

## Committee Substitute for Senate Bill No. 12-A

An act relating to the state judicial system; amending s. 318.14, F.S.; eliminating a percentage reduction in penalties for noncriminal traffic infractions which is provided for attending a basic driver improvement course; providing for the distribution of a specified portion of penalty revenues; amending s. 318.15, F.S., to conform; amending s. 318.18, F.S.; increasing certain fines for speeding; creating an assessment to be paid for noncriminal moving and nonmoving traffic infractions; providing for distribution of the assessment; amending s. 318.21, F.S.; providing for the distribution of funds from certain penalties imposed for traffic infractions; amending s. 775.083, F.S.; providing for the distribution of certain criminal and noncriminal fines; defining the terms “convicted” and “conviction” for purposes of liability for payment of criminal and noncriminal fines; providing that a fine may be imposed for a determination of guilt from a trial or plea, regardless of whether adjudication is withheld; amending s. 948.01, F.S.; providing that the imposition of probation in certain nonfelony cases is discretionary rather than mandatory; authorizing the court to impose a fine without placing a nonfelony offender on probation; providing that certain revenues generated under the act may not be used to establish the budgets of clerks of the court; providing an effective date.

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

Section 1. Subsection (9) of section 318.14, Florida Statutes, is amended to read:

318.14 Noncriminal traffic infractions; exception; procedures.—

(9) Any person who does not hold a commercial driver’s license and who is cited for an infraction under this section other than a violation of s. 316.183(2), s. 316.187, or s. 316.189 when the driver exceeds the posted limit by 30 miles per hour or more, s. 320.0605, s. 320.07(3)(a) or (b), s. 322.065, s. 322.15(1), s. 322.61, or s. 322.62 may, in lieu of a court appearance, elect to attend in the location of his or her choice within this state a basic driver improvement course approved by the Department of Highway Safety and Motor Vehicles. In such a case, adjudication must be withheld and; points, as provided by s. 322.27, may not be assessed; ~~and the civil penalty that is imposed by s. 318.18(3) must be reduced by 18 percent;~~ However, a person may not make an election under this subsection if the person has made an election under this subsection in the preceding 12 months. A person may make no more than five elections within 10 years under this subsection. The requirement for community service under s. 318.18(8) is not waived by a plea of nolo contendere or by the withholding of adjudication of guilt by a court. If a person makes an election to attend a basic driver improvement course under this subsection, 18 percent of the civil penalty imposed under s. 318.18(3) shall be deposited in the State Courts Revenue Trust Fund; however, that portion is not revenue for purposes of s. 28.36 and may not

be used in establishing the budget of the clerk of the court under that section or s. 28.35.

Section 2. 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 a case in which there was an 18 percent reduction pursuant to s. 318.14(9) as it existed prior to the effective date of this act, the person must pay the clerk of the court that amount the 18 percent deducted pursuant to s. 318.14(9), and a processing fee of up to \$18, 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 3. Subsection (3) of section 318.18, Florida Statutes, is amended, and subsection (19) 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:

(3)(a) Except as otherwise provided in this section, \$60 for all moving violations not requiring a mandatory appearance.

(b) For moving violations involving unlawful speed, the fines are as follows:

For speed exceeding the limit by:	Fine:
1-5 m.p.h . . . . .	Warning
6-9 m.p.h . . . . .	\$25

10-14 m.p.h . . . . .	\$100
15-19 m.p.h . . . . .	<u>\$150</u> <del>\$125</del>
20-29 m.p.h . . . . .	<u>\$175</u> <del>\$150</del>
30 m.p.h. and above . . . . .	\$250

(c) Notwithstanding paragraph (b), a person cited for exceeding the speed limit by up to 5 m.p.h. in a legally posted school zone will be fined \$50. A person exceeding the speed limit in a school zone shall pay a fine double the amount listed in paragraph (b).

(d) A person cited for exceeding the speed limit in a posted construction zone, which posting must include notification of the speed limit and the doubling of fines, shall pay a fine double the amount listed in paragraph (b). The fine shall be doubled for construction zone violations only if construction personnel are present or operating equipment on the road or immediately adjacent to the road under construction.

(e) A person cited for exceeding the speed limit in an enhanced penalty zone shall pay a fine amount of \$50 plus the amount listed in paragraph (b). Notwithstanding paragraph (b), a person cited for exceeding the speed limit by up to 5 m.p.h. in a legally posted enhanced penalty zone shall pay a fine amount of \$50.

(f) If a violation of s. 316.1301 or s. 316.1303 results in an injury to the pedestrian or damage to the property of the pedestrian, an additional fine of up to \$250 shall be paid. This amount must be distributed pursuant to s. 318.21.

(g) A person cited for exceeding the speed limit within a zone posted for any electronic or manual toll collection facility shall pay a fine double the amount listed in paragraph (b). However, no person cited for exceeding the speed limit in any toll collection zone shall be subject to a doubled fine unless the governmental entity or authority controlling the toll collection zone first installs a traffic control device providing warning that speeding fines are doubled. Any such traffic control device must meet the requirements of the uniform system of traffic control devices.

(h) A person cited for a second or subsequent conviction of speed exceeding the limit by 30 miles per hour and above within a 12-month period shall pay a fine that is double the amount listed in paragraph (b). For purposes of this paragraph, the term "conviction" means a finding of guilt as a result of a jury verdict, nonjury trial, or entry of a plea of guilty. Moneys received from the increased fine imposed by this paragraph shall be remitted to the Department of Revenue and deposited into the Department of Health Administrative Trust Fund to provide financial support to certified trauma centers to assure the availability and accessibility of trauma services throughout the state. Funds deposited into the Administrative Trust Fund under this section shall be allocated as follows:

1. Fifty percent shall be allocated equally among all Level I, Level II, and pediatric trauma centers in recognition of readiness costs for maintaining trauma services.

2. Fifty percent shall be allocated among Level I, Level II, and pediatric trauma centers based on each center’s relative volume of trauma cases as reported in the Department of Health Trauma Registry.

(19) In addition to any penalties imposed, an Article V assessment of \$10 must be paid for all noncriminal moving and nonmoving traffic violations under chapter 316. The assessment is not revenue for purposes of s. 28.36 and may not be used in establishing the budget of the clerk of the court under that section or s. 28.35. Of the funds collected under this subsection:

(a) The sum of \$5 shall be deposited in the State Courts Revenue Trust Fund for use by the state courts system;

(b) The sum of \$3.33 shall be deposited in the State Attorneys Revenue Trust Fund for use by the state attorneys; and

(c) The sum of \$1.67 shall be deposited in the Public Defenders Revenue Trust Fund for use by the public defenders.

Section 4. Subsections (18), (19), and (20) are added to section 318.21, Florida Statutes, to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(18) Notwithstanding subsections (1) and (2), the proceeds from the administrative fee imposed under s. 318.18(18) shall be distributed as provided in that subsection.

(19) Notwithstanding subsections (1) and (2), the proceeds from the Article V assessment imposed under s. 318.18(19) shall be distributed as provided in that subsection.

(20) For fines assessed under s. 318.18(3) for unlawful speed, effective for violations occurring on or after the effective date of this act, the following amounts shall be remitted to the Department of Revenue for deposit in the State Courts Revenue Trust Fund; however, these amounts are not revenue for purposes of s. 28.36 and may not be used in establishing the budget of the clerk of the court under that section or s. 28.35:

<u>For speed exceeding the limit by:</u>	<u>Fine:</u>
<u>1-5 m.p.h. . . . .</u>	<u>\$ .00</u>
<u>6-9 m.p.h. . . . .</u>	<u>\$ .00</u>
<u>10-14 m.p.h. . . . .</u>	<u>\$ .00</u>
<u>15-19 m.p.h. . . . .</u>	<u>\$25</u>
<u>20-29 m.p.h. . . . .</u>	<u>\$25</u>

30 m.p.h. and above ..... \$ .00

The remaining amount shall be distributed pursuant to subsections (1) and (2).

Section 5. Section 775.083, Florida Statutes, is amended to read:

775.083 Fines.—

(1) A person who has been convicted of an offense other than a capital felony may be sentenced to pay a fine in addition to any punishment described in s. 775.082; when specifically authorized by statute, he or she may be sentenced to pay a fine in lieu of any punishment described in s. 775.082. A person who has been convicted of a noncriminal violation may be sentenced to pay a fine. Fines for designated crimes and for noncriminal violations shall not exceed:

- (a) \$15,000, when the conviction is of a life felony.
- (b) \$10,000, when the conviction is of a felony of the first or second degree.
- (c) \$5,000, when the conviction is of a felony of the third degree.
- (d) \$1,000, when the conviction is of a misdemeanor of the first degree.
- (e) \$500, when the conviction is of a misdemeanor of the second degree or a noncriminal violation.
- (f) Any higher amount equal to double the pecuniary gain derived from the offense by the offender or double the pecuniary loss suffered by the victim.
- (g) Any higher amount specifically authorized by statute.

Fines imposed in this subsection shall be deposited by the clerk of the court in the fine and forfeiture fund established pursuant to s. 142.01, except that fines imposed when adjudication is withheld shall be deposited in the State Courts Revenue Trust Fund, and such fines imposed when adjudication is withheld are not revenue for purposes of s. 28.36 and may not be used in establishing the budget of the clerk of the court under that section or s. 28.35. If a defendant is unable to pay a fine, the court may defer payment of the fine to a date certain. As used in this subsection, the term “convicted” or “conviction” means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

(2) In addition to the fines set forth in subsection (1), court costs shall be assessed and collected in each instance a defendant pleads nolo contendere to, or is convicted of, or adjudicated delinquent for, a felony, a misdemeanor, or a criminal traffic offense under state law, or a violation of any municipal or county ordinance if the violation constitutes a misdemeanor under state law. The court costs imposed by this section shall be \$50 for a felony and \$20

for any other offense and shall be deposited by the clerk of the court into an appropriate county account for disbursement for the purposes provided in this subsection. A county shall account for the funds separately from other county funds as crime prevention funds. The county, in consultation with the sheriff, must expend such funds for crime prevention programs in the county, including safe neighborhood programs under ss. 163.501-163.523.

(3) The purpose of this section is to provide uniform penalty authorization for criminal offenses and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

Section 6. Subsection (2) of section 948.01, Florida Statutes, is amended to read:

948.01 When court may place defendant on probation or into community control.—

(2) If it appears to the court upon a hearing of the matter that the defendant is not likely again to engage in a criminal course of conduct and that the ends of justice and the welfare of society do not require that the defendant presently suffer the penalty imposed by law, the court, in its discretion, may either adjudge the defendant to be guilty or stay and withhold the adjudication of guilt; ~~and, In either case, the court it shall stay and withhold the imposition of sentence upon the such~~ defendant and shall place a felony the defendant upon probation. If the defendant is found guilty of a nonfelony offense as the result of a trial or entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld, the court may place the defendant on probation. In addition to court costs and fees and notwithstanding any law to the contrary, the court may impose a fine authorized by law if the offender is a nonfelony offender who is not placed on probation. However, ~~a~~ ~~no~~ defendant who is placed on probation for a misdemeanor may not be placed under the supervision of the department unless the circuit court was the court of original jurisdiction.

Section 7. This act shall take effect February 1, 2009, or upon becoming a law, whichever occurs later.

Approved by the Governor January 27, 2009.

Filed in Office Secretary of State January 27, 2009.