

CHAPTER 2013-109

Committee Substitute for Committee Substitute for Committee Substitute for Senate Bill No. 556

An act relating to clerks of the court; amending s. 28.13, F.S.; providing requirements for the storage of papers and electronic filings and requiring that they be stamped with the date and time of submission; requiring the clerk to retain control and custody of filed documents; amending s. 28.222, F.S.; authorizing the clerk to remove certain court records from the Official Records; amending s. 28.24, F.S.; deleting provisions exempting specified persons from service fees; amending s. 28.244, F.S.; increasing the threshold amount for automatic repayment of overpayments; amending s. 28.345, F.S.; requiring that the clerk provide access to public records without charge to certain persons, subject to a limitation and an exception; authorizing the clerk to provide public records in an electronic format under certain circumstances; amending s. 101.151, F.S.; clarifying when the office title “Clerk of the Circuit Court and Comptroller” may be used; amending s. 119.0714, F.S.; requiring that certain requests for maintenance of a public record exemption specify certain information; amending s. 194.032, F.S.; requiring that the property appraiser, rather than the clerk, provide the property record card to a petitioner regardless of whether the petitioner initiates evidence exchange, unless the property record card is available online from the property appraiser; amending s. 938.30, F.S.; providing that the state is not required to pay fees to enforce judgment for costs and fines; amending s. 985.045, F.S.; providing that the office of the public defender shall have access to certain juvenile records before an appointment of representation; providing an effective date.

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

Section 1. Section 28.13, Florida Statutes, is amended to read:

28.13 ~~To keep Papers and electronic filings.—~~The clerk of the circuit court must maintain ~~shall keep~~ all papers and electronic filings ~~filed~~ in the clerk’s office with the utmost care and security, storing them with related case arranged in appropriate files and affixing a stamp, which may be electronic, to each submission indicating (endorsing upon each the date and time that when the submission same was filed. The clerk may), and shall not permit any attorney or other person to remove filed documents from the control or custody take papers once filed out of the office of the clerk without leave of the court, except as otherwise is hereinafter provided by law.

Section 2. Present subsections (4) through (6) of section 28.222, Florida Statutes, are renumbered as subsections (5) through (7), respectively, and a new subsection (4) is added to that section to read:

28.222 Clerk to be county recorder.—

(4) The county recorder shall remove recorded court documents from the Official Records pursuant to a sealing or expunction order.

Section 3. 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 manually or electronically by the clerk’s office in recording documents and instruments and in performing other specified the duties. These charges may enumerated in amounts not to exceed those specified in this section, except as provided in s. 28.345. 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
- (2) For preparing, numbering, and indexing an original record of appellate proceedings, per instrument.....3.50
- (3) For certifying copies of any instrument in the public records.....2.00
- (4) For verifying any instrument presented for certification prepared by someone other than clerk, per page..... 3.50
- (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
 - (b) 35 mm 100’ microfilm roll..... 60.00
 - (c) Microfiche, per fiche.....3.50

- (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
- (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
- (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 ~~must~~ 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 ~~must~~ shall be held in trust by the clerk and used exclusively for equipment and maintenance of equipment, personnel training, and technical assistance 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 Comptrollers, Inc., for the cost of development, implementation, operation, and maintenance of the clerks' Comprehensive Case Information System; \$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, may 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
- (14) For validating certificates, any authorized bonds, each.....3.50
- (15) For preparing affidavit of domicile..... 5.00
- (16) For exemplified certificates, including signing and sealing.....7.00
- (17) For authenticated certificates, including signing and sealing..... 7.00
- (18)(a) For issuing and filing a subpoena for a witness, not otherwise provided for herein (includes writing, preparing, signing, and sealing)..... 7.00
- (b) For signing and sealing only..... 2.00
- (19) For approving bond..... 8.50
- (20) For searching of records, for each year’s search..... 2.00
- (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
- (26)(a) For receiving and disbursing all restitution payments, per payment..... 3.50
- (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 must ~~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 4. Section 28.244, Florida Statutes, is amended to read:

28.244 Refunds.—A clerk of the circuit court or a filing officer of another office where records are filed who receives payment for services provided and thereafter determines that an overpayment has occurred shall refund to the person who made the payment the amount of any overpayment that exceeds \$10 \$5. If the amount of the overpayment is \$10 \$5 or less, the clerk of the circuit court or a filing officer of another office where records are filed is not required to refund the amount of the overpayment unless the person who made the overpayment makes a written request.

Section 5. Section 28.345, Florida Statutes, is amended to read:

28.345 State access to records; exemption from court-related fees and charges.—

(1) Notwithstanding any other provision of law, the clerk of the circuit court shall, upon request, provide access to public records 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 authorized staff acting on their behalf. The clerk of court may provide the requested public record in an electronic format in lieu of a paper format if the requesting entity is capable of accessing such public record electronically.

(2) Notwithstanding any other provision of this chapter or law to the contrary, judges and those court staff acting on behalf of judges, state attorneys, guardians ad litem, public guardians, attorneys ad litem, court-appointed private counsel, criminal conflict and civil regional counsel, and public defenders, and state agencies, while acting in their official capacity, and state agencies, are exempt from all court-related fees and charges assessed by the clerks of the circuit courts.

(3) The exemptions from fees or charges provided in this section apply only to state agencies and state entities and the party represented by the agency or entity.

Section 6. Paragraph (a) of subsection (2) of section 101.151, Florida Statutes, is amended to read:

101.151 Specifications for ballots.—

(2)(a) The ballot must include ~~shall have~~ the following office titles above ~~under which shall appear~~ the names of the candidates for the respective offices in the following order:

1. The office titles of President and Vice President above ~~and thereunder~~ the names of the candidates for President and Vice President of the United States nominated by the political party that received the highest vote for Governor in the last general election of the Governor in this state, followed by. ~~Then shall appear~~ the names of other candidates for President and Vice President of the United States who have been properly nominated.

2. The office titles of United States Senator and Representative in Congress.

3. The office titles of Governor and Lieutenant Governor; Attorney General; Chief Financial Officer; Commissioner of Agriculture; State Attorney, with the applicable judicial circuit; and Public Defender, with the applicable judicial circuit.

4. The office titles of State Senator and State Representative, with the applicable district for the office printed beneath.

5. The office titles of Clerk of the Circuit Court, or, when the Clerk of the Circuit Court also serves as the County Comptroller, Clerk of the Circuit Court and Comptroller, ~~(whichever is applicable and when authorized by law);~~ Clerk of the County Court, ~~(when authorized by law);~~ Sheriff; Property Appraiser; Tax Collector; District Superintendent of Schools; and Supervisor of Elections.

6. The office titles of Board of County Commissioners, with the applicable district printed beneath each office, and such other county and district offices as are involved in the election, in the order fixed by the Department of State, followed, in the year of their election, by "Party Offices," and thereunder the offices of state and county party executive committee members.

Section 7. Paragraph (f) is added to subsection (2) of section 119.0714, Florida Statutes, and section (3) is amended, to read:

119.0714 Court files; court records; official records.—

(2) COURT RECORDS.—

(f) A request for maintenance of a public records exemption in s. 119.071(4)(d)2. made pursuant to s. 119.071(4)(d)3. must specify the document type, name, identification number, and page number of the court record that contains the exempt information.

(3) OFFICIAL RECORDS.—

(a) A ~~Any~~ person who prepares or files a record for recording in the official records as provided in chapter 28 may not include in that record a social

security number or a bank account, debit, charge, or credit card number unless otherwise expressly required by law.

~~(a)(b)~~1. If a social security number or a bank account, debit, charge, or credit card number is included in an official record, such number may be made available as part of the official records available for public inspection and copying unless redaction is requested by the holder of such number or by the holder's attorney or legal guardian.

~~1.2.~~ If such record is in electronic format, on January 1, 2011, and thereafter, the county recorder must use his or her best effort, as provided in paragraph ~~(d)(h)~~, to keep social security numbers confidential and exempt as provided for in s. 119.071(5)(a), and to keep complete bank account, debit, charge, and credit card numbers exempt as provided for in s. 119.071(5)(b), without any person having to request redaction.

~~2.3.~~ Section 119.071(5)(a)7. and 8. does not apply to the county recorder with respect to official records.

~~(b)(e)~~ The holder of a social security number or a bank account, debit, charge, or credit card number, or the holder's attorney or legal guardian, may request that a county recorder redact from an image or copy of an official record placed on a county recorder's publicly available Internet website or on a publicly available Internet website used by a county recorder to display public records, or otherwise made electronically available to the public, his or her social security number or bank account, debit, charge, or credit card number contained in that official record.

~~1.(d)~~ A request for redaction must be a signed, legibly written request and must be delivered by mail, facsimile, electronic transmission, or in person to the county recorder. The request must specify the identification page number of the record that contains the number to be redacted.

~~2.(e)~~ The county recorder does not have a duty to inquire beyond the written request to verify the identity of a person requesting redaction.

~~3.(f)~~ A fee may not be charged for redacting a social security number or a bank account, debit, charge, or credit card number.

~~(c)(g)~~ A county recorder shall immediately and conspicuously post signs throughout his or her offices for public viewing, and shall immediately and conspicuously post on any Internet website or remote electronic site made available by the county recorder and used for the ordering or display of official records or images or copies of official records, a notice stating, in substantially similar form, the following:

1. On or after October 1, 2002, any person preparing or filing a record for recordation in the official records may not include a social security number or a bank account, debit, charge, or credit card number in such document unless required by law.

2. Any person has a right to request a county recorder to remove from an image or copy of an official record placed on a county recorder's publicly available Internet website or on a publicly available Internet website used by a county recorder to display public records, or otherwise made electronically available to the general public, any social security number contained in an official record. Such request must be made in writing and delivered by mail, facsimile, or electronic transmission, or delivered in person, to the county recorder. The request must specify the identification page number that contains the social security number to be redacted. A fee may not be charged for the redaction of a social security number pursuant to such a request.

~~(d)(h)~~ If the county recorder accepts or stores official records in an electronic format, the county recorder must use his or her best efforts to redact all social security numbers and bank account, debit, charge, or credit card numbers from electronic copies of the official record. The use of an automated program for redaction ~~is shall~~ be deemed to be the best effort in performing the redaction and ~~is shall~~ be deemed in compliance with the requirements of this subsection.

~~(e)(i)~~ The county recorder is not liable for the inadvertent release of social security numbers, or bank account, debit, charge, or credit card numbers, filed with the county recorder.

(f) A request for maintenance of a public records exemption in s. 119.071(4)(d)2. made pursuant to s. 119.071(4)(d)3. must specify the document type, name, identification number, and page number of the official record that contains the exempt information.

Section 8. Paragraph (a) of subsection (2) of section 194.032, Florida Statutes, is amended to read:

194.032 Hearing purposes; timetable.—

(2)(a) The clerk of the governing body of the county shall prepare a schedule of appearances before the board based on petitions timely filed with him or her. The clerk shall notify each petitioner of the scheduled time of his or her appearance at least 25 calendar days before the day of the scheduled appearance. The notice must shall indicate whether the petition has been scheduled to be heard at a particular time or during a block of time. If the petition has been scheduled to be heard within a block of time, the beginning and ending of that block of time must shall be indicated on the notice; however, as provided in paragraph (b), a petitioner may not be required to wait for more than a reasonable time, not to exceed 2 hours, after the beginning of the block of time. If the petitioner checked the appropriate box on the petition form to request a copy of the property record card containing relevant information used in computing the current assessment, the property appraiser must provide the copy to the petitioner upon receipt of the petition from the clerk regardless of whether the petitioner initiates evidence exchange, unless the property record card is available online from the property appraiser clerk shall provide the copy of the card along with the

notice. Upon receipt of the notice, the petitioner may reschedule the hearing a single time by submitting to the clerk a written request to reschedule, at least 5 calendar days before the day of the originally scheduled hearing.

Section 9. Subsections (2) and (6) of section 938.30, Florida Statutes, are amended to read:

938.30 Financial obligations in criminal cases; supplementary proceedings.—

(2) The court may require a person liable for payment of an obligation to appear and be examined under oath concerning the person's financial ability to pay the obligation. The judge may convert the statutory financial obligation into a court-ordered obligation to perform community service, subject to the provisions of s. 318.18(8), after examining a person under oath and determining the a person's inability to pay. Any person who fails failing to attend a hearing may be arrested on warrant or capias ~~which may be~~ issued by the clerk upon order of the court.

(6) If judgment has not been previously entered on any court-imposed financial obligation, the court may enter judgment thereon and issue any writ necessary to enforce the judgment in the manner allowed in civil cases. Any judgment issued under this section constitutes a civil lien against the judgment debtor's presently owned or after-acquired property, when recorded pursuant to s. 55.10. Supplementary proceedings undertaken by any governmental entity to satisfy a judgment imposed pursuant to this section may proceed without bond and without the payment of statutory fees associated with judgment enforcement.

Section 10. Subsection (2) of section 985.045, Florida Statutes, is amended to read:

985.045 Court records.—

(2) The clerk shall keep all official records required by this section separate from other records of the circuit court, except those records pertaining to motor vehicle violations, which shall be forwarded to the Department of Highway Safety and Motor Vehicles. Except as provided in ss. 943.053 and 985.04(6)(b) and (7), official records required by this chapter are not open to inspection by the public, but may be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that a child and the parents, guardians, or legal custodians of the child and their attorneys, law enforcement agencies, the Department of Juvenile Justice and its designees, the Parole Commission, the Department of Corrections, and the Justice Administrative Commission shall always have the right to inspect and copy any official record pertaining to the child. Public defender offices shall have access to official records of juveniles on whose behalf they are expected to appear in detention or other hearings before an appointment of representation. The court may permit authorized representatives of recognized organizations compiling statistics for proper

purposes to inspect, and make abstracts from, official records under whatever conditions upon the use and disposition of such records the court may deem proper and may punish by contempt proceedings any violation of those conditions.

Section 11. This act shall take effect July 1, 2013.

Approved by the Governor June 5, 2013.

Filed in Office Secretary of State June 5, 2013.