative Commission has State Courts Administrator shall have reason to believe that the amount appropriated by the Legislature is insufficient to meet the expenses of jurors and witnesses during the remaining part of the state fiscal year, the commission he or she~~ may apportion the money in the treasury for that purpose among the several counties, basing such apportionment upon the amount expended for the payment of ~~jurors and~~ witnesses in each county during the prior fiscal year. In such case, each county shall be paid by warrant, issued by the Chief Financial Officer, only the amount so apportioned to each county, and, when the amount so apportioned is insufficient to pay in full all the ~~jurors and~~ witnesses during a quarterly fiscal period, the clerk of the court shall apportion the money received pro rata among the ~~jurors and~~ witnesses entitled to pay and shall give to each ~~juror or~~ witness a certificate of the amount of compensation still due, which certificate shall be held by the commission ~~State Courts Administrator~~ as other demands against the state.

Section 18. Section 40.32, Florida Statutes, is amended to read:

40.32 Clerks to disburse money; payments to jurors and witnesses.—

(1) All moneys drawn from the treasury under the provisions of this chapter by the clerk of the court shall be disbursed by the clerk of the court as far as needed in payment of ~~jurors and~~ witnesses, except for expert witnesses paid under pursuant to a contract or other professional services agreement pursuant to ss. 29.004, 29.005, 29.006, and 29.007, for the legal compensation for service during the quarterly fiscal period for which the said moneys were drawn and for no other purposes.

(2) The payment of jurors and the payment of expenses for meals and lodging for jurors under the provisions of this chapter are court-related functions that the clerk of the court shall fund from filing fees, service charges, court costs, and fines as part of the maximum annual budget under ss. 28.35 and 28.36.

(3) Jurors and witnesses shall be paid by the clerk of the court either in cash or by warrant within 20 days after completion of jury service or of completion of service as a witness.

(a) Whenever the clerk of the court pays a juror or witness by cash, the said juror or witness shall sign the payroll in the presence of the clerk, a deputy clerk, or some other person designated by the clerk.

(b) Whenever the clerk pays a juror or witness by warrant, he or she shall endorse on the payroll opposite the juror's or witness's name the words "Paid by warrant," giving the number and date of the warrant.

Section 19. Section 40.33, Florida Statutes, is amended to read:

40.33 Deficiency.—If the funds required for payment of the items enumerated in s. 40.29(1)~~(a) or (b)~~ in any county during a quarterly fiscal period exceeds the amount of the funds provided pursuant to s. 40.29(3), the state attorney, ~~or public defender, or criminal conflict and civil regional counsel,~~ as applicable, shall make a further request upon the Justice Administrative Commission for the items enumerated in s. 40.29(1) ~~s. 40.29(1)(a) or the clerk of court shall make a further request upon the Office of the State Courts Administrator for items enumerated in s. 40.29(1)(b)~~ for the amount necessary to allow for full payment.

Section 20. Section 40.34, Florida Statutes, is amended to read:

40.34 Clerks to make triplicate payroll.—

(1) The clerk of the court shall make out a payroll in triplicate for the payment of ~~jurors and~~ witnesses, which payroll shall contain:

(a) The name of each ~~juror and~~ witness entitled to be paid with state funds;

(b) The number of days for which the ~~such jurors and~~ witnesses are entitled to be paid;

(c) The number of miles traveled by each; and

(d) The total compensation each ~~such juror or~~ witness is entitled to receive.

(2) The form of such payroll shall be prescribed by the Chief Financial Officer.

(3) Compensation paid a witness ~~or juror~~ shall be attested as provided in s. 40.32. The payroll shall be approved by the signature of the clerk, or his or her deputy, except for the payroll as to witnesses appearing before the state attorney, which payroll shall be approved by the signature of the state attorney or an assistant state attorney.

(4) The clerks of the courts shall forward two copies of such payrolls to the ~~Justice Administrative Commission State Courts Administrator~~, within 2 weeks after the last day of the quarterly fiscal period, and the ~~commission State Courts Administrator~~ shall audit such payrolls.

Section 21. Section 40.35, Florida Statutes, is repealed.

Section 22. Section 40.355, Florida Statutes, is amended to read:

40.355 Accounting and payment to ~~public defenders and state attorneys.~~—The clerk of the court shall, within 2 weeks after the last day of the state's quarterly fiscal period, render to the state attorney, and the public defender, and the criminal conflict and civil regional counsel in each circuit a full statement of accounts for state moneys received and disbursed under this chapter for the payment of witnesses.

Section 23. Section 40.361, Florida Statutes, is amended to read:

40.361 Applicability of laws regarding state budgeting and finances.—The requirements contained within chapter 216, including the provisions of s. 216.192 related to release of funds, chapter 29, including ss. 29.015 and 29.016 related to use of contingency funds for due process services, and all other laws of this state relating to state budgeting and financing shall apply to all processes authorized or required under this chapter for the payment of the items enumerated in s. 40.29(1)~~(a) and (b).~~

Section 24. Section 44.108, Florida Statutes, is amended to read:

44.108 Funding of mediation and arbitration.—

(1) Mediation and arbitration should be accessible to all parties regardless of financial status. A filing fee of \$1 is levied on all proceedings in the circuit or county courts to fund mediation and arbitration services which are the responsibility of the Supreme Court pursuant to the provisions of s. 44.106. The clerk of the court shall forward the moneys collected to the Department of Revenue for deposit in the state courts' Mediation and Arbitration Trust Fund.

(2) When court-ordered mediation services are provided by a circuit court's mediation program, the following fees, unless otherwise established in the General Appropriations Act, shall be collected by the clerk of court:

- (a) ~~One-hundred twenty Eighty~~ dollars per person per scheduled session in family mediation when the parties' combined income is greater than \$50,000, but less than \$100,000 per year;
- (b) ~~Sixty Forty~~ dollars per person per scheduled session in family mediation when the parties' combined income is less than \$50,000; or
- (c) ~~Sixty Forty~~ dollars per person per scheduled session in county court cases.

No mediation fees shall be assessed under this subsection in residential eviction cases, against a party found to be indigent, or for any small claims action. Fees collected by the clerk of court pursuant to this section shall be remitted to the Department of Revenue for deposit into the state courts' Mediation and Arbitration Trust Fund to fund court-ordered mediation. The clerk of court may deduct \$1 per fee assessment for processing this fee. The clerk of the court shall submit to the chief judge of the circuit and to the Office of the State Courts Administrator, no later than 30 days after the end of each quarter of the fiscal year, beginning July 1, 2008, a report specifying the amount of funds collected and remitted to the state courts' Mediation and Arbitration Trust Fund under this section and any other section during the previous each quarter of the fiscal year. In addition to identifying the total aggregate collections and remissions from all statutory sources, the report must identify collections and remissions by each statutory source.

Section 25. Section 45.035, Florida Statutes, is amended to read:

45.035 Clerk's fees.—In addition to other fees or service charges authorized by law, the clerk shall receive service charges related to the judicial sales procedure set forth in ss. 45.031-45.034 and this section:

(1) The clerk shall receive a service charge of ~~\$70~~ \$60 for services in making, recording, and certifying the sale and title, which service charge shall be assessed as costs and shall be advanced by the plaintiff before the sale.

(2) If there is a surplus resulting from the sale, the clerk may receive the following service charges, which shall be deducted from the surplus:

(a) The clerk may withhold the sum of ~~\$28~~ \$25 from the surplus which may only be used for purposes of educating the public as to the rights of homeowners regarding foreclosure proceedings.

(b) The clerk is entitled to a service charge of ~~\$15~~ \$10 for notifying a surplus trustee of his or her appointment.

(c) The clerk is entitled to a service charge of ~~\$15~~ \$10 for each disbursement of surplus proceeds.

(d) The clerk is entitled to a service charge of ~~\$15~~ \$10 for appointing a surplus trustee, furnishing the surplus trustee with a copy of the final judgment and the certificate of disbursements, and disbursing to the surplus trustee the trustee's cost advance.

Section 26. Subsection (3) of section 55.505, Florida Statutes, is amended to read:

55.505 Notice of recording; prerequisite to enforcement.—

(3) No execution or other process for enforcement of a foreign judgment recorded hereunder shall issue until 30 days after the mailing of notice by the clerk and payment of a service charge of up to \$42 ~~\$37.50~~ to the clerk. When an action authorized in s. 55.509(1) is filed, it acts as an automatic stay of the effect of this section.

Section 27. Subsection (1) of section 57.082, Florida Statutes, is amended to read:

57.082 Determination of civil indigent status.—

(1) APPLICATION TO THE CLERK.—A person seeking appointment of an attorney in a civil case eligible for court-appointed counsel, or seeking relief from prepayment of fees and costs under s. 57.081, based upon an inability to pay must apply to the clerk of the court for a determination of civil indigent status using an application form developed by the Florida Clerks of Court Operations Corporation with final approval by the Supreme Court.

(a) The application must include, at a minimum, the following financial information:

1. Net income, consisting of total salary and wages, minus deductions required by law, including court-ordered support payments.

2. Other income, including, but not limited to, social security benefits, union funds, veterans' benefits, workers' compensation, other regular support from absent family members, public or private employee pensions, unemployment compensation, dividends, interest, rent, trusts, and gifts.

3. Assets, including, but not limited to, cash, savings accounts, bank accounts, stocks, bonds, certificates of deposit, equity in real estate, and equity in a boat or a motor vehicle or in other tangible property.

4. All liabilities and debts.

The application must include a signature by the applicant which attests to the truthfulness of the information provided. The application form developed by the corporation must include notice that the applicant may seek court review of a clerk's determination that the applicant is not indigent, as provided in this section.

(b) The clerk shall assist a person who appears before the clerk and requests assistance in completing the application, and the clerk shall notify the court if a person is unable to complete the application after the clerk has provided assistance.

(c) The clerk shall accept an application that is signed by the applicant and submitted on his or her behalf by a private attorney who is representing the applicant in the applicable matter.



(d) A person who seeks appointment of an attorney in a case under chapter 39, at the trial or appellate level, for which an indigent person is eligible for court-appointed representation, shall pay a \$50 application fee to the clerk for each application filed. The applicant shall pay the fee within 7 days after submitting the application. The clerk shall transfer monthly all application fees collected under this paragraph to the Department of Revenue for deposit into the Indigent Civil Defense Trust Fund, to be used as appropriated by the Legislature. The clerk may retain 10 percent of application fees collected monthly for administrative costs prior to remitting the remainder to the Department of Revenue. A person found to be indigent may not be refused counsel. If the person cannot pay the application fee, the clerk shall enroll the person in a payment plan pursuant to s. 28.246.

Section 28. Subsection (6) of section 61.14, Florida Statutes, is amended to read:

61.14 Enforcement and modification of support, maintenance, or alimony agreements or orders.—

(6)(a)1. When support payments are made through the local depository or through the State Disbursement Unit, any payment or installment of support which becomes due and is unpaid under any support order is delinquent; and this unpaid payment or installment, and all other costs and fees herein provided for, become, after notice to the obligor and the time for response as set forth in this subsection, a final judgment by operation of law, which has the full force, effect, and attributes of a judgment entered by a court in this state for which execution may issue. No deduction shall be made by the local depository from any payment made for costs and fees accrued in the judgment by operation of law process under paragraph (b) until the total amount of support payments due the obligee under the judgment has been paid.

2. A certified statement by the local depository evidencing a delinquency in support payments constitute evidence of the final judgment under this paragraph.

3. The judgment under this paragraph is a final judgment as to any unpaid payment or installment of support which has accrued up to the time either party files a motion with the court to alter or modify the support order, and such judgment may not be modified by the court. The court may modify such judgment as to any unpaid payment or installment of support which accrues after the date of the filing of the motion to alter or modify the support order. This subparagraph does not prohibit the court from providing relief from the judgment pursuant to Rule 1.540, Florida Rules of Civil Procedure.

(b)1. When an obligor is 15 days delinquent in making a payment or installment of support and the amount of the delinquency is greater than the periodic payment amount ordered by the court, the local depository shall serve notice on the obligor informing him or her of:

- a. The delinquency and its amount.

b. An impending judgment by operation of law against him or her in the amount of the delinquency and all other amounts which thereafter become due and are unpaid, together with costs and a service charge of up to \$25 \$7.50, for failure to pay the amount of the delinquency.

c. The obligor's right to contest the impending judgment and the ground upon which such contest can be made.

d. The local depository's authority to release information regarding the delinquency to one or more credit reporting agencies.

2. The local depository shall serve the notice by mailing it by first class mail to the obligor at his or her last address of record with the local depository. If the obligor has no address of record with the local depository, service shall be by publication as provided in chapter 49.

3. When service of the notice is made by mail, service is complete on the date of mailing.

(c) Within 15 days after service of the notice is complete, the obligor may file with the court that issued the support order, or with the court in the circuit where the local depository which served the notice is located, a motion to contest the impending judgment. An obligor may contest the impending judgment only on the ground of a mistake of fact regarding an error in whether a delinquency exists, in the amount of the delinquency, or in the identity of the obligor.

(d) The court shall hear the obligor's motion to contest the impending judgment within 15 days after the date of the filing of the motion. Upon the court's denial of the obligor's motion, the amount of the delinquency and all other amounts which thereafter become due, together with costs and a service charge of up to \$25 \$7.50, become a final judgment by operation of law against the obligor. The depository shall charge interest at the rate established in s. 55.03 on all judgments for support.

(e) If the obligor fails to file a motion to contest the impending judgment within the time limit prescribed in paragraph (c) and fails to pay the amount of the delinquency and all other amounts which thereafter become due, together with costs and a service charge of up to \$25 \$7.50, such amounts become a final judgment by operation of law against the obligor at the expiration of the time for filing a motion to contest the impending judgment.

(f)1. Upon request of any person, the local depository shall issue, upon payment of a service charge of up to \$25 \$7.50, a payoff statement of the total amount due under the judgment at the time of the request. The statement may be relied upon by the person for up to 30 days from the time it is issued unless proof of satisfaction of the judgment is provided.

2. When the depository records show that the obligor's account is current, the depository shall record a satisfaction of the judgment upon request of any interested person and upon receipt of the appropriate recording fee. Any person shall be entitled to rely upon the recording of the satisfaction.

3. The local depository, at the direction of the department, or the obligee in a non-IV-D case, may partially release the judgment as to specific real property, and the depository shall record a partial release upon receipt of the appropriate recording fee.

4. The local depository is not liable for errors in its recordkeeping, except when an error is a result of unlawful activity or gross negligence by the clerk or his or her employees.

(g) The local depository shall send the department monthly by electronic means a list of all Title IV-D and non-Title IV-D cases in which a judgment by operation of law has been recorded during the month for which the data is provided. At a minimum, the depository shall provide the names of the obligor and obligee, social security numbers of the obligor and obligee, if available, and depository number.

Section 29. Subsections (2) and (4) of section 316.193, Florida Statutes, are amended to read:

316.193 Driving under the influence; penalties.—

(2)(a) Except as provided in paragraph (b), subsection (3), or subsection (4), any person who is convicted of a violation of subsection (1) shall be punished:

1. By a fine of:

a. Not less than ~~\$500~~ \$250 or more than ~~\$1,000~~ \$500 for a first conviction.

b. Not less than \$1,000 ~~\$500~~ or more than \$2,000 ~~\$1,000~~ for a second conviction; and

2. By imprisonment for:

a. Not more than 6 months for a first conviction.

b. Not more than 9 months for a second conviction.

3. For a second conviction, by mandatory placement for a period of at least 1 year, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.

(b)1. Any person who is convicted of a third violation of this section for an offense that occurs within 10 years after a prior conviction for a violation of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, the court shall order the mandatory placement for a period of not less than 2 years, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually

or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.

2. Any person who is convicted of a third violation of this section for an offense that occurs more than 10 years after the date of a prior conviction for a violation of this section shall be punished by a fine of not less than ~~\$2,000~~ \$1,000 or more than ~~\$5,000~~ \$2,500 and by imprisonment for not more than 12 months. In addition, the court shall order the mandatory placement for a period of at least 2 years, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.

3. Any person who is convicted of a fourth or subsequent violation of this section, regardless of when any prior conviction for a violation of this section occurred, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, the fine imposed for such fourth or subsequent violation may be not less than \$2,000 ~~\$1,000~~.

(4) Any person who is convicted of a violation of subsection (1) and who has a blood-alcohol level or breath-alcohol level of 0.20 or higher, or any person who is convicted of a violation of subsection (1) and who at the time of the offense was accompanied in the vehicle by a person under the age of 18 years, shall be punished:

(a) By a fine of:

1. Not less than \$1,000 ~~\$500~~ or more than \$2,000 ~~\$1,000~~ for a first conviction.

2. Not less than \$2,000 ~~\$1,000~~ or more than \$4,000 ~~\$2,000~~ for a second conviction.

3. Not less than \$4,000 ~~\$2,000~~ for a third or subsequent conviction.

(b) By imprisonment for:

1. Not more than 9 months for a first conviction.

2. Not more than 12 months for a second conviction.

For the purposes of this subsection, only the instant offense is required to be a violation of subsection (1) by a person who has a blood-alcohol level or breath-alcohol level of 0.20 or higher.

(c) In addition to the penalties in paragraphs (a) and (b), the court shall order the mandatory placement, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person for up to 6 months for the

first offense and for at least 2 years for a second offense, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.

Section 30. Section 318.121, Florida Statutes, is amended to read:

318.121 Preemption of additional fees, fines, surcharges, and costs.—Notwithstanding any general or special law, or municipal or county ordinance, additional fees, fines, surcharges, or costs other than the court costs and surcharges assessed under s. 318.18(11), ~~and (13), and (18)~~ may not be added to the civil traffic penalties assessed in this chapter.

Section 31. Subsection (10) of section 318.14, Florida Statutes, is amended to read:

318.14 Noncriminal traffic infractions; exception; procedures.—

(10)(a) Any person who does not hold a commercial driver's license and who is cited for an offense listed under this subsection may, in lieu of payment of fine or court appearance, elect to enter a plea of nolo contendere and provide proof of compliance to the clerk of the court or authorized operator of a traffic violations bureau. In such case, adjudication shall be withheld; however, no election shall be made under this subsection if such person has made an election under this subsection in the 12 months preceding election hereunder. No person may make more than three elections under this subsection. This subsection applies to the following offenses:

1. Operating a motor vehicle without a valid driver's license in violation of the provisions of s. 322.03, s. 322.065, or s. 322.15(1), or operating a motor vehicle with a license which has been suspended for failure to appear, failure to pay civil penalty, or failure to attend a driver improvement course pursuant to s. 322.291.

2. Operating a motor vehicle without a valid registration in violation of s. 320.0605, s. 320.07, or s. 320.131.

3. Operating a motor vehicle in violation of s. 316.646.

(b) Any person cited for an offense listed in this subsection shall present proof of compliance prior to the scheduled court appearance date. For the purposes of this subsection, proof of compliance shall consist of a valid, renewed, or reinstated driver's license or registration certificate and proper proof of maintenance of security as required by s. 316.646. Notwithstanding waiver of fine, any person establishing proof of compliance shall be assessed court costs of ~~\$25~~ \$22, except that a person charged with violation of s. 316.646(1)-(3) may be assessed court costs of ~~\$8~~ \$7. One dollar of such costs shall be remitted to the Department of Revenue for deposit into the Child Welfare Training Trust Fund of the Department of Children and Family Services. One dollar of such costs shall be distributed to the Department of Juvenile Justice for deposit into the Juvenile Justice Training Trust Fund. ~~Fourteen~~ Twelve dollars of such costs shall be distributed to the municipality and ~~\$9~~ \$8 shall be deposited by the clerk of the court into the fine and forfeiture fund established pursuant to s. 142.01, if the offense was commit-

ted within the municipality. If the offense was committed in an unincorporated area of a county or if the citation was for a violation of s. 316.646(1)-(3), the entire amount shall be deposited by the clerk of the court into the fine and forfeiture fund established pursuant to s. 142.01, except for the moneys to be deposited into the Child Welfare Training Trust Fund and the Juvenile Justice Training Trust Fund. This subsection shall not be construed to authorize the operation of a vehicle without a valid driver's license, without a valid vehicle tag and registration, or without the maintenance of required security.

Section 32. Subsection (1) of section 318.15, Florida Statutes, is amended to read:

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

(1)(a) If a person fails to comply with the civil penalties provided in s. 318.18 within the time period specified in s. 318.14(4), fails to attend driver improvement school, or fails to appear at a scheduled hearing, the clerk of the court shall notify the Division of Driver Licenses of the Department of Highway Safety and Motor Vehicles of such failure within 10 days after such failure. Upon receipt of such notice, the department shall immediately issue an order suspending the driver's license and privilege to drive of such person effective 20 days after the date the order of suspension is mailed in accordance with s. 322.251(1), (2), and (6). Any such suspension of the driving privilege which has not been reinstated, including a similar suspension imposed outside Florida, shall remain on the records of the department for a period of 7 years from the date imposed and shall be removed from the records after the expiration of 7 years from the date it is imposed.

(b) However, a person who elects to attend driver improvement school and has paid the civil penalty as provided in s. 318.14(9), but who subsequently fails to attend the driver improvement school within the time specified by the court shall be deemed to have admitted the infraction and shall be adjudicated guilty. In such case the person must pay the clerk of the court the 18 percent deducted pursuant to s. 318.14(9), and a processing fee of up to ~~\$18~~ \$15, after which no additional penalties, court costs, or surcharges shall be imposed for the violation. The clerk of the court shall notify the department of the person's failure to attend driver improvement school and points shall be assessed pursuant to s. 322.27.

Section 33. Subsection (2) and paragraph (a) of subsection (11) of section 318.18, Florida Statutes, are amended, and subsection (18) is added to that section, to read:

318.18 Amount of penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14 or a criminal offense listed in s. 318.17 are as follows:

- (2) Thirty dollars for all nonmoving traffic violations and:
  - (a) For all violations of s. 322.19.

(b) For all violations of ss. 320.0605, 320.07(1), 322.065, and 322.15(1). Any person who is cited for a violation of s. 320.07(1) shall be charged a delinquent fee pursuant to s. 320.07(4).

1. If a person who is cited for a violation of s. 320.0605 or s. 320.07 can show proof of having a valid registration at the time of arrest, the clerk of the court may dismiss the case and may assess a dismissal fee of up to \$10 \$7.50. A person who finds it impossible or impractical to obtain a valid registration certificate must submit an affidavit detailing the reasons for the impossibility or impracticality. The reasons may include, but are not limited to, the fact that the vehicle was sold, stolen, or destroyed; that the state in which the vehicle is registered does not issue a certificate of registration; or that the vehicle is owned by another person.

2. If a person who is cited for a violation of s. 322.03, s. 322.065, or s. 322.15 can show a driver’s license issued to him or her and valid at the time of arrest, the clerk of the court may dismiss the case and may assess a dismissal fee of up to \$10 \$7.50.

3. If a person who is cited for a violation of s. 316.646 can show proof of security as required by s. 627.733, issued to the person and valid at the time of arrest, the clerk of the court may dismiss the case and may assess a dismissal fee of up to \$10 \$7.50. A person who finds it impossible or impractical to obtain proof of security must submit an affidavit detailing the reasons for the impracticality. The reasons may include, but are not limited to, the fact that the vehicle has since been sold, stolen, or destroyed; that the owner or registrant of the vehicle is not required by s. 627.733 to maintain personal injury protection insurance; or that the vehicle is owned by another person.

(c) For all violations of ss. 316.2935 and 316.610. However, for a violation of s. 316.2935 or s. 316.610, if the person committing the violation corrects the defect and obtains proof of such timely repair by an affidavit of compliance executed by the law enforcement agency within 30 days from the date upon which the traffic citation was issued, and pays \$4 to the law enforcement agency, thereby completing the affidavit of compliance, then upon presentation of said affidavit by the defendant to the clerk within the 30-day time period set forth under s. 318.14(4), the fine must be reduced to \$10 \$7.50, which the clerk of the court shall retain.

(d) For all violations of s. 316.126(1)(b), unless otherwise specified.

(11)(a) In addition to the stated fine, court costs must be paid in the following amounts and shall be deposited by the clerk into the fine and forfeiture fund established pursuant to s. 142.01:

- For pedestrian infractions . . . . . \$4 ~~\$3~~.
- For nonmoving traffic infractions . . . . . \$18 ~~\$16~~.
- For moving traffic infractions . . . . . \$35 ~~\$30~~.

(18) In addition to any penalties imposed, an administrative fee of \$12.50 must be paid for all noncriminal moving and nonmoving traffic violations

under chapter 316. Revenue from the administrative fee shall be deposited by the clerk of court into the fine and forfeiture fund established pursuant to s. 142.01.

Section 34. Subsections (1) and (2) of section 322.245, Florida Statutes, are amended to read:

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

(1) If a person charged with a violation of any of the criminal offenses enumerated in s. 318.17 or with the commission of any offense constituting a misdemeanor under chapter 320 or this chapter fails to comply with all of the directives of the court within the time allotted by the court, the clerk of the traffic court shall mail to the person, at the address specified on the uniform traffic citation, a notice of such failure, notifying him or her that, if he or she does not comply with the directives of the court within 30 days after the date of the notice and pay a delinquency fee of up to \$25 ~~\$15~~ to the clerk, his or her driver's license will be suspended. The notice shall be mailed no later than 5 days after such failure. The delinquency fee may be retained by the office of the clerk to defray the operating costs of the office.

(2) In non-IV-D cases, if a person fails to pay child support under chapter 61 and the obligee so requests, the depository or the clerk of the court shall mail in accordance with s. 61.13016 the notice specified in that section, notifying him or her that if he or she does not comply with the requirements of that section and pay a delinquency fee of \$25 ~~\$10~~ to the depository or the clerk, his or her driver's license and motor vehicle registration will be suspended. The delinquency fee may be retained by the depository or the office of the clerk to defray the operating costs of the office.

Section 35. Subsections (2) and (4) of section 327.35, Florida Statutes, are amended to read:

327.35 Boating under the influence; penalties; "designated drivers".—

(2)(a) Except as provided in paragraph (b), subsection (3), or subsection (4), any person who is convicted of a violation of subsection (1) shall be punished:

1. By a fine of:

a. Not less than \$500 ~~\$250~~ or more than \$1,000 ~~\$500~~ for a first conviction.

b. Not less than \$1,000 ~~\$500~~ or more than \$2,000 ~~\$1,000~~ for a second conviction; and

2. By imprisonment for:



- a. Not more than 6 months for a first conviction.
- b. Not more than 9 months for a second conviction.

(b)1. Any person who is convicted of a third violation of this section for an offense that occurs within 10 years after a prior conviction for a violation of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Any person who is convicted of a third violation of this section for an offense that occurs more than 10 years after the date of a prior conviction for a violation of this section shall be punished by a fine of not less than \$2,000 ~~\$1,000~~ or more than \$5,000 ~~\$2,500~~ and by imprisonment for not more than 12 months.

3. Any person who is convicted of a fourth or subsequent violation of this section, regardless of when any prior conviction for a violation of this section occurred, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

However, the fine imposed for such fourth or subsequent violation may not be less than \$2,000 ~~\$1,000~~.

(4) Any person who is convicted of a violation of subsection (1) and who has a blood-alcohol level or breath-alcohol level of 0.20 or higher, or any person who is convicted of a violation of subsection (1) and who at the time of the offense was accompanied in the vessel by a person under the age of 18 years, shall be punished:

(a) By a fine of:

1. Not less than \$1,000 ~~\$500~~ or more than \$2,000 ~~\$1,000~~ for a first conviction.
2. Not less than \$2,000 ~~\$1,000~~ or more than \$4,000 ~~\$2,000~~ for a second conviction.
3. Not less than \$4,000 ~~\$2,000~~ for a third or subsequent conviction.

(b) By imprisonment for:

1. Not more than 9 months for a first conviction.
2. Not more than 12 months for a second conviction.

For the purposes of this subsection, only the instant offense is required to be a violation of subsection (1) by a person who has a blood-alcohol level or breath-alcohol level of 0.20 or higher.

Section 36. Subsection (4), paragraph (a) of subsection (9), and subsection (11) of section 327.73, Florida Statutes, are amended to read:

327.73 Noncriminal infractions.—

(4) Any person charged with a noncriminal infraction under this section may:

(a) Pay the civil penalty, either by mail or in person, within 30 days of the date of receiving the citation; or,

(b) If he or she has posted bond, forfeit bond by not appearing at the designated time and location.

If the person cited follows either of the above procedures, he or she shall be deemed to have admitted the noncriminal infraction and to have waived the right to a hearing on the issue of commission of the infraction. Such admission shall not be used as evidence in any other proceedings. If a person who is cited for a violation of s. 327.395 can show a boating safety identification card issued to that person and valid at the time of the citation, the clerk of the court may dismiss the case and may assess a dismissal fee of up to \$10 ~~\$7.50~~. If a person who is cited for a violation of s. 328.72(13) can show proof of having a registration for that vessel which was valid at the time of the citation, the clerk may dismiss the case and may assess the dismissal fee.

(9)(a) Any person who fails to comply with the court's requirements or who fails to pay the civil penalties specified in this section within the 30-day period provided for in s. 327.72 must pay an additional court cost of up to \$20 ~~\$18~~, which shall be used by the clerks of the courts to defray the costs of tracking unpaid uniform boating citations.

(11)(a) Court costs that are to be in addition to the stated civil penalty shall be imposed by the court in an amount not less than the following:

1. For swimming or diving infractions, \$4 ~~\$3~~.
2. For nonmoving boating infractions, \$18 ~~\$6~~.
3. For boating infractions listed in s. 327.731(1), \$35 ~~\$10~~.

(b) In addition to the court cost assessed under paragraph (a), the court shall impose a \$3 court cost for each noncriminal infraction, to be distributed as provided in s. 938.01, and a \$2 court cost as provided in s. 938.15 when assessed by a municipality or county.

Court costs imposed under this subsection may not exceed \$45 ~~\$30~~. A criminal justice selection center or both local criminal justice access and assessment centers may be funded from these court costs.

Section 37. Paragraph (i) of subsection (1) of section 372.83, Florida Statutes, is amended to read:

372.83 Penalties and violations; civil penalties for noncriminal infractions; criminal penalties; suspension and forfeiture of licenses and permits.—

(1)

(i) A person cited for violating the requirements of s. 372.57 relating to personal possession of a license or permit may not be convicted if, prior to or at the time of a county court hearing, the person produces the required license or permit for verification by the hearing officer or the court clerk. The license or permit must have been valid at the time the person was cited. The clerk or hearing officer may assess a \$10 ~~\$5~~ fee for costs under this paragraph.

Section 38. Subsection (1) of section 713.24, Florida Statutes, is amended to read:

713.24 Transfer of liens to security.—

(1) Any lien claimed under this part may be transferred, by any person having an interest in the real property upon which the lien is imposed or the contract under which the lien is claimed, from such real property to other security by either:

(a) Depositing in the clerk's office a sum of money, or

(b) Filing in the clerk's office a bond executed as surety by a surety insurer licensed to do business in this state,

either to be in an amount equal to the amount demanded in such claim of lien, plus interest thereon at the legal rate for 3 years, plus \$1,000 or 25 percent of the amount demanded in the claim of lien, whichever is greater, to apply on any attorney's fees and court costs that may be taxed in any proceeding to enforce said lien. Such deposit or bond shall be conditioned to pay any judgment or decree which may be rendered for the satisfaction of the lien for which such claim of lien was recorded. Upon making such deposit or filing such bond, the clerk shall make and record a certificate showing the transfer of the lien from the real property to the security and shall mail a copy thereof by registered or certified mail to the lienor named in the claim of lien so transferred, at the address stated therein. Upon filing the certificate of transfer, the real property shall thereupon be released from the lien claimed, and such lien shall be transferred to said security. In the absence of allegations of privity between the lienor and the owner, and subject to any order of the court increasing the amount required for the lien transfer deposit or bond, no other judgment or decree to pay money may be entered by the court against the owner. The clerk shall be entitled to a service charge for making and serving the certificate, in the amount of up to \$20 ~~\$15~~. If the transaction involves the transfer of multiple liens, an additional charge of up to \$10 ~~\$7.50~~ for each additional lien shall be charged. For recording the certificate and approving the bond, the clerk shall receive her or his usual statutory service charges as prescribed in s. 28.24. Any number of liens may be transferred to one such security.

Section 39. Subsection (3) of section 721.83, Florida Statutes, is amended to read:

721.83 Consolidation of foreclosure actions.—

(3) A consolidated timeshare foreclosure action shall be considered a single action, suit, or proceeding for the payment of filing fees and service charges pursuant to general law. In addition to the payment of such filing fees and service charges, an additional filing fee of up to \$10 \$5 for each timeshare estate joined in that action shall be paid to the clerk of court.

Section 40. Subsection (6) of section 744.365, Florida Statutes, is amended to read:

744.365 Verified inventory.—

(6) AUDIT FEE.—

(a) Where the value of the ward's property exceeds \$25,000, a guardian shall pay from the ward's property to the clerk of the circuit court a fee of up to ~~\$85~~ \$75, upon the filing of the verified inventory, for the auditing of the inventory. Upon petition by the guardian, the court may waive the auditing fee upon a showing of insufficient funds in the ward's estate. Any guardian unable to pay the auditing fee may petition the court for waiver of the fee. The court may waive the fee after it has reviewed the documentation filed by the guardian in support of the waiver.

(b) An audit fee may not be charged to any ward whose property has a value of less than \$25,000.

Section 41. Subsection (4) of section 744.3678, Florida Statutes, is amended to read:

744.3678 Annual accounting.—

(4) The guardian shall pay from the ward's estate to the clerk of the circuit court a fee based upon the following graduated fee schedule, upon the filing of the annual financial return, for the auditing of the return:

(a) For estates with a value of \$25,000 or less the clerk of the court may charge a fee of up to \$20 \$15.

(b) For estates with a value of more than \$25,000 up to and including \$100,000 the clerk of the court may charge a fee of up to \$85 \$75.

(c) For estates with a value of more than \$100,000 up to and including \$500,000 the clerk of the court may charge a fee of up to \$170 \$150.

(d) For estates with a value in excess of \$500,000 the clerk of the court may charge a fee of up to \$250 \$225.

Upon petition by the guardian, the court may waive the auditing fee upon a showing of insufficient funds in the ward's estate. Any guardian unable to pay the auditing fee may petition the court for a waiver of the fee. The court may waive the fee after it has reviewed the documentation filed by the guardian in support of the waiver.

Section 42. Subsection (2) of section 766.104, Florida Statutes, is amended to read:

766.104 Pleading in medical negligence cases; claim for punitive damages; authorization for release of records for investigation.—

(2) Upon petition to the clerk of the court where the suit will be filed and payment to the clerk of a filing fee, not to exceed \$42 ~~\$37.50~~, an automatic 90-day extension of the statute of limitations shall be granted to allow the reasonable investigation required by subsection (1). This period shall be in addition to other tolling periods. No court order is required for the extension to be effective. The provisions of this subsection shall not be deemed to revive a cause of action on which the statute of limitations has run.

Section 43. Subsection (1) of section 938.05, Florida Statutes, is amended to read:

938.05 Additional court costs for felonies, misdemeanors, and criminal traffic offenses.—

(1) Any person pleading nolo contendere to a misdemeanor or criminal traffic offense under s. 318.14(10)(a) or pleading guilty or nolo contendere to, or being found guilty of, any felony, misdemeanor, or criminal traffic offense under the laws of this state or the violation of any municipal or county ordinance which adopts by reference any misdemeanor under state law, shall pay as a cost in the case, in addition to any other cost required to be imposed by law, a sum in accordance with the following schedule:

- (a) Felonies . . . . . \$225 ~~\$200~~
- (b) Misdemeanors . . . . . \$60 ~~\$50~~
- (c) Criminal traffic offenses . . . . . \$60 ~~\$50~~

Section 44. Subsections (1), (2), and (8) of section 938.27, Florida Statutes, are amended to read:

938.27 Judgment for costs on conviction.—

(1) In all criminal ~~and violation-of-probation or community-control~~ cases, convicted persons are liable for payment of the ~~documented~~ costs of prosecution, including investigative costs incurred by law enforcement agencies, by fire departments for arson investigations, and by investigations of the Department of Financial Services or the Office of Financial Regulation of the Financial Services Commission, if requested by such agencies. The court shall include these costs in every ~~shall be included and entered in the judgment rendered against the convicted person. For purposes of this section, "convicted" means a determination of guilt, or of violation of probation or community control, which is a result of a plea, trial, or violation proceeding, regardless of whether adjudication is withheld.~~

(2)(a) The court shall impose the costs of prosecution and investigation notwithstanding the defendant's present ability to pay. The court shall require the defendant to pay the costs within a specified period or in specified installments.

(b) The end of such period or the last such installment shall not be later than:

1. The end of the period of probation or community control, if probation or community control is ordered;
2. Five years after the end of the term of imprisonment imposed, if the court does not order probation or community control; or
3. Five years after the date of sentencing in any other case.

However, in no event shall the obligation to pay any unpaid amounts expire if not paid in full within the period specified in this paragraph.

(c) If not otherwise provided by the court under this section, costs shall be paid immediately.

(8) Costs for the state attorney shall be set in all cases at no less than \$50 per case when a misdemeanor or criminal traffic offense is charged and no less than \$100 per case when a felony offense is charged, including a proceeding in which the underlying offense is a violation of probation or community control. The court may set a higher amount upon a showing of sufficient proof of higher costs incurred. Costs ~~recovered on behalf of that are collected~~ by the state attorney under this section shall be deposited into the state attorney's grants and donations trust fund to be used during the fiscal year in which the funds are collected, or in any subsequent fiscal year, for actual expenses incurred in investigating and prosecuting criminal cases, which may include the salaries of permanent employees, or for any other purpose authorized by the Legislature.

Section 45. Subsection (1) of section 938.29, Florida Statutes, is amended to read:

938.29 Legal assistance; lien for payment of attorney's fees or costs.—

(1)(a) A defendant who is convicted determined to be guilty of a criminal act ~~or a violation of probation or community control by a court or jury or through a plea of guilty or nolo contendere~~ and who has received the assistance of the public defender's office, a special assistant public defender, the office of criminal conflict and civil regional counsel, or a private conflict attorney, or who has received due process services after being found indigent for costs under s. 27.52, shall be liable for payment of the assessed application fee under s. 27.52 and attorney's fees and costs. Attorney's fees and costs shall be set in all cases at no less than \$50 per case when a misdemeanor or criminal traffic offense is charged and no less than \$100 per case when a felony offense is charged, including a proceeding in which the underlying offense is a violation of probation or community control. The court may set a higher amount upon a showing of sufficient proof of higher fees or costs incurred. For purposes of this section, "convicted" means a determination of guilt, or of violation of probation or community control, which is a result of a plea, trial, or violation proceeding, regardless of whether adjudication is withheld. The court shall include these fees and costs in every judgment

~~rendered against the convicted person determine the amount of the obligation. Such costs shall include, but not be limited to, the cost of depositions; cost of transcripts of depositions, including the cost of defendant's copy, which transcripts are certified by the defendant's attorney as having served a useful purpose in the disposition of the case; investigative costs; witness fees; the cost of psychiatric examinations; or other reasonable costs specially incurred by the state and the clerk of court for the defense of the defendant in criminal prosecutions. Costs shall not include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law. Any costs assessed pursuant to this paragraph shall be reduced by any amount assessed against a defendant pursuant to s. 938.05.~~

(b) ~~Upon entering a judgment of conviction, the defendant shall be liable to pay the attorney's fees and costs in full after the judgment of conviction becomes final. The court shall impose the attorney's fees and costs notwithstanding the defendant's present ability to pay.~~

(c) ~~The defendant shall pay the application fee under s. 27.52(1)(b) and attorney's fees and costs in full or in installments, at the time or times specified. The court may order payment of the assessed application fee and attorney's fees and costs as a condition of probation, of suspension of sentence, or of withholding the imposition of sentence. The first \$40 from attorney's fees and costs collected under this section shall be transferred monthly by the clerk to the Department of Revenue for deposit into the Indigent Criminal Defense Trust Fund. All funds remaining attorney's fees and costs collected under this section shall be distributed as provided in s. 27.562 deposited into the General Revenue Fund.~~

Section 46. Section 984.08, Florida Statutes, is amended to read:

984.08 Attorney's fees.—

(1) ~~The court may appoint an attorney to represent a parent or legal guardian under this chapter only upon a finding that the parent or legal guardian is indigent pursuant to s. 57.082. If an attorney is appointed, the parent or legal guardian shall be enrolled in a payment plan pursuant to s. 28.246.~~

(a) ~~The finding of indigence of any parent or legal guardian may be made by the court at any stage of the proceedings. Any parent or legal guardian claiming indigence shall file with the court an affidavit containing the factual information required in paragraphs (c) and (d).~~

(b) ~~A parent or legal guardian who is unable to pay for the services of an attorney without substantial hardship to self or family is indigent for the purposes of this chapter.~~

(c) ~~Before finding that a parent or legal guardian is indigent, the court shall determine whether any of the following facts exist, and the existence of any such fact creates a presumption that the parent or legal guardian is not indigent:~~

~~1. The parent or legal guardian has no dependents and has a gross income exceeding \$250 per week; or, the parent or legal guardian has dependents and has a gross income exceeding \$250 per week plus \$100 per week for each dependent.~~

~~2. The parent or legal guardian owns cash in excess of \$1,000.~~

~~3. The parent or legal guardian has an interest exceeding \$1,000 in value in a single motor vehicle as defined in s. 320.01.~~

~~(d) The court shall also consider the following circumstances before finding that a parent or legal guardian is indigent:~~

~~1. The probable expense of being represented in the case.~~

~~2. The parent's or legal guardian's ownership of, or equity in, any intangible or tangible personal property or real property or expectancy of an interest in any such property.~~

~~3. The amount of debts the parent or legal guardian owes or might incur because of illness or other misfortunes within the family.~~

~~(2) If, after the appointment of counsel for an indigent parent or legal guardian, it is determined that the parent or legal guardian is not indigent, the court has continuing jurisdiction to assess attorney's fees and costs against the parent or legal guardian, and order the payment thereof. When payment of attorney's fees or costs has been assessed and ordered by the court, there is hereby created a lien in the name of the county in which the legal assistance was rendered, enforceable as provided in subsection (3), upon all the property, both real and personal, of the parent or legal guardian who received the court-ordered appointed counsel under this chapter. The lien constitutes a claim against the parent or legal guardian and the parent's or legal guardian's estate in an amount to be determined by the court in which the legal assistance was rendered.~~

~~(3)(a) The lien created for court-ordered payment of attorney's fees or costs under subsection (2) is enforceable upon all the property, both real and personal, of the parent or legal guardian who is being, or has been, represented by legal counsel appointed by the court in proceedings under this chapter. The lien constitutes a claim against the person and the estate of the parent or legal guardian, enforceable according to law, in an amount to be determined by the court in which the legal assistance was rendered.~~

~~(b) Immediately after the issuance of an order for the payment of attorney's fees or costs, a judgment showing the name, the residential address, the date of birth, and either a physical description or the social security number of the parent or legal guardian must be filed for record in the office of the clerk of the circuit court in the county where the parent or legal guardian resides and in each county in which the parent or legal guardian then owns or later acquires any property. The judgment is enforceable on behalf of the county by the board of county commissioners of the county in which the legal assistance was rendered.~~



~~(c) Instead of the procedure described in paragraphs (a) and (b), the court is authorized to require that the parent or legal guardian who has been represented by legal counsel appointed by the court in proceedings under this chapter execute a lien upon his or her real or personal property, presently owned or after-acquired, as security for the debt created by the court's order requiring payment of attorney's fees or costs. The lien must be recorded in the public records of the county at no charge by the clerk of the circuit court and is enforceable in the same manner as a mortgage.~~

~~(d) The board of county commissioners of the county where the parent received the services of an appointed private legal counsel is authorized to enforce, satisfy, compromise, settle, subordinate, release, or otherwise dispose of any debt or lien imposed under this section. A parent, who has been ordered to pay attorney's fees or costs and who is not in willful default in the payment thereof, may, at any time, petition the court which entered the order for remission of the payment of attorney's fees or costs or of any unpaid portion thereof. If the court determines that payment of the amount due will impose manifest hardship on the parent or immediate family, the court may remit all or part of the amount due in attorney's fees or costs or may modify the method of payment.~~

~~(e) The board of county commissioners of the county claiming the lien is authorized to contract with a collection agency for collection of such debts or liens, provided the fee for collection is on a contingent basis not to exceed 50 percent of the recovery. However, no fee may be paid to any collection agency by reason of foreclosure proceedings against real property or from the proceeds from the sale or other disposition of real property.~~

Section 47. Notwithstanding s. 28.36, Florida Statutes, the Florida Clerks of Court Operations Corporation may not approve increases to the clerks' budgets based on increased revenue generated under this act. The corporation may increase the clerks' budgets in the aggregate by \$1,188,184 for the period from July 1, 2008, through September 30, 2008, and \$3,564,551 for the period from October 1, 2008, through June 30, 2009, for the increased duties related to paying jurors and juror meals and lodging expenses as provided in this act. These budget increases shall be considered as part of the recurring base budget of the clerks for future budgets approved pursuant to s. 28.36, Florida Statutes.

Section 48. This act shall take effect July 1, 2008.

Approved by the Governor June 10, 2008.

Filed in Office Secretary of State June 10, 2008.