

Committee Substitute for Senate Bill No. 1718

An act relating to the state judicial system; amending s. 26.57, F.S.; authorizing any county court judge to be designated by the Chief Justice of the Supreme Court to preside over circuit court cases; providing that such county court judge will receive the same salary as a circuit court judge, to the extent that funds are specifically appropriated by law for such purposes; amending s. 27.511, F.S.; eliminating future repeal of authority for part-time assistant criminal conflict and civil regional counsel to practice private criminal law under specified conditions; conforming changes; amending s. 27.562, F.S.; revising the distribution of fees and costs collected from persons who receive certain assistance from a public defender's office; amending s. 28.2401, F.S.; increasing the maximum amount the clerk of court may impose for certain actions in probate matters; providing for the deposit of revenues generated from the increased amount into the State Courts Revenue Trust Fund; delineating specified amounts as filing fees or service charges; amending s. 28.241, F.S.; increasing the maximum filing fee for certain civil actions; providing for a portion of circuit court filing fees to be deposited in the State Courts Revenue Trust Fund; eliminating a requirement for the clerk of court to remit a portion of excess filing fees to the Department of Revenue; prescribing a maximum filing fee for certain family law actions; providing for the distribution of such fee; providing for the payment of graduated filing fees in certain real property or mortgage foreclosure actions; providing a manner for valuing mortgage foreclosure claims; prescribing graduated filing fees based on the value of the claim; requiring a fee for filing a pleading for relief by counterpetition; providing for the payment of graduated filing fees for certain real property or mortgage foreclosure pleadings for relief by cross-claim, counterclaim, counterpetition, or third-party complaint; prescribing graduated filing fees based on the value of the pleading; providing for remittance of fees by the clerk of court and for deposit into specified funds; eliminating a requirement for the clerk of court to remit a portion of fees collected to the Department of Revenue for deposit into a specified trust fund; amending s. 28.33, F.S.; providing that interest on county funds invested by the clerk of court constitutes county funds; amending s. 34.041, F.S.; prescribing a maximum county court filing fee for claims of a specified value filed with an action for replevin; reducing the county court filing fee for an action to remove a tenant; providing for deposit of a portion of fees collected into the State Courts Revenue Trust Fund; eliminating a requirement for the clerk of court to remit a portion of excess filing fees to the Department of Revenue; requiring a fee for filing a pleading for relief by counterpetition in county court; specifying the applicable filing fee required when a case is transferred from county to circuit court; amending s. 57.081, F.S.; providing for the waiver of payment of civil filing fees by persons deemed indigent; revising a requirement for taxed costs in favor of an indigent person to be applied to unpaid costs, to conform;

amending s. 57.082, F.S.; conforming changes to the waiver of payment of filing fees by persons deemed indigent; revising provisions related to payment plans, to conform; excluding waived filing fees from payment plans; amending s. 318.121, F.S.; specifying that an Article V assessment is among the fees, fines, surcharges, and costs that may be added to civil traffic infractions; amending s. 318.15, F.S.; imposing a processing fee by the clerk of court on persons who elect to attend a driver improvement school following certain traffic violations but fail to attend; amending s. 318.18, F.S.; imposing an administrative fee and an assessment on motor vehicle license violations and driver's license violations; reenacting s. 318.21(18) and (19), F.S., relating to distribution of traffic-infraction penalties, to incorporate the amendments to s. 318.18, F.S., in references thereto; amending s. 939.185, F.S.; providing for the order assessing additional court costs and surcharges in certain criminal offenses and criminal traffic offenses to be recorded with the clerk of court; providing that such record constitutes a lien on certain real and personal property under specified conditions; providing for an exception and enforcement; providing that such amendments to s. 939.185(1), F.S., are contingent upon a specified act enacted during the 2009 Regular Session becoming law and supersede amendments made by that act; requiring the Florida Clerks of Court Operations Corporation to report annually on certain trust funds in excess of the amount needed to fund the clerk budgets; directing the Justice Administrative Commission to transfer the excess funds to the General Revenue Fund; requiring the clerk of court to implement a process for the electronic filing of court-related information; requiring the Florida Clerks of Court Operations Corporation to report on implementation of the electronic filing process; expressing legislative intent for the First District Court of Appeal to conduct a pilot project for electronic filing of workers' compensation cases; providing for a report on the pilot project; prescribing the statewide budget cap for the clerks of court for the 2009-2010 state fiscal year; directing the Florida Clerks of Court Operations Corporation to reduce the individual approved budgets of the clerks of court; requiring the Office of Program Policy Analysis and Government Accountability, in consultation with the Chief Financial Officer and the Auditor General, to provide a report regarding the operation and relationship of the clerks of court and the courts to the Legislature by a specified date; providing report requirements; requiring the Technology Review Workgroup to develop a proposed plan for identifying and recommending options for implementing the integrated computer system and submit the plan to the Legislature by a specified date; providing plan requirements; requiring reports on certain purchases of computer hardware and software by clerks of court; superseding provisions relating to functions of the clerks of court and relating to computer hardware and software purchases by the clerks contained in a specified act enacted during the 2009 Regular Session; providing that such provisions do not take effect if the specified act does not become law; expressing legislative intent related to amendatory acts passed during the same legislative session; revising the effective date of a specified act enacted during the 2009 Regular Session; providing effective dates.

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

Section 1. Section 26.57, Florida Statutes, is amended to read:

26.57 Temporary designation of county court judge to preside over circuit court cases.—~~A 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. 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. A county court judge designated to preside over circuit court cases shall receive the same salary as a circuit court judge, to the extent that funds are specifically appropriated by law for such purposes.~~

Section 2. Subsection (4) of section 27.511, Florida Statutes, is 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. However, 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 counsel is providing representation. Assistant regional counsel may not accept criminal cases for reimbursement by the state under s. 27.5304. Assistant regional counsel may not engage in civil proceedings for which the state compensates attorneys under s. 27.5304.

(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 counsel 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.~~

Section 3. Section 27.562, Florida Statutes, is amended to read:

27.562 Disposition of funds.—~~The first \$50 of All funds collected pursuant to s. 938.29 shall be remitted to the Department of Revenue for deposit deposited into the Indigent Criminal Defense Trust Fund administered by the Justice Administrative Commission 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 4. Effective June 1, 2009, section 28.2401, Florida Statutes, is amended to read:

28.2401 Service charges and filing fees in probate matters.—

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

(a) Fee 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 ~~\$230~~ \$115

(b) Charge for caveat ~~\$40~~ \$40

(c) Fee for petition and order to admit foreign wills, authenticated copies, exemplified copies, or transcript to record ~~\$230~~ \$115

(d) Fee for disposition of personal property without administration ~~\$230~~ \$115

(e) Fee for summary administration—estates valued at \$1,000 or more ~~\$340~~ \$225

(f) Fee for summary administration—estates valued at less than \$1,000 ~~\$230~~ \$115

(g) Fee for formal administration, guardianship, ancillary, curatorship, or conservatorship proceedings ~~\$395~~ \$280

(h) Fee for guardianship proceedings of person only ~~\$230~~ \$115

(i) Fee for veterans' guardianship pursuant to chapter 744 ~~\$230~~ \$115

(j) Charge for exemplified certificates ~~\$7~~ \$7

(k) Fee for petition for determination of incompetency ~~\$230~~ \$115

The clerk shall remit \$115 of each filing fee collected under paragraphs (a), (c)-(i), and (k) to the Department of Revenue for deposit into the State Courts Revenue Trust Fund.

(2) Upon application by the clerk and a showing of extraordinary circumstances, the service charges or filing fees set forth in this section may be increased in an individual matter by order of the circuit court before which the matter is pending, to more adequately compensate for the services performed or filings made.

(3) An additional service charge of \$4 on petitions seeking summary administration, formal administration, ancillary administration, guardianship, curatorship, and conservatorship 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. No additional fees, charges, or costs shall be added to the service charges or filing fees imposed under this section, except as authorized by general law.

(4) Recording shall be required for all petitions opening and closing an estate; petitions regarding real estate; and orders, letters, bonds, oaths, wills, proofs of wills, returns, and such other papers as the judge shall deem advisable to record or that shall be required to be recorded under the Florida Probate Code.

Section 5. Effective June 1, 2009, 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)1.a. Except as provided in sub-subparagraph b. and subparagraph 2., 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 \$395 \$295 in all cases in which there are not more than five defendants and an additional filing fee of up to \$2.50 for each defendant in excess of five. Of the first \$265 \$85 in filing fees, \$80 must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, \$180 must be remitted to the Department of Revenue for deposit into the State Courts Revenue Trust 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 shall be remitted to the Department of Revenue for deposit into the Department of Revenue Clerks of the Court Trust Fund.

b. The party instituting any civil action, suit, or proceeding in the circuit court under chapter 39, chapter 61, chapter 741, chapter 742, chapter 747, chapter 752, or chapter 753 shall pay to the clerk of that court a filing fee of up to \$295 in all cases in which there are not more than five defendants and an additional filing fee of up to \$2.50 for each defendant in excess of five.

Of the first \$165 in filing fees, \$80 must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, \$80 must be remitted to the Department of Revenue for deposit into the State Courts Revenue Trust 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.

c. 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 shall be paid by the party seeking each severance that is granted. The clerk may impose an additional filing fee of up to \$85 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 in this section herein or by general law.

2.a. Notwithstanding the fees prescribed in subparagraph 1., a party instituting a civil action in circuit court relating to real property or mortgage foreclosure shall pay a graduated filing fee based on the value of the claim.

b. A party shall estimate in writing the amount in controversy of the claim upon filing the action. For purposes of this subparagraph, the value of a mortgage foreclosure action is based upon the principal due on the note secured by the mortgage, plus interest owed on the note and any moneys advanced by the lender for property taxes, insurance, and other advances secured by the mortgage, at the time of filing the foreclosure. The value shall also include the value of any tax certificates related to the property. In stating the value of a mortgage foreclosure claim, a party shall declare in writing the total value of the claim, as well as the individual elements of the value as prescribed in this sub-subparagraph.

c. In its order providing for the final disposition of the matter, the court shall identify the actual value of the claim. The clerk shall adjust the filing fee if there is a difference between the estimated amount in controversy and the actual value of the claim and collect any additional filing fee owed or provide a refund of excess filing fee paid.

d. The party shall pay a filing fee of:

(I) Three hundred and ninety-five dollars in all cases in which the value of the claim is \$50,000 or less and in which there are not more than five defendants. The party shall pay an additional filing fee of up to \$2.50 for each defendant in excess of five. Of the first \$265 in filing fees, \$80 must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, \$180 must be remitted to the Department of Revenue for deposit into the State Courts Revenue Trust 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;

(II) Nine hundred dollars in all cases in which the value of the claim is more than \$50,000 but less than \$250,000 and in which there are not more than five defendants. The party shall pay an additional filing fee of up to \$2.50 for each defendant in excess of five. Of the first \$770 in filing fees, \$80 must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, \$685 must be remitted to the Department of Revenue for deposit into the State Courts Revenue Trust 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 described in s. 28.35. The next \$15 of the filing fee collected shall be deposited in the state courts' Mediation and Arbitration Trust Fund; or

(III) One thousand nine hundred dollars in all cases in which the value of the claim is \$250,000 or more and in which there are not more than five defendants. The party shall pay an additional filing fee of up to \$2.50 for each defendant in excess of five. Of the first \$1,770 in filing fees, \$80 must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, \$1,685 must be remitted to the Department of Revenue for deposit into the State Courts Revenue Trust 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.

e. 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 shall be paid by the party seeking each severance that is granted. The clerk may impose an additional filing fee of up to \$85 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 in this section 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)1. ~~A Any party in addition to other than a party described in sub-subparagraph (a)1.a. paragraph (a) who files a pleading in an original civil action in circuit court for affirmative relief by cross-claim, counterclaim, counterpetition, or third-party complaint shall pay the clerk of court a fee of \$395~~ \$295. A party in addition to a party described in sub-subparagraph (a)1.b. who files a pleading in an original civil action in circuit court for affirmative relief by cross-claim, counterclaim, counterpetition, 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.

2. A party in addition to a party described in subparagraph (a)2. who files a pleading in an original civil action in circuit court for affirmative relief by cross-claim, counterclaim, counterpetition, or third-party complaint shall pay the clerk of court a graduated fee of:

- a. Three hundred and ninety-five dollars in all cases in which the value of the pleading is \$50,000 or less;
- b. Nine hundred dollars in all cases in which the value of the pleading is more than \$50,000 but less than \$250,000; or
- c. One thousand nine hundred dollars in all cases in which the value of the pleading is \$250,000 or more.

The clerk shall remit the fees collected under this subparagraph to the Department of Revenue for deposit into the General Revenue Fund, except that the clerk shall remit \$100 of the fee collected under sub-subparagraph a., \$605 of the fee collected under sub-subparagraph b., and \$1,605 of the fee collected under sub-subparagraph c. to the Department of Revenue for deposit into the State Courts Revenue Trust 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 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 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 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 also shall be remitted to the Department of Revenue for deposit into the Clerks of the Court Trust Fund.~~

Section 6. Section 28.33, Florida Statutes, is amended to read:

28.33 Investment of county funds by the clerk of the circuit court.—The clerk of the circuit court in each county shall invest county funds in excess of those required to meet expenses as provided in s. 218.415. No clerk investing such funds shall be liable for the loss of any interest when circumstances require the withdrawal of funds placed in a time deposit and needed for immediate payment of county obligations. Except for interest earned on moneys deposited in the registry of the court, all interest accruing from moneys deposited shall be deemed income of the county and may be expended as receipts of the county as approved by the board of county commissioners pursuant to chapter 129 ~~office of the clerk of the circuit court investing such moneys and shall be deposited in the same account as are other fees and commissions of the clerk's office.~~ The clerk may invest moneys deposited in the registry of the court and shall retain as income of the office of the clerk and as a reasonable investment management fee 10 percent of the interest accruing on those funds with the balance of such interest being allocated in accordance with the interest of the depositors.

Section 7. 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 morethan \$500 \$75.
- 3. For all claims of more than \$500 but not more than \$2,500 \$170.
- 4. For all claims of more than \$2,500 \$295.
- 5. In addition, for all proceedings of garnishment, attachment, replevin, and distress \$85.
- 6. Notwithstanding subparagraphs 3. and 5., for all claims of not more than \$1,000 filed simultaneously with an action for replevin of property that is the subject of the claim \$125.
- 7.6. For removal of tenant action \$180 ~~\$265.~~

(b) The first \$80 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 ~~\$10~~ \$15 of ~~the each~~ filing fee collected under ~~subparagraph (a)7.~~ 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 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) ~~A~~ Any party in addition to 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, counterpetition, 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. The clerk shall remit the fee to the Department of Revenue for deposit into the General Revenue Fund. This fee does shall not apply ~~if where~~ the cross-claim, counterclaim, counterpetition, or third-party complaint requires transfer of the case from county to circuit court. However, the party shall pay to the clerk the standard filing fee for the court to which the case is to be transferred. ~~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 8. Section 57.081, Florida Statutes, is amended to read:

57.081 Costs; right to proceed where prepayment of costs and payment of filing fees waived.—

(1) Any indigent person, except a prisoner as defined in s. 57.085, who is a party or intervenor in any judicial or administrative agency proceeding or who initiates such proceeding shall receive the services of the courts, sheriffs, and clerks, with respect to such proceedings, despite his or her present inability to pay for these services. Such services are limited to filing fees; service of process; certified copies of orders or final judgments; a single photocopy of any court pleading, record, or instrument filed with the clerk; examining fees; mediation services and fees; private court-appointed counsel fees; subpoena fees and services; service charges for collecting and disbursing funds; and any other cost or service arising out of pending litigation. In any appeal from an administrative agency decision, for which the clerk is responsible for preparing the transcript, the clerk shall record the cost of preparing the transcripts and the cost for copies of any exhibits in the record. Prepayment of costs to any court, clerk, or sheriff is not required and payment of filing fees is not required in any action if the party has obtained in each proceeding a certification of indigence in accordance with s. 27.52 or s. 57.082.

(2) Any sheriff who, in complying with the terms of this section, expends personal funds for automotive fuel or ordinary carfare in serving the process of those qualifying under this section may requisition the board of county commissioners of the county for the actual expense, and on the submission to the board of county commissioners of appropriate proof of any such expenditure, the board of county commissioners shall pay the amount of the actual expense from the general fund of the county to the requisitioning officer.

(3) If an applicant prevails in an action, costs shall be taxed in his or her favor as provided by law and, when collected, shall be applied to pay filing fees or costs that ~~which otherwise would have been required and which have not been paid.~~

Section 9. Subsections (1) and (6) of section 57.082, Florida Statutes, are 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 ~~payment~~ prepayment of filing fees and prepayment of 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.

(6) **PROCESSING CHARGE; PAYMENT PLANS.**—A person who the clerk or the court determines is indigent for civil proceedings under this section shall be enrolled in a payment plan under s. 28.246 and shall be charged a one-time administrative processing charge under s. 28.24(26)(c). A monthly payment amount, calculated based upon all fees and all anticipated costs, is presumed to correspond to the person's ability to pay if it does not exceed 2 percent of the person's annual net income, as defined in subsection (1), divided by 12. The person may seek review of the clerk's decisions regarding a payment plan established under s. 28.246 in the court having jurisdiction over the matter. A case may not be impeded in any way, delayed in filing, or delayed in its progress, including the final hearing and order, due to nonpayment of any fees or costs by an indigent person. Filing fees waived from payment under s. 57.081 may not be included in the calculation related to a payment plan established under this section.

Section 10. 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), (13), ~~and (18)~~, and (19) may not be added to the civil traffic penalties assessed in this chapter.

Section 11. Subsection (1) of section 318.15, Florida Statutes, as amended by section 2 of chapter 2009-6, Laws of Florida, 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 before February 1, 2009 ~~prior to the effective date of this act~~, the person must pay the clerk of the court that amount and a processing fee of up to \$18, after which no additional

penalties, court costs, or surcharges shall be imposed for the violation. In all other such cases, the person must pay the clerk 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 12. Subsections (18) and (19) of section 318.18, Florida Statutes, as amended by section 3 of chapter 2009-6, Laws of Florida, are amended 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:

(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 ~~chapters~~ chapter 316, 320, and 322. 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.

(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 ~~chapters~~ chapter 316, 320, and 322. 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 13. For the purpose of incorporating the amendments made by this act to section 318.18, Florida Statutes, in references thereto, subsections (18) and (19) of section 318.21, Florida Statutes, as amended by section 4 of chapter 2009-6, Laws of Florida, are reenacted 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.

Section 14. If CS for SB 412, as enacted during the 2009 Regular Session, becomes law, paragraph (d) is added to subsection (1) of section 939.185, Florida Statutes, to read, and shall supersede and prevail over amendments made to that subsection by CS for SB 412:

939.185 Assessment of additional court costs and surcharges.—

(1)

(d) The clerk of court shall cause a certified copy of the court order imposing such costs to be recorded in the public records. Such record constitutes a lien against the person upon whom the costs are imposed and shall attach as a lien on any real property owned by such person located in the county in which such order is recorded in the same manner and to the same extent as a judgment recorded as provided in s. 55.10. Such order shall attach as a lien on any personal property owned by such person located in the state upon the filing with the Department of State of a judgment lien certificate regarding such order as provided in ss. 55.202-55.209. A lien created under this paragraph does not attach to, or make subject to execution of levy or foreclosure, any real or personal property otherwise exempt under s. 4, Art. X of the State Constitution. A lien created under this paragraph is enforceable in the same manner as provided by law.

Section 15. Transfer of trust funds in excess of amount needed for clerk budgets.—By June 20th of each year, the Florida Clerks of Court Operations Corporation shall identify the amount of funds in the Clerks of Court Trust Fund in excess of the amount needed to fund the approved clerk of court budgets for the current state fiscal year. The Justice Administrative Commission shall transfer the amount identified by the corporation from the Clerks of Court Trust Fund to the General Revenue Fund by June 25th of each year.

Section 16. Each clerk of court shall implement an electronic filing process. The purpose of the electronic filing process is to reduce judicial costs in the office of the clerk and the judiciary, increase timeliness in the processing of cases, and provide the judiciary with case-related information to allow for improved judicial case management. The Legislature requests that, no later than July 1, 2009, the Supreme Court set statewide standards for electronic filing to be used by the clerks of court to implement electronic filing. The standards should specify the required information for the duties of the clerks of court and the judiciary for case management. The clerks of court shall begin implementation no later than October 1, 2009. The Florida Clerks of Court Operations Corporation shall report to the President of the Senate and the Speaker of the House of Representatives by March 1, 2010, on the status of implementing electronic filing. The report shall include the detailed status of each clerk office's implementation of an electronic filing process, and for those clerks who have not fully implemented electronic filing by March 1, 2010, a description of the additional steps needed and a projected timeline for full implementation. Revenues provided to counties and the clerk of court under s. 28.24(12)(e), Florida Statutes, for information technology may also be used to implement electronic filing processes.

Section 17. It is the intent of the Legislature that the First District Court of Appeal, through a pilot project conducted in cooperation with the Office of Judges of Compensation Claims, implement an electronic filing system for appeals of workers' compensation cases, in part to reduce costs to the Workers' Compensation Administrative Trust Fund. To the extent feasible, the system the First District Court of Appeal adopts shall use, or be compatible with, the current electronic filing system used by the Office of Judges of Compensation Claims and shall be capable of being used to receive and maintain electronic filings in other cases as may be authorized in the future. The chief judge of the First District Court of Appeal and the deputy chief judge of compensation claims are responsible for determining when the system is capable of reliably receiving electronic filings. It is further the intent of the Legislature that, in cases in which a judge of compensation claims enters an order finding a claimant indigent, all further processing shall use the electronic system to the fullest extent possible. In nonindigent cases in which an electronic filer uses a credit card to pay the court's filing fee, the First District Court of Appeal may impose a reasonable surcharge to recover any costs that financial institutions impose for the filer's use of the credit card, if necessary to ensure that the required filing fee to the state is satisfied fully. The chief judge of the First District Court of Appeal shall submit a report to the President of the Senate and the Speaker of the House of Representatives 9 months after the system is operational, addressing use of the system and identifying any statutory or fiscal factors affecting implementation of the system.

Section 18. Notwithstanding s. 28.36, Florida Statutes, the statewide budget cap for the clerks of court is \$451,380,312 for the 2009-2010 state fiscal year. The Florida Clerks of Court Operations Corporation shall reduce the individual approved budgets of the clerks of court to ensure that the sum of the approved budgets does not exceed this statewide budget cap. This section shall take effect only if CS for CS for Senate Bill 2108, as enacted during the 2009 Regular Session, does not become a law.

Section 19. Effective on the same date as CS for CS for SB 2108, as enacted during the 2009 Regular Session, if that act becomes law:

(1) By January 15, 2010, the Office of Program Policy Analysis and Government Accountability, in consultation with the Chief Financial Officer and the Auditor General, shall provide a report to the President of the Senate and the Speaker of the House of Representatives regarding the operation and functions of the clerks of court and the courts. The Office of Program Policy Analysis and Government Accountability shall examine who is performing each court-related function, how each function is funded, and how efficiently these functions are performed. The clerks of court, the Florida Clerks of Court Operations Corporation, and the state courts system shall cooperate fully with the office and, upon request, provide any and all information necessary to the review without cost or delay. The report shall describe in detail the base budget for each of the clerks and for the state courts system and report on the overall efficiency of the current process. Administrative overhead shall be calculated separately, and any apparent means to reduce such overhead shall be explored and included in the report. The study shall list each court-related function, a recommendation on who

should perform the function, and a recommendation for how to pay for such function.

(2) The Technology Review Workgroup shall develop a proposed plan for identifying and recommending options for implementing the integrated computer system established in s. 29.008(1)(f)2., Florida Statutes. The plan shall describe the approaches and processes for evaluating the existing computer systems and data-sharing networks of the state courts system and the clerks of the court; identifying the required business and technical requirements; reliably estimating the cost, work, and change requirements; and examining the use of the funds collected under s. 28.24(12)(e), Florida Statutes. The plan may also address any necessary policy, operational, fiscal, or technical changes, including, but not limited to, potential changes to the distribution and use of funds collected under s. 28.24(12)(e), Florida Statutes, which may be needed in order to manage, implement, and operate an integrated computer system. The plan shall be submitted to the President of the Senate and the Speaker of the House of Representatives no later than February 1, 2010. The clerks of court, the Florida Clerks of Court Operations Corporation, and the state courts system shall cooperate fully with the workgroup and provide any and all information necessary for the completion of the project without cost or delay upon request. The workgroup shall work in conjunction with the Auditor General and consider the results of the plans, studies, and reports of the Office of Program Policy Analysis and Government Accountability under subsection (1). Until July 1, 2011, each clerk shall submit a summary of all new hardware and software purchases in excess of \$25,000 to the Florida Clerks of Court Operations Corporation on a monthly basis, and the corporation shall submit a report of all such purchases to the President of the Senate and the Speaker of the House of Representatives on a quarterly basis. The clerk shall include a statement with the summary that the purchases were made in good faith and were reasonable and necessary for the continuing efficient operations of the clerk's office.

(3) This section supersedes and prevails over section 18 of CS for CS for Senate Bill 2108, as enacted during the 2009 Regular Session. However, this section shall not take effect if CS for CS for Senate Bill 2108 does not become law.

Section 20. (1) It is the intent of the Legislature that, if this act and CS for CS for Senate Bill 2108, as enacted during the 2009 Regular Session or an extension thereof, both become law, the Division of Statutory Revision shall read the acts together and, to the extent feasible, give full effect to the amendments made by this act to ss. 28.241(1)(a) and 34.041(1)(b), Florida Statutes, and the amendments made to those paragraphs by CS for CS for Senate Bill 2108. However, it is further the intent of the Legislature that, if both acts become law, the amendments made by CS for CS for Senate Bill 2108 with respect to the distribution of filing fees to the Clerks of the Court Trust Fund, rather than the Department of Financial Services' Administrative Trust Fund, and the use of those funds to fund the Florida Clerks of Court Operations Corporation, shall prevail. To that end, where this act refers in its amendments to ss. 28.241(1)(a) and 34.041(1)(b), Florida Statutes, to the distribution of filing fees to the Department of Financial Ser-

vices' Administrative Trust Fund, it is the intent of the Legislature that the Division of Statutory Revision change those references to the Clerks of the Court Trust Fund and conform the use of those funds, including within both the existing and new language of those paragraphs contained in this act, consistent with CS for CS for Senate Bill 2108. It is further the intent of the Legislature that, if both acts become law, the division change references to the distribution of \$5 of filing fees under s. 28.241(1)(a), Florida Statutes, including within both the existing and new language of that paragraph contained in this act, to reflect the distribution instead of \$3.50 and \$1.50, respectively, to the Clerks of Court Trust Fund and the Administrative Trust Fund within the Department of Financial Services, consistent with CS for CS for Senate Bill 2108.

(2) This section shall take effect June 1, 2009.

Section 21. (1) CS for CS for Senate Bill 2108, as enacted during the 2009 Regular Session, shall not take effect upon becoming a law as specified in section 22 of that act, but shall take effect July 1, 2009.

(2) This section shall take effect June 1, 2009.

Section 22. Except as otherwise expressly provided in this act and except for this section, which shall take effect June 1, 2009, this act shall take effect July 1, 2009.

Approved by the Governor May 27, 2009.

Filed in Office Secretary of State May 27, 2009.