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Legislative Changes to Clerk Compliance and Collections

August 23, 2022 | 2:00 – 3:00 p.m. (ET)

HOUSEKEEPING

- Please note attendees are **currently muted**.
- Questions will be addressed at the end of today's webinar. Please **use the raise your hand feature or chat questions in the chat box**.
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- This session is being **recorded**.



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Presenters



THE HONORABLE TARA S. GREEN
Clay County Clerk and Comptroller's Office



JASON HARRELL
Government Relations Director



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Welcome and Opening Remarks

The Honorable Tara S. Green



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Historical Context

- Has been a high-profile issue for the past 6-7 years
- Clerks authority to suspend vs. keeping people legally driving
- Focus on payment plans
- Legislative changes to where we are now



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SB 838 Clerks of Circuit Court

CHAPTER 2021-116 LAWS OF FLORIDA

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Payment Plans for Each Case Type

- **F.S. 28.246 (4)(a)** - *Each clerk of the circuit court shall accept partial payments for **each case type** for court-related fees, service charges, court costs, and fines in accordance with the terms of an established payment plan developed by the clerk.*
- **Clerk Point: Make sure your office policy allows payment plans for all case types.**



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Incarcerated Individuals Timeframe

- **F.S. 28.246 (4)(b)** - *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.*
- **Clerk Point: Clerks don't have to track this. It is the responsibility of the individual to contact the Clerk but may help you with local procedures with county jails and DOC to encourage more people to come in and pay.**



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Clerk Establishes ALL Terms of Payment Plan

- **F.S. 28.246 (4)(b)2.** - *The clerk shall establish **all terms of a payment plan**, and the court may review the reasonableness of the payment plan*
- **Clerk Point:** The statute codifies the Clerk role in establishing the terms of the payment plan. Clerks can use this in working with local judiciary in order to increase compliance.



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Statewide Payment Plan Form via CCOC

- **F.S. 28.42 (2)** *By October 1, 2021, the clerks of court, through the Florida Clerks of Court Operations Corporation, shall develop a uniform payment plan form for use by persons seeking to establish a payment plan in accordance with s. 28.246(4). The form must inform the person of the minimum payment due each month, the term of the plan, acceptable payment methods, and the circumstances under which a case may be sent to collections for nonpayment.*
- **(3)** *By January 1, 2022, each clerk of court shall use the uniform payment plan form developed pursuant to subsection (2) when establishing payment plans.*
- **Clerk Point:** The CCOC has created a statewide payment plan form which all Clerks must now use. This ensures more standardizations for customers across counties.



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Encourages Payment Plans Through Information From DHSMV Order

- **F.S. 318.15 (1)(a)** - *The order also must inform the person that he or she may contact the clerk of the court to establish a payment plan pursuant to s. 28.246(4) to make partial payments for court-related fines, fees, service charges, and court costs.*
 - Also included in F.S. 318.20 and 322.245
- **Clerk Point:** With an increase in promotion of payment plans, more individuals may be contacting your office regarding their options.



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Clarifies and Codifies a Best Practice for Clerks

- **F.S. 775.083 (3)** - *The clerk of the court of each county is the entity responsible for collecting payment of fines, fees, service charges, and court costs. Unless otherwise designated by the court, a person who has been ordered to pay court obligations under this section shall immediately contact the clerk to pay fines, fees, service charges, and court costs in full or to apply for enrollment in a payment plan pursuant to s. 28.246(4).*
- **Clerk Point: Clerks can use this statute to work with their local judiciary to ensure procedures to obtain payment in full or payment plan.**



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HB 397 Court Fiscal Administration

CHAPTER 2022-201 LAWS OF FLORIDA

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Standardizes Monthly Payment Plans/ Initial Down Payments

- **F.S. 28.246(4)(b)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 percent of the person's annual net income, as defined in s. 27.52(1), divided by 12; or*
 - *b. Twenty-five dollars.*
- **Clerk Point:** Clerks now have a standard benchmark to use in setting up payment plans which may protect against liability or potential litigation.



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Helps Make Setting Up Payment Plan More Affordable

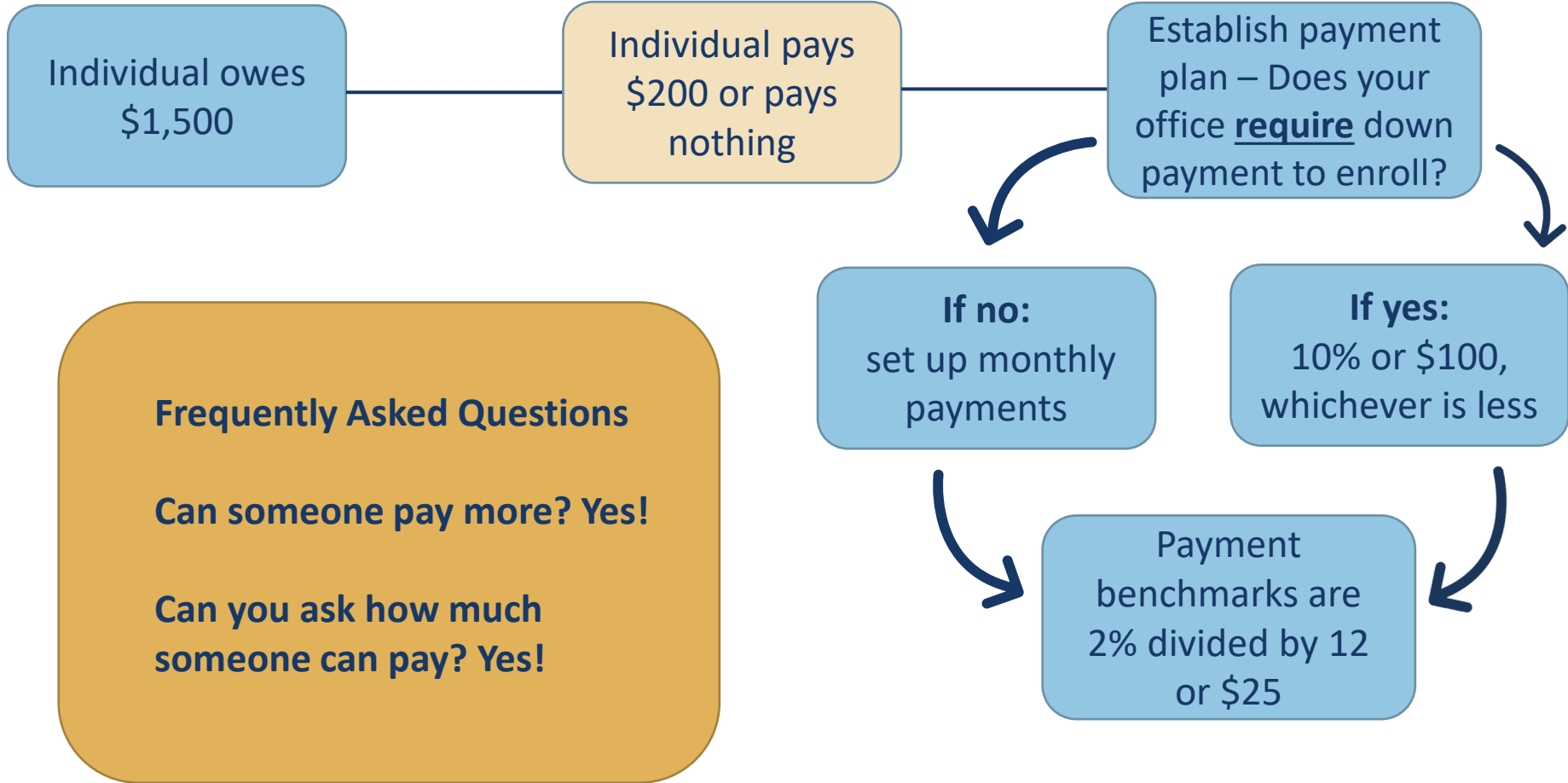
- **F.S. 28.246(4)(b)2.** - *Any amount required by the clerk as down payment to initially establish a payment plan shall be the lesser of 10 percent of the total amount owed or \$100. The amount does not include the imposition of a service charge pursuant to s. 28.24(27)(b) or (c). The clerk shall establish all terms of a payment plan, and the court may review the reasonableness of the payment plan.*
- **Clerk Point:** If your office requires a down payment it needs to align to these standards.



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(If you negotiate before the full payment)



**For example only. Do not take as legal advice*



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Easier to Reinstate DL at Clerk's Office

- **F.S. 322.29(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.*
- **Clerk Point: Within the next few months Clerks will have the ability within their system to clear more suspensions for court obligations and where applicable will be able to retain the \$37.50 fee.**



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Big Picture Takeaways

The Honorable Tara S. Green



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Collections Performance – Criminal and Civil Traffic Divisions

- **CFY 2016-17: 52% Statewide**
- **CFY 2016-18: 56% Statewide**
- **CFY 2018-19: 55% Statewide**
- **CFY 2019-20: 52% Statewide**
- **CFY 2020-21: 53% Statewide**
- **CFY 2021-22: 57% Statewide**

First Two Quarters of each CFY



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Final Thoughts

- **This remains a high-profile issue, pay attention in your office**
- **Payment plans are here to stay**
- **Changes toward standardization and more tools in the Clerks toolbox, with local discretion as possible**
- **Strengthens the role of the Clerk**
- **Help us help ourselves with revenues**
- **Best Practices as needed**



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Questions?



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