

CHAPTER 2022-201

Committee Substitute for House Bill No. 397

An act relating to court fiscal administration; amending s. 28.246, F.S.; revising the calculation used to determine the presumed ability to pay certain fees, charges, costs, and fines; providing a formula for determining a specified down payment; providing construction; amending s. 28.35, F.S.; requiring the Florida Clerks of Court Operations Corporation to provide a recommendation on the distribution of specified fees, charges, costs, and fines; providing that the corporation shall complete specified duties under certain circumstances; requiring the corporation to annually prepare a specified budget request; providing that such a request is not subject to change by the Justice Administrative Commission; providing an exception; providing that the Justice Administrative Commission shall submit the request to the Governor for transmittal to the Legislature; amending s. 40.29, F.S.; authorizing the clerk of the circuit court to request reimbursement for certain filings at a specified rate and in a certain manner; amending s. 57.082, F.S.; authorizing the clerk to conduct a review of specified records; requiring the clerk to maintain the results of such review in a specified manner and provide the results in such manner to the court under specified provisions; authorizing the clerk to use the results of the review when making a determination of indigence; amending s. 322.29, F.S.; requiring the Department of Highway Safety and Motor Vehicles to work with a specified association to implement certain technology; providing an effective date.

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

Section 1. Paragraph (b) of subsection (4) of section 28.246, Florida Statutes, is amended to read:

28.246 Payment of court-related fines or other monetary penalties, fees, charges, and costs; partial payments; distribution of funds.—

(4)

(b) An individual seeking to defer payment of fees, service charges, court costs, or fines imposed by operation of law or order of the court under any provision of general law shall apply to the clerk for enrollment in a payment plan. The clerk shall enter into a payment plan with an individual who the court determines is indigent for costs. It is the responsibility of an individual who is released from incarceration and has outstanding court obligations to contact the clerk within 30 days after release to pay fees, service charges, court costs, and fines in full, or to apply for enrollment in a payment plan.

1. A monthly payment amount, calculated based upon all fees and all anticipated fees, service charges, court costs, and fines, is presumed to

correspond to the person's ability to pay if the amount does not exceed the greater of:

a. Two 2 percent of the person's annual net income, as defined in s. 27.52(1), divided by 12; or

b. Twenty five dollars.

2. Any amount required by the clerk as down payment to initially establish a payment plan shall be the lesser of 10 percent of the total amount owed or \$100. The amount does not include the imposition of a service charge pursuant to s. 28.24(27)(b) or (c). The clerk shall establish all terms of a payment plan, and the court may review the reasonableness of the payment plan.

Section 2. Paragraph (c) of subsection (2) of section 28.35, Florida Statutes, is amended, and paragraph (i) is added to that subsection, to read:

28.35 Florida Clerks of Court Operations Corporation.—

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

(c)1. Recommending to the Legislature changes in the amounts and distribution of the various court-related fines, fees, service charges, and costs established by law to ensure reasonable and adequate funding of the clerks of the court in the performance of their court-related functions.

2. If the number of judges under s. 26.031 or s. 34.022 is increased, the corporation shall:

a. Develop a formula to be used to estimate the total cost associated with clerk support for circuit and county judges statewide.

b. Make a recommendation for consideration by the Legislature on any need for additional funding using the formula approved in sub-subparagraph a.

(i) Annually preparing a budget request which, notwithstanding the provisions of chapter 216 and in accordance with s. 216.351, provides the anticipated amount necessary for reimbursement pursuant to s. 40.29(6). The request for the anticipated reimbursement amount shall be submitted in the form and manner prescribed by the Justice Administrative Commission. Such request is not subject to change by the Justice Administrative Commission, except for technical changes necessary to conform to the legislative budget instructions, and shall be submitted to the Governor for transmittal to the Legislature.

Section 3. Subsection (6) is added to section 40.29, Florida Statutes, to read:

40.29 Payment of due-process costs; reimbursement for petitions and orders.—

(6) Subject to legislative appropriation, the clerk of the circuit court may, on a quarterly basis, submit to the Justice Administrative Commission a certified request for reimbursement for petitions and orders filed under ss. 394.459, 394.463, 394.467, 394.917, and 397.6814, at the rate of \$40 per petition or order. Such request for reimbursement shall be submitted in the form and manner prescribed by the Justice Administrative Commission pursuant to s. 28.35(2)(i).

Section 4. Paragraphs (a) and (d) of subsection (2) of section 57.082, Florida Statutes, are amended to read:

57.082 Determination of civil indigent status.—

(2) DETERMINATION BY THE CLERK.—The clerk of the court shall determine whether an applicant seeking such designation is indigent based upon the information provided in the application and the criteria prescribed in this subsection.

(a)1. An applicant, including an applicant who is a minor or an adult tax-dependent person, is indigent if the applicant’s income is equal to or below 200 percent of the then-current federal poverty guidelines prescribed for the size of the household of the applicant by the United States Department of Health and Human Services.

2. There is a presumption that the applicant is not indigent if the applicant owns, or has equity in, any intangible or tangible personal property or real property or the expectancy of an interest in any such property having a net equity value of \$2,500 or more, excluding the value of the person’s homestead and one vehicle having a net value not exceeding \$5,000.

3. Notwithstanding the information provided by the applicant, the clerk may conduct a review of the property records for the county in which the applicant resides and the motor vehicle title records of this state to identify any property interests of the applicant under this paragraph. The clerk may evaluate and consider the results of the review in making a determination under this subsection. If a review is conducted, the clerk must maintain the results of the review in a file with the application and provide the file to the court if an applicant seeks review under subsection (4) of the clerk’s determination of indigent status.

(d) The duty of the clerk in determining whether an applicant is indigent is limited to receiving the application, conducting a review of records under subparagraph (a)3., and comparing the information provided in the application and identified in the review of records to the criteria prescribed in this subsection. The determination of indigent status is a ministerial act of the clerk and ~~may not~~ be a decision based on further investigation or the

exercise of independent judgment by the clerk. The clerk may contract with third parties to perform functions assigned to the clerk under this section.

Section 5. Subsection (3) is added to section 322.29, Florida Statutes, to read:

322.29 Surrender and return of license.—

(3) The department must work with the clerks of court, through their association, to ensure the ability within their technology systems for clerks of court to reinstate suspended driver licenses for failure to pay court obligations.

Section 6. This act shall take effect July 1, 2022.

Approved by the Governor June 20, 2022.

Filed in Office Secretary of State June 20, 2022.