



Transportation & Infrastructure Subcommittee

January 30, 2018
1:00 PM – 3:00 PM
Reed Hall (102 HOB)

Meeting Packet

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Transportation & Infrastructure Subcommittee

Start Date and Time: Tuesday, January 30, 2018 01:00 pm

End Date and Time: Tuesday, January 30, 2018 03:00 pm

Location: Reed Hall (102 HOB)

Duration: 2.00 hrs

Consideration of the following bill(s):

HB 1095 Penalties and Fees by Plakon

NOTICE FINALIZED on 01/26/2018 4:02PM by Larson.Lisa

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1095 Penalties and Fees
SPONSOR(S): Plakon
TIED BILLS: IDEN./SIM. **BILLS:** SB 1270

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee		Roth <i>DR</i>	Vickers <i>RW</i>
2) Appropriations Committee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

The bill makes numerous changes to law relating to driver license suspensions and revocations, and the penalties and fees associated with them. Specifically, the bill:

- Revises the application for obtaining a public defender in a criminal case.
- Revises provisions regarding payment plans for court-related fines and other monetary penalties, fees, charges, and costs.
- Requires clerks of court wishing to pursue collections using a collection agent or private attorney to competitively bid the contract and consider certain criteria.
- Requires traffic citations to contain language regarding payment plans and community service for noncriminal traffic infractions.
- Provides that a driver license may not be suspended solely for failure to pay a penalty if a person demonstrates an inability to pay, and meets specified requirements.
- Requires the court to inquire about a person's ability to pay at the time a civil penalty is ordered for a noncriminal traffic infraction.
- Revises the period of revocation, extension of a revocation, suspension, or withholding the issuance of a driver license for persons convicted of certain drug offenses from one year to six months.
- Repeals the discretionary revocation or suspension of a driver license for persons who provide alcohol to persons under 21 years of age.
- Repeals school attendance requirements for minors to be eligible for a driver license.
- Repeals the driver license suspension for possession of tobacco products for persons under 18 years of age.
- Repeals the driver license suspension for minors placing graffiti on public or private property.
- Repeals driver license suspension in theft and worthless check cases.

The bill has an indeterminate negative fiscal impact to state and local government. See Fiscal Analysis for details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Driver license suspensions¹ and revocations² take away a person's privilege to drive. Although originally intended as a sanction to address poor driving behavior, driver license suspensions and revocations are often used as a means to penalize individuals engaged in behavior unrelated to the operation of a motor vehicle.

According to the Department of Highway Safety and Motor Vehicles (DHSMV), there were approximately 1.7 million driver license sanction notices issued in Fiscal Year 2016-2017.³ While most of these sanctions were for driving-related reasons, included in the total were approximately 171,000 for child support delinquency and 103,000 for failure to pay a court fine or obligation. Other offenses that generated driver license sanctions included theft, possession of alcohol by a minor, certain controlled substance violations, and truancy.⁴

Drug Offenses

In 1992, Congress amended the Federal Highway Apportionment Act to encourage states to enact and enforce driver license suspensions or revocations for drug offenders.⁵ The law withholds a portion of federal highway funds from any state that fails to adopt a law that enforces driver license suspensions or revocations for drug offenders.⁶ The federal law requires participating states to provide a suspension or revocation of at least six months.⁷ However, a governor may submit written certification to the Secretary of the United States Department of Transportation that she or he opposes the revocation or suspension of driver licenses for certain drug offenses and that the state legislature has adopted a resolution expressing opposition to this law and still qualify for full federal funding.⁸

Child Support Enforcement

The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996⁹ requires states to have (and use in appropriate cases) the authority to withhold, suspend or restrict the use of driver licenses of individuals owing past-due child support. The United States Department of Health and Human Services Office of Child Support Enforcement is a federal-state program that provides funding to child support agencies in states to help develop, manage and operate their programs effectively and according to federal law.¹⁰ Florida's Child Support Program is administered by DOR, who provides services under the federally required program in 65 counties and through contracts in the remaining two counties.¹¹

Driver License Reinstatement Fees

A person who applies for reinstatement following suspension or revocation of his or her driver license must pay a service fee of \$45 following a suspension, and \$75 following a revocation, in addition to the

¹ Section 322.01(40), F.S., defines "suspension" as "the temporary withdrawal of a licensee's privilege to drive a motor vehicle."

² Section 322.01(36), F.S., defines "revocation" as "termination of a licensee's privilege to drive."

³ It should be noted that approximately 662,000 of these sanctions were restored prior to becoming effective.

⁴ Department of Highway Safety and Motor Vehicles, spreadsheet on driver license sanctions created/effective in Fiscal Year 2016-2017 (copy on file with Transportation & Infrastructure Subcommittee).

⁵ Title 23 U.S.C. § 159 and 23 CFR Part 192.

⁶ *Id.*, at Part 192.9.

⁷ *Id.*, at Part 192.4(a)(1)(i).

⁸ *Id.*, at Part 192.4(c)(2).

⁹ P.L. 104-193

¹⁰ See additional information on the federal Child Support Enforcement Program, at <http://www.acf.hhs.gov/programs/css/about>. (Last visited January 8, 2018).

¹¹ Florida Department of Revenue, http://dor.myflorida.com/dor/childsupport/about_us.html (Last visited January 8, 2018). Miami-Dade County cases are handled by the state attorney's office, and the Manatee County Clerk of Court handles Manatee County cases.

fee for a license.¹² Of the \$45 fee, DHSMV deposits \$15 into General Revenue and \$30 into the Highway Safety Operating Trust Fund. Of the \$75 fee, DHSMV deposits \$35 into General Revenue and \$40 into the Highway Safety Operating Trust Fund. In addition, county tax collectors are required to charge a service fee of \$6.25 for driver license services, including driver license reinstatements.¹³

OPPAGA Report

According to a February 2014 Office of Program Policy Analysis & Government Accountability (OPPAGA) report, in fiscal year 2012-2013, DHSMV suspended or revoked approximately 1.3 million driver licenses. Of this amount, more than 167,000 were for non-driving-related reasons.¹⁴ These reasons included the failure to pay child support, failure to pay court financial obligations, conviction of drug-related offenses, non-compliance with school attendance requirements, failure to appear in court for a worthless check offense, and conviction of misdemeanor theft offenses.¹⁵

As a result of its findings, OPPAGA provided the following legislative alternatives to modify the use of driver license sanctions for non-driving-related reasons:

- Leave driver license suspension for failure to appear in court on a worthless check, and for a conviction of misdemeanor theft offense charge, at the court's discretion.
- Explore modifying or opting out of Florida's implementation of the federal mandate requiring driver license suspension for drug convictions.
- Codify Department of Revenue (DOR) child support enforcement practices regarding the use of driver license suspensions.
- Evaluate the effectiveness of driver license suspension for school truancy.¹⁶

2014 Legislative Changes

In 2014, the Legislature passed CS/CS/HB 7005,¹⁷ revising provisions related to driver license suspensions and revocations for non-driving-related reasons. Specifically, that bill addressed suspension practices resulting from criminal violations and several practices resulting from child support enforcement policies. In summary the bill:

- Authorized the court to suspend the driver license of a person who fails to appear in court for a worthless check charge only when the person is a previous offender;
- Authorized, rather than required, the court to suspend the driver license of a person guilty of any offense of misdemeanor theft;
- Reduced the length of driver license revocation for drug related convictions from two years to one year;
- Required a court that orders a driver license suspension or revocation for a drug related offense to determine whether the issuance of a business purposes only driver license is appropriate in each case;
- Authorized the issuance of a business purpose only driver license for persons who have had their driver license suspended for violations related to selling, giving, or serving alcohol to minors, or for misdemeanor theft;
- Allowed a child support obligor to avoid the suspension of his or her driver license or motor vehicle registration if extenuating circumstances can be proven;
- Provided that if a child support obligor who seeks to satisfy the extenuating circumstances conditions does not provide applicable documentation or proof to the depository or clerk of court within 20 days after the date the delinquency notice is mailed, DOR or the clerk of court may file notice with DHSMV to suspend his or her driver license or motor vehicle registration.

¹² Section 322.21(8), F.S.

¹³ Section 322.135(1)(c), F.S.

¹⁴ OPPAGA report, *Options Exist to Modify Use of Driver License Suspension for Non-Driving-Related Reasons*, p. 3 (February 2014) (copy on file with Transportation & Infrastructure Subcommittee).

¹⁵ *Id.*

¹⁶ *Id.*, pp. 9-11.

¹⁷ Chapter 2014-216, L.O.F. CS/CS/HB 7005 was a comprehensive bill related to transportation.

Specific Provisions in HB 1095

The bill makes numerous statutory changes to reduce the number of driver license suspensions and revocations for non-driving related offenses, reduce the financial burden associated with driver license suspensions, and reduce the severity of suspension-related penalties.

Public Defender Financial Application Form

Current Situation

Section 27.52, F.S., provides for the determination of indigent status for obtaining a public defender. Section 27.52(1), F.S., provides provisions regarding the application to the clerk of the court regarding indigent status. The statute provides that a person seeking a public defender¹⁸ based upon an inability to pay must apply to the clerk of the court for a determination of indigent status using an application form developed by the Florida Clerk of Courts Operations Corporation with final approval from the Florida Supreme Court. The application, at a minimum, must include the following financial information:

- Net income, consisting of total salary and wages, minus deductions required by law, including court-ordered support payments.
- 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, reemployment assistance or unemployment compensation, dividends, interest, rent, trusts, and gifts.
- 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.
- All liabilities and debts.
- If applicable, the amount of any bail paid and the source of those funds.

Proposed Changes

The bill creates s. 27.52(1)(a)6., F.S., requiring the financial information on the application for a public defender to include the election or refusal of the option to fulfill any court-ordered financial obligation associated with the case by completing community service as ordered by the court.

Payment of Court Related Fines and Fees

Current Situation

Section 28.246, F.S., relates to the payment of court-related fines and fees. Section 28.246(4), F.S., requires the clerk of the circuit court to accept partial payments for court-related fees, service charges, costs, and fines in accordance with the terms of an established payment plan. An individual seeking to defer payment of fees, service charges, costs, or fines imposed by operation of law or order of the court is required to apply to the clerk of the circuit court for enrollment in a payment plan. The clerk of the circuit court is required to enter into a payment plan with an individual who the court determines is indigent for costs. 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 the amount does not exceed two percent of the person's annual net income,¹⁹ divided by 12. The court may review the reasonableness of the payment plan.

Section 28.246(6), F.S., requires a clerk of court to pursue the collection of any fees, service charges, fines, court costs, and liens for the payment of attorney fees and costs,²⁰ which remain unpaid after 90 days by referring the account to a private attorney or collection agent.²¹ In pursuing the collection of unpaid financial obligations through a private attorney or collection agent, the clerk of the court must

¹⁸ The appointment of a public defender is pursuant to s. 27.51, F.S.

¹⁹ Annual net income is defined in s. 27.52(1), F.S.

²⁰ This is pursuant to s. 938.29, F.S., relating to legal assistance; lien for payment of attorney's fees or costs.

²¹ Collection agents are required to be registered and in good standing.

attempt to collect the unpaid amount through a collection court, collections docket, or other collections process. The collection fee, including any reasonable attorney's fee, paid to any attorney or collection agent may be added to the balance owed in an amount not to exceed 40 percent of the amount owed at the time the account is referred to the attorney or agent for collection.

Proposed Changes

The bill amends s. 28.246(4), F.S., removing a provision requiring the clerk of court to enter into a payment plan with an individual whom the court determines is indigent for costs. This allows clerks of court to enter into payment plans with anyone. The bill also provides that the monthly payment amount may not exceed two percent of the person's annual net income, divided by 12, without the person's consent. The bill amends s. 28.246(6), F.S., keeping the current requirement that the clerk of court pursue the collection of certain unpaid fees. In pursuing the collection through a private attorney or collection agency, the clerk must comply with specified procurement practices, including:

- Soliciting competitive bids from private attorneys or collection agents that will be in effect for no longer than three years, with a maximum of two one-year extensions.
- Considering all pertinent criteria when considering bids, including performance quality and customer service.
- Prohibiting the clerk from assessing any surcharge to refer the account to a private attorney or collection agent.
- Prohibiting the collection agent or private attorney from imposing any additional fees or surcharges other than the contractually agreed upon amounts.

Traffic Citations

Current Situation

Section 316.650(1)(a), F.S., requires DHSMV to prepare and supply to every traffic enforcement agency an appropriate traffic citation form containing a notice to appear meeting the requirements of the Florida Uniform Traffic Control Law²² or any Florida laws regulating traffic, and consistent with the state traffic court rules and DHSMV established procedures.

Proposed Changes

The bill creates s. 316.650(1)(b), F.S., requiring the traffic citation form to include language indicating that a person may enter into a payment plan with the clerk of court to pay a penalty, or if able to prove financial hardship, satisfy payment by participating in community service.²³ The bill provides that the changes to s. 316.650, F.S., take effect upon the depletion of the inventory of uniform traffic citation forms and the adoption by rule of new uniform traffic citation. DHSMV must notify the Division of Law Revision and Information upon the adoption of the new forms.

Failure to Pay a Penalty

Current Situation

Section 318.15, F.S., provides penalties for failure to comply with civil penalties or failure to appear as it relates to traffic infractions. If a person fails to comply with the civil penalties²⁴ within the time period specified,²⁵ fails to enter into or comply with the terms of a penalty payment plan with the clerk of the court,²⁶ fails to attend driver improvement school, or fails to appear at a scheduled hearing; the clerk of the court notifies DHSMV of such failure within 10 days. Upon receiving such notice, DHSMV immediately issues an order suspending the driver license effective 20 days after the date the order of suspension is mailed.²⁷ Any such suspension of the driving privilege,²⁸ which has not been reinstated,

²² Chapter 316, F.S.

²³ The participation in community service is pursuant to s. 318.18(8)(b), F.S.

²⁴ Civil penalties for traffic infractions are provided for in s. 318.18, F.S.

²⁵ The time period is specified in s. 318.14(4), F.S.

²⁶ Penalty payment plans with the clerk of court are in accordance with ss. 318.14 and 28.246, F.S.

²⁷ The order of suspension is mailed in accordance with ss. 322.251(1), (2), and (6), F.S.

²⁸ The terms "driver license" and "driving privilege" appear to be used interchangeably throughout the statutes.

(including a similar suspension imposed outside Florida), remains on DHSMV's records for seven years from the date imposed and is removed from DHSMV's records after the expiration of seven years.²⁹

A person who elects to attend driver improvement school and pays the civil penalty,³⁰ but fails to attend the driver improvement school is deemed to have admitted to the infraction and is adjudicated guilty. The clerk of the court notifies DHSMV of the person's failure to attend driver improvement school and points are assessed to the person's driver license.^{31, 32}

A person charged with a traffic infraction may request a hearing within 180 days after the date of the violation, regardless of any action taken by the court or DHSMV to suspend the person's driving privilege, and, upon request, the clerk of the court must set the case for hearing. This does not affect the assessment of late fees as otherwise provided in Ch. 318, F.S.³³

After the suspension of a person's driver license and privilege to drive, the driver license and driving privilege may not be reinstated until the person complies with the terms of a payment plan with the clerk of the court or with all obligations and penalties.³⁴ The individual must then present to a driver license office a certificate of compliance issued by the court, together with a nonrefundable service charge of \$60³⁵ or present a certificate of compliance and pay the service charge to the clerk of the court or a driver-licensing agent³⁶ clearing such suspension. Such person must also comply with statutory requirements related to driver licenses³⁷ before reinstatement.³⁸

The clerk of court notifies DHSMV of persons who were mailed a notice of violation related to running a red light³⁹ and failed to enter into or comply with the terms of a payment plan, order, or failed to appear at a scheduled hearing. The clerk must reference the person's driver license number, or in the case of a business entity, vehicle registration number. Upon receiving such notice, DHSMV may not issue a license plate or revalidation sticker for any motor vehicle owned or co-owned by that person⁴⁰ until the amounts assessed have been fully paid. If the person's license plate or revalidation sticker is withheld,⁴¹ the person may challenge the withholding of the license plate or revalidation sticker only on the basis that the outstanding fines and civil penalties have been paid.⁴²

Proposed Changes

The bill creates s. 318.15(4), F.S., providing that notwithstanding any other law, a person's driver license may not be suspended solely for failure to pay a penalty if the person requests a hearing, and demonstrates to the court before the suspension takes place, that the person is unable to pay the penalty.

Inability to Pay a Civil Penalty

Current Situation

Section 318.18, F.S., provides penalties for noncriminal and criminal traffic infractions. Specifically, s. 318.18(8)(b), F.S., provides that if a person has been ordered to pay a civil penalty for a noncriminal

²⁹ Section 318.15(1)(a), F.S.

³⁰ The civil penalty is provided in s. 318.14(9), F.S.

³¹ Points are assessed pursuant to s. 322.27, F.S.

³² Section 318.15(1)(b), F.S.

³³ Section 318.15(1)(c), F.S.

³⁴ Obligations and penalties are imposed under s. 318.18, F.S.

³⁵ The service charge is imposed under s. 322.29, F.S.

³⁶ Driver licensing agents are authorized under s. 322.135, F.S.

³⁷ Chapter 322, F.S.

³⁸ Section 318.15(2), F.S.

³⁹ Section 316.074(1) or 316.075(1)(c)1., F.S.

⁴⁰ This is pursuant to s. 320.03(8), F.S.

⁴¹ The withholding of the license plate or revalidation sticker is pursuant to s. 318.15(2)(a), F.S.

⁴² Section 318.15(3), F.S.

traffic infraction, and the person demonstrates he or she is unable to comply with the court's order, the court must allow the person to satisfy the civil penalty by participating in community service.⁴³

Proposed Changes

The bill creates s. 318.18(8)(b)1.b. F.S., requiring the court inquire at the time the civil penalty is ordered whether the person is able to pay the penalty.

Penalties for Minors Convicted of Drug Offenses

Current Situation

Section 322.055, F.S., provides that upon the conviction of a person 18 or older for possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled substance, the court may direct DHSMV to revoke the person's driver license. The period of revocation is one year, or until the person is evaluated for and completes a drug treatment and rehabilitation program approved or regulated by the Department of Children and Families (DCF). However, the court may direct DHSMV to issue a license for driving privilege restricted to business⁴⁴ or employment purposes only.⁴⁵ A driver whose license or driving privilege has been suspended or revoked under s. 322.055, F.S., or s. 322.056, F.S.,⁴⁶ may petition DHSMV after six months for restoration of driving privileges on a restricted or unrestricted basis.

Proposed Changes

The bill amends s. 322.055(1) through (4), F.S., changing the period of suspension or revocation for each of the circumstances provided above from one year to six months. Therefore, the bill removes the provision under which the driver may petition DHSMV to restore his or her driving privilege on a restricted or unrestricted basis after six months.

Penalties for Minors Found Guilty of Certain Offenses

Current Situation

Section 322.056, F.S., provides that if a person under 18 is found guilty or delinquent of violating certain drug, alcohol, and tobacco offenses DHSMV may revoke or withhold issuance of his or her driver license for a period of six months to one year for the first violation, and two years for a subsequent violation. However, the court may direct DHSMV to issue a license for driving privileges restricted to business or employment purposes only.⁴⁷

If a person under 18 is found by the court to have committed a noncriminal violation of certain drug, alcohol, or tobacco offenses, and the person fails to comply with community service requirements, fails to pay the applicable fine, or fails to attend a locally available anti-tobacco program; DHSMV may revoke or withhold issuance of his or her driver license for a period of 30 days for a first violation, and 45 days for a second violation occurring within 12 weeks of the first violation. Any second violation for the same offense not within the 12-week period after the first violation is treated as a first violation and in the same manner as above.⁴⁸

If a person under 18 is found by the court to have committed a third violation of drug, alcohol, or tobacco offenses within 12 weeks of the first violation, the court directs DHSMV to suspend or withhold issuance of his or her driver license or driving privilege for 60 consecutive days. Any third violation of

⁴³ Section 318.18(8)(b)1.a., F.S.

⁴⁴ Section 322.271(1)(c)1., F.S., defines "a driving privilege restricted to business purposes only" as "a driving privilege that is limited to any driving necessary to maintain livelihood, including driving to and from work, necessary on-the-job driving, driving for educational purposes, and driving for church and for medical purposes."

⁴⁵ Section 322.271(1)(c)2., F.S., defines "a driving privilege restricted to employment purposes only" as "a driving privilege that is limited to driving to and from work and any necessary on-the-job driving required by an employer or occupation."

⁴⁶ Section 322.056, F.S. relates to the mandatory revocation or suspension of, or delay of eligibility for, driver license for persons under age 18 found guilty of certain alcohol, drug, or tobacco offenses; prohibition.

⁴⁷ Section 322.056(1), F.S.

⁴⁸ Section 322.056(2), F.S.

certain drug, alcohol, or tobacco offenses, not within the 12-week period after the first violation is treated as a first violation and in the same manner as above.⁴⁹

The suspension or revocation of a person's driver license pursuant to s. 322.056(2) or (3), F.S., does not result in an increase of the convicted person's, or his or her parent's or legal guardian's, automobile insurance rate or premium or result in points assessed against the person's driving record.⁵⁰

Proposed Changes

The bill amends s. 322.056, F.S., removing the mandatory revocation, suspension, or delay of eligibility for a driver license for persons under age 18 found guilty of certain alcohol or tobacco offenses. For persons found guilty of certain drug offenses, the bill provides for a loss in driving privilege for a period of six months. The bill also removes the court's discretion to issue a license for business or employment purposes only.

Additionally, the bill repeals s. 322.056(5), F.S., providing that the suspension or revocation of a person's driver license does not result in or cause an increase in automobile insurance rates or premium or points assessed on a person's driving record.

Penalties for Persons who Provide Underage Persons Alcohol

Current Situation

Section 322.057, F.S., provides penalties for persons who serve individuals under 21 years of age alcohol. DHSMV may be authorized to withhold the issuance of, or suspend or revoke, the driver license of a person who is found guilty of selling or serving alcohol to a minor for three to six months for a first violation and for one year for any subsequent violation. The law authorizes the court to direct DHSMV to issue a driver license restricted to business or employment purposes only, to a person who is otherwise qualified for a license.⁵¹

Proposed Changes

The bill repeals s. 322.057, F.S., relating to the discretionary revocation or suspension of a driver license for certain persons who provide alcohol to persons under 21.

School Attendance for Minors

Current Situation

Section 322.09, F.S., provides the application process for minors to obtain a driver license. Section 322.09(3), F.S., prohibits DHSMV from issuing a driver license or learner's driver license to any applicant under 18 who does not comply with the school attendance requirements.⁵²

Section 322.091, F.S., provides school attendance requirements for minors to receive a driver license. Current law provides that a minor is not eligible for driving privileges unless that minor:

- Is enrolled in school;
- Has received a high school diploma or equivalent;
- Is enrolled in and attends a study course in preparation for the high school equivalency exam;
- Is enrolled in and attends other approved educational activities;
- Has been issued a certificate of exemption;⁵³ or
- Has received a hardship waiver.⁵⁴

⁴⁹ Section 322.056(3), F.S.

⁵⁰ Section 322.056(5), F.S.

⁵¹ Section 322.057(2), F.S.

⁵² Section 322.091, F.S.

⁵³ A certificate of exemption is issued pursuant to s. 1003.21(3), F.S.

⁵⁴ Hardship waivers are issued pursuant to s. 322.091, F.S.

DHSMV may not issue a driver license or learner's driver license to, or must suspend the driver license or learner's driver license of, any minor in noncompliance with school attendance requirements.⁵⁵

Section 1003.27, F.S., provides the court procedure and penalties for the enforcement of required school attendance. Section 1003.27(2)(b), F.S., requires each public school principal to notify the district school board of each minor student under its jurisdiction who accumulates 15 unexcused absences in a period of 90 calendar days. The district school superintendent must provide DHSMV the legal name, sex, date of birth, and social security number of each minor student who has been reported and fails to satisfy school attendance requirements. DHSMV may not issue a driver license or learner's driver license to, and must suspend any previously issued driver license or learner's driver license of, any such minor student who violates the school attendance requirements.

Section 318.14(10)(a), F.S., provides that any person who does not hold a commercial driver license and is cited while driving a noncommercial motor vehicle for an offense listed below, may in lieu of payment of fine or court appearance, elect to enter a plea of nolo contendere and provide proof of compliance to the clerk of the court. In such case, adjudication is withheld. However, a person may not make an election if the person has made an election in the preceding 12 months, and a person may not make more than three elections in a lifetime. This applies to the offense of operating a motor vehicle with a license that is suspended for failure to meet school attendance requirements.⁵⁶

Proposed Changes

The bill repeals s. 322.09(3), F.S., which prohibits DHSMV from issuing a driver license or learner's driver license to any applicant under the age of 18 years who does not comply with the school attendance requirements to obtain a driver license. The bill repeals s. 322.091, F.S., which provides school attendance requirements for a minor to receive a driver license.

The bill repeals s. 1003.27(2)(b), F.S., relating to school attendance penalties.

The bill repeals s. 318.14(10)(a)5., F.S., removing the applicability of s. 318.14(10)(a), F.S., to the offense of operating a motor vehicle without a license that has been suspended for failure to meet school attendance requirements.

Failure to Pay Child Support

Current Situation

For child support enforcement in non-IV-D cases, if a person fails to pay child support⁵⁷ and the obligee requests it, the clerk of the court is required to mail a notice.⁵⁸ The notice will notify the obligor that if he or she does not comply with the notice and pay a delinquency fee⁵⁹ of \$25 to the clerk of the court, his or her driver license and motor vehicle registration will be suspended. If the obligor fails to comply with the notice within the time period, the clerk of the court electronically notifies DHSMV of such failure within 10 days. Upon receipt of the notice, DHSMV immediately issues an order suspending the person's driver license effective 20 days after the date the order of suspension is mailed.^{60, 61}

DHSMV reinstates the driving privilege when the clerk of the court provides an affidavit to DHSMV stating that:

- The person has satisfied the financial obligation in full or made all payments currently due under a payment plan;

⁵⁵ Section 322.091(1), F.S.

⁵⁶ Section 318.14(10)(a), F.S.

⁵⁷ Child support is provided for in Ch. 61, F.S.

⁵⁸ Section 61.13016, F.S., relates to the suspension of driver license and motor vehicle registrations for non-payment of child support.

⁵⁹ The delinquency fee is imposed by s. 322.245(1), F.S.

⁶⁰ The order of suspension is mailed in accordance with s. 322.251(1), (2), and (6), F.S.

⁶¹ Section 322.245(3), F.S.

- The person has entered into a written agreement for payment of the financial obligation if not presently enrolled in a payment plan; or
- A court has entered an order granting relief to the person ordering the reinstatement of the license.⁶²

Proposed Changes

The bill creates s. 322.245(6), F.S., providing that a person's driver license may not be suspended solely for failure to pay a penalty or court obligation if the person requests a hearing and demonstrates to the court, before the suspension takes place, that the person is unable to pay the penalty.

Penalties for Worthless Checks

Current Situation

Section 322.251(7), F.S., provides that a person whose driving privilege is suspended or revoked in a worthless check case⁶³ must be given notice and may not have his or her driving privilege reinstated for any reason other than:

- Full payment of any restitution, court costs, and fees incurred;
- The cancellation of the warrant or capias from the Department of Law Enforcement; and
- The payment of an additional fee of \$10 to DHSMV to be paid into the Highway Safety Operating Trust Fund; or
- DHSMV has modified the suspension or revocation of the license restoring the driving privilege solely for business or employment purposes.⁶⁴

Section 832.09, F.S., provides that the court may order the suspension or revocation of the driver license of a person who is being prosecuted for passing a worthless check and is issued a warrant for failure to appear after being previously adjudicated guilty of passing a worthless check.

Within five working days after the court orders the suspension of a driver license pursuant to s. 832.09(1), F.S., the clerk of the court in the county where the warrant or capias is issued shall notify DHSMV by the most efficient method available of the action of the court.

Proposed Changes

The bill repeals s. 322.251(7), F.S., relating to the suspension or revocation of driving privilege in worthless check cases. Additionally, the bill repeals s. 832.09, F.S., relating to the suspension of a driver license after a warrant or capias is issued in a worthless check case.

DHSMV Authority to Modify Orders

Current Situation

Section 322.271, F.S., authorizes DHSMV to modify driver license revocation, cancellation, or suspension orders under specified circumstances.

Proposed Changes

The bill creates s. 322.271(8), F.S., providing that a person whose driver license or driving privilege has been suspended under s. 318.15, F.S.,⁶⁵ or s. 322.245, F.S.,⁶⁶ with the exception of any suspension related to s. 61.13016, F.S.,⁶⁷ may have his or her driver license or driving privilege reinstated on a

⁶² Section 322.245(5)(b), F.S.

⁶³ Worthless check cases are pursuant to s. 832.09, F.S.,

⁶⁴ Section 322.251(7)(a), F.S.

⁶⁵ Section 318.15, F.S., relates to failure to comply with a civil penalty as it relates to traffic violations.

⁶⁶ Section 322.245, F.S., relates to the suspension of license upon failure of person charged with specified offense under chapter 316, chapter 320, or chapter 322 to comply with directives ordered by traffic court or upon failure to pay child support in non-IV-D cases as provided in chapter 61 or failure to pay any financial obligation in any other criminal case.

⁶⁷ Section 61.13016, F.S., relates to the suspension of driver licenses and motor vehicle registrations for nonpayment of child support.

restricted basis. The restricted license is valid until the seven year suspension period expires⁶⁸ or until the debt is paid.

Driving while License is Suspended, Revoked, Canceled, or Disqualified

Current Situation

Section 322.34, F.S., provides penalties for driving while a license is suspended, revoked, canceled, or disqualified, and provides various penalties for different circumstances. Section 322.34(10), F.S., provides that if a person does not have a prior forcible felony⁶⁹ conviction, certain penalties apply if a person's driver license is canceled, suspended, or revoked for:

- Failing to pay child support;⁷⁰
- Failing to pay any other financial obligation as provided in s. 322.245, F.S.;⁷¹
- Failing to comply with a civil penalty;⁷²
- Failing to maintain vehicular financial responsibility;⁷³
- Failing to comply with school attendance⁷⁴ or other requirements for minors; or
- Having been designated as a habitual traffic offender⁷⁵ because of suspensions of his or her driver license for any underlying violation listed above.⁷⁶

Upon a first conviction for knowingly driving while his or her license is suspended, revoked, or canceled, a person commits a misdemeanor of the second degree, punishable by up to 60 days imprisonment⁷⁷ or a fine of up to \$500.^{78, 79} Upon a second or subsequent conviction for the offense of knowingly driving while his or her license is suspended, revoked, or canceled a person commits a misdemeanor of the first degree, punishable by up to one year imprisonment⁸⁰ or a fine of up to \$1,000.^{81, 82}

Proposed Changes

The bill amends s. 322.34(10)(a), F.S., removing a portion of the failure to pay financial obligation and school attendance requirements as offenses for which a person's driver license may be suspended or revoked. The bill also makes conforming changes to s. 322.34(10)(b), F.S.

Serving Alcohol to Underage Persons

Current Situation

Section 562.11(1)(a), F.S., provides that a person may not sell, give, serve, or permit to be served alcoholic beverages to a person under 21 years of age or permit a person under 21 years of age to consume alcoholic beverages on a licensed premises. A violation is a misdemeanor of the second

⁶⁸ The seven year suspension period is provided in s. 318.15, F.S.

⁶⁹ Section 776.08, F.S., defines "forcible felony" as treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.

⁷⁰ Failure to pay child support is provided in s. 322.245, F.S., or s. 61.13016, F.S.

⁷¹ Section 322.245, F.S., relates to the suspension of license upon failure of person charged with specified offense under chapter 316, chapter 320, or this chapter to comply with directives ordered by traffic court or upon failure to pay child support in non-IV-D cases as provided in chapter 61 or failure to pay any financial obligation in any other criminal case

⁷² Compliance with civil penalties is required in s. 318.15, F.S.

⁷³ Vehicle financial responsibility is provided for in Ch. 324, F.S.

⁷⁴ Attendance requirements are set forth in s. 322.091, F.S.

⁷⁵ Habitual traffic offenders are designated under s. 322.264(1)(d), F.S.

⁷⁶ Section 322.34(10)(a), F.S.

⁷⁷ Section 775.082, F.S.

⁷⁸ Section 775.083, F.S.

⁷⁹ Section 322.34(10)(b)1., F.S.

⁸⁰ Section 775.082, F.S.

⁸¹ Section 775.083, F.S.

⁸² Section 322.34(10)(b)2., F.S.

degree. A second or subsequent violation within one year after a prior conviction commits a misdemeanor of the first degree.⁸³

In addition, the court may order DHSMV to withhold the issuance of, or suspend or revoke, the driver license or driving privilege of any violator. A court that withholds the issuance of, or suspends or revokes, the driver license of a person may direct DHSMV to issue the person a license for driving privilege restricted to business purposes only.⁸⁴

Proposed Changes

The bill repeals ss. 562.11(1)(a)2. and 3. and 562.11(2)(c)2., F.S., removing the court's authority to order DHSMV to withhold the issuance of or suspend or revoke a person's driver license.

Possession of Alcohol by Underage Persons

Current Situation

Section 562.111, F.S., provides that it is unlawful for any person under the age of 21 to possess an alcoholic beverage. The statute also provides certain exceptions. Section 562.111(3), F.S., provides that the court is required to direct DHSMV to withhold issuance of, or suspend or revoke, the violator's driver license.⁸⁵

Proposed Changes

The bill repeals s. 562.111(3), F.S., which requires the court to direct DHSMV to withhold the issuance of, suspend, or revoke the violator's driver license.

Possession of Tobacco Products by Minors

Current Situation

Section 569.11, F.S., provides that it is unlawful for any person under 18 to knowingly possess any tobacco product and provides penalties for violation. Section 569.11(1), F.S., provides that any person under 18 years of age who violates the provisions of this subsection commits a noncriminal violation. Upon a third violation within 12 weeks of the first violation, the court must direct DHSMV to withhold issuance of, suspend, or revoke the person's driver license.⁸⁶

Section 569.11(2), F.S., provides that it is unlawful for any person under 18 to misrepresent his or her age or military service for the purpose of obtaining any tobacco product. Any person under 18 who violates s. 569.11(2), F.S., commits a noncriminal violation. A third violation within 12 weeks of the first violation, the court is required to direct DHSMV to withhold issuance of, suspend, or revoke the person's driver license.

Section 877.112, F.S., prohibits the sale of nicotine products and nicotine dispensing devices to persons under 18 and prohibits those persons from purchasing or possessing those products. Section 877.112(6), F.S., provides that it is unlawful for any person under 18 to knowingly possess any nicotine product or a nicotine-dispensing device. Any person under 18 who violates this subsection commits a noncriminal violation.⁸⁷ The court must direct DHSMV to withhold, suspend, or revoke a minor's driver license who violates this statute for a third or subsequent time within 12 weeks of a first violation.

Section 877.112(7), F.S., provides that it is unlawful for any person under 18 to misrepresent his or her age or military service for the purpose of inducing a retailer of nicotine products or nicotine dispensing

⁸³ Section 562.11(1)(a)1., F.S.

⁸⁴ Section 562.11(1)(a)3., F.S.

⁸⁵ Section 562.111(3), F.S.

⁸⁶ This is provided in s. 322.056, F.S.

⁸⁷ Section 775.08(3), F.S., defines "noncriminal violation" as "any offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by no other penalty than a fine, forfeiture, or other civil penalty. A noncriminal violation does not constitute a crime, and conviction for a noncriminal violation shall not give rise to any legal disability based on a criminal offense. The term "noncriminal violation" shall not mean any conviction for any violation of any municipal or county ordinance. Nothing contained in this code shall repeal or change the penalty for a violation of any municipal or county ordinance."

devices to sell the minor nicotine. The court must direct DHSMV to withhold, suspend, or revoke a minor's driver license who violates this statute for a third or subsequent time within 12 weeks of a first violation.

Section 877.112(8)(c), F.S., provides that if a person under 18 is found by the court to have committed a first noncriminal violation and that person has failed to complete community service, pay the required fine, or attend a school-approved anti-tobacco and nicotine program, the court must direct DHSMV to withhold issuance of or suspend the driver license of that person for 30 consecutive days. If a person under 18 is found by the court to have committed a second noncriminal violation under this section and that person has failed to pay the applicable fine, the court must direct DHSMV to withhold issuance of or suspend the driver license of that person for 45 consecutive days.

Proposed Changes

The bill repeals ss. 569.11(1)(c) and (2)(c), F.S., removing the provision that for a third or subsequent violation within 12 weeks of the first violation, the court directs DHSMV to suspend or revoke a person's driver license.

The bill amends s. 877.112, F.S., relating to the prohibition of minors to possess nicotine products and nicotine dispensing devices. Specifically, the bill amends ss. 877.112(6) and (7), F.S., removing the requirement that the court, for a third or subsequent violation within a 12 week period, direct DHSMV to withhold the issuance of, suspend, or revoke the person's driver license. Additionally, the current penalty of a \$25 fine for a subsequent violation now becomes the penalty for a second or subsequent violation.

The bill also amends ss. 877.112(8)(c) and (d), F.S., making it permissive, rather than mandatory, that a court direct DHSMV to withhold issuance of or suspend the driver license or driving privilege for failure to comply with certain penalties provided in s. 877.112, F.S.

Possession of Firearms by Minors

Current Situation

Section 790.22, F.S., prohibits a minor from possessing certain weapons and firearms. A person under the age of 18 may not possess a loaded firearm, unless the minor is at least 16 years of age or being supervised by an adult, and engaged in lawful hunting, marksmanship competitions or practice, or other lawful recreational shooting activities. A minor who violates this prohibition commits a first degree misdemeanor for the first offense and may serve a detention period of up to three days, shall be required to perform community service, and have his or her driver license or privilege to drive revoked or withheld for up to one year. A second or subsequent offense is a third degree felony, a detention period of up to 15 days, community service, and driver license or privilege to drive is revoked or withheld for up to two years.

A minor who commits any other offense involving the use or possession of a firearm, in addition to the penalties provided by that offense and the penalties in s. 790.22(9), F.S., will also have his or her driver license or privilege to drive revoked or withheld for up to one year for a first offense and up to two years for a second or subsequent offense.⁸⁸

Proposed Changes

The bill repeals ss. 790.22(5)(a)1. through 3. and (5)(b) 1. through 3., F.S, relating to the revocation, suspension or revocation or the withholding of the issuance of a minor's driver license for a minor possessing a loaded firearm in his or her home under certain circumstances. The bill also repeals s. 790.22(10), F.S., regarding the revocation, suspension, or withholding of a driver license for a minor convicted of an offense involving the use or possession of a firearm.

Penalties for Graffiti

Current Situation

Section 806.13, F.S., provides that a person commits criminal mischief if he or she willfully and maliciously injures or damages any real or personal property belonging to another, including, but not limited to, the placement of graffiti or other acts of vandalism. Section 806.13(7), F.S., provides that if a minor is found to have committed a delinquent act for placing graffiti on any public property or private property, the minor will have his or her driver license or privilege to drive revoked or withheld for a period of not more than one year.

Proposed Changes

The bill repeals ss. 806.13(7) and (8), F.S., relating to the suspension of driver licenses for placing graffiti on public or private property.

Penalties for Theft

Current Situation

Section 812.0155, F.S., provides that the court may order the suspension of the driver license of each person adjudicated guilty of any misdemeanor theft,⁸⁹ regardless of the value of the property stolen. Upon ordering the suspension of the driver license of the person adjudicated guilty, the court forwards the driver license of the person adjudicated guilty to DHSMV.⁹⁰ The first suspension of a driver license under this provision is for a period of up to six months.⁹¹ A second or subsequent suspension of a driver license is for one year.⁹²

Proposed Changes

The bill repeals s. 812.0155, F.S., relating to the suspension of driver license following the adjudication of guilt for theft.

Financial Obligations in Criminal Cases

Current Situation

Any person liable for payment of any financial obligation in any criminal case is subject to s. 938.30, F.S., and courts operating under s. 938.30, F.S., have jurisdiction over such financial obligations to ensure compliance.⁹³ 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.⁹⁴ 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), F.S., after examining a person under oath and determining the person's inability to pay. Any person who fails to attend a hearing may be arrested on warrant or *capias* issued by the clerk upon order of the court.⁹⁵

Proposed Changes

The bill amends s. 938.30(2), F.S., providing that determining a person's ability to pay financial obligations in a criminal case may rely on information provided under s. 27.52(1)(a)6., F.S., relating to the election or refusal of the option to fulfill any court-ordered financial obligation associated with the case by the completion of community service as ordered by the court.

Cross-References

The bill amends ss. 322.05, 322.27, and 1003.01, F.S., conforming cross-references.

⁸⁹ Sections 812.014 and 812.015, F.S.

⁹⁰ Section 812.0155(1), F.S.

⁹¹ Section 812.0155(1)(a), F.S.

⁹² Section 812.0155(1)(b), F.S.

⁹³ Section 938.30(1), F.S.

⁹⁴ Section 938.30(2), F.S.

⁹⁵ Section 938.30(2), F.S.

B. SECTION DIRECTORY:

Section 1: Amends s. 27.52, F.S., relating to the determination of indigent status.

Section 2: Amends s. 28.246, F.S., relating to the payment of court-related fines and other monetary penalties, fees, charges, and costs; partial payments; distribution of funds.

Section 3: Amends s. 316.650, F.S., relating to traffic citations.

Section 4: Amends s. 318.15, F.S., relating to failure to comply with civil penalty or to appear; penalty.

Section 5: Amends s. 318.18, F.S., relating to amount of penalties.

Section 6: Amends s. 322.055, F.S., relating to revocation or suspension of, or delay of eligibility for, driver license for persons 18 years of age or older convicted of certain drug offenses.

Section 7: Amends s. 322.056, F.S., relating to mandatory revocation or suspension of, or delay of eligibility for, driver license for persons under age 18 found guilty of certain alcohol, drug, or tobacco offenses; prohibition.

Section 8: Repeals s. 322.057, F.S., relating to discretionary revocation or suspension of driver license for certain persons who provide alcohol to persons under 21 years of age.

Section 9: Amends s. 322.09, F.S., relating to the application to minors; responsibility for negligence or misconduct of minor.

Section 10: Repeals s. 322.091, F.S., relating to attendance requirements.

Section 11: Amends s. 322.245, F.S., relating to suspension of license upon failure of person charged with specified offense under chapter 316, chapter 320, or this chapter to comply with directives ordered by traffic court or upon failure to pay child support in non-IV-D cases as provided in chapter 61 or failure to pay any financial obligation in any other criminal case.

Section 12: Repeals subsection (7) of s. 322.251, F.S., relating to notice of cancellation, suspension, revocation, or disqualification of license.

Section 13: Creates subsection (8) of s. 322.271, F.S., relating to the authority to modify revocation, cancellation, or suspension order.

Section 14: Amends s. 322.34, F.S., relating to driving while license suspended, revoked, canceled, or disqualified.

Section 15: Amends s. 562.11, F.S., relating to selling, giving, or serving alcoholic beverages to person under age 21; providing a proper name; misrepresenting or misstating age or age of another to induce licensee to serve alcoholic beverages to person under 21; penalties.

Section 16: Repeals subsection (3) of s. 562.111, F.S., relating to possession of alcoholic beverages by persons under age 21 prohibited.

Section 17: Amends s. 569.11, F.S., relating to possession, misrepresenting age or military service to purchase, and purchase of tobacco products by persons under 18 years of age prohibited; penalties; jurisdiction; disposition of fines.

Section 18: Amends s. 790.22, F.S., relating to use of BB guns, air or gas-operated guns, or electric weapons or devices by minor under 16; limitation; possession of firearms by minor under 18 prohibited; penalties.

- Section 19:** Amends s. 806.13, F.S., relating to criminal mischief; penalties; penalty for minor.
- Section 20:** Repeals s. 812.0155, F.S., relating to suspension of driver license following an adjudication of guilt for theft.
- Section 21:** Repeals s. 832.09, F.S., relating to suspension of driver license after warrant or capias is issued in worthless check case.
- Section 22:** Amends s. 877.112, F.S., relating to nicotine products and nicotine dispensing devices; prohibitions for minors; penalties; civil fines; signage requirements; preemption.
- Section 23:** Amends s. 938.30, F.S., relating to financial obligations in criminal cases; supplementary proceedings.
- Section 24:** Amends s. 1003.27, F.S., relating to court procedures and penalties.
- Section 25:** Amends s. 318.14, F.S., relating to noncriminal traffic infractions; exception; procedures.
- Section 26:** Amends s. 322.05, F.S., relating to persons not to be licensed.
- Section 27:** Amends s. 322.27, F.S., relating to authority of department to suspend or revoke driver license or identification card.
- Section 28:** Amends s. 1003.01, F.S., relating to definitions.
- Section 29:** Provides for applicability.
- Section 30:** Provides an effective date of October 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference (REC) reviewed this bill on January 12, 2018. REC estimates the removal of suspension penalties for non-driving related offenses will reduce state and local government revenues by \$1.5 million each year for Fiscal Years 2018-2019 through 2022-2023 and will impact the General Revenue Fund, Highway Safety Operating Trust Fund, and local funds. Additionally, REC noted that limiting driver license suspensions as an enforcement tool may limit the clerk of court's ability to collect outstanding fines, fees, and charges, which may result in a higher fiscal impact.⁹⁶

2. Expenditures:

The Clerk of Court Operations Corporation and the Supreme Court may incur some expenses associated with updating and approving the application form for persons seeking indigent status as provided in section 1 of the bill.⁹⁷

⁹⁶ Revenue Estimating Impact Conference, *2018 Analysis of HB 1095*, p. 293 (January 12, 2018) (copy on file with Transportation & Infrastructure Subcommittee).

⁹⁷ Office of the State Courts Administrator, *2018 Judicial Impact Statement SB 1270*, p. 1 (January 16, 2018), available at <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=26771> (last visited January 22, 2018).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

On January 12, 2018, REC estimates the removal of suspension penalties for non-driving related offenses will reduce local government revenues by \$100,000 each year for Fiscal Years 2018-2019 through 2022-2023.⁹⁸

The bill's provisions related to community service, payment plans, and collection agents will have an indeterminate impact on clerks of court revenues. If more individuals opt to participate in community service rather than pay penalties, the bill will reduce revenues to the clerks of court who retain a portion of driver license reinstatement fees, in addition to other fees associated with driver license suspensions and revocations. The REC was unable to quantify the potential reduction in clerk of court revenues due to the community service provisions.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons whose fees are referred to collections may receive a reduction in collections surcharges with the requirement that the collections contract go to the bidder with the lowest surcharge.

The bill will significantly reduce the number of persons having their driver licenses suspended or revoked due to non-driving related reasons.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DHSMV has the authority to adopt by rule new uniform traffic citation forms.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to penalties and fees; amending s.
 3 27.52, F.S.; adding a financial information
 4 requirement for a certain application form; amending
 5 s. 28.246, F.S.; revising requirements relating to the
 6 payment of court-related fines or costs; requiring a
 7 clerk of court to solicit competitive bids from
 8 private attorneys or collection agents for collection
 9 services, subject to certain requirements; prohibiting
 10 certain fees or surcharges; amending s. 316.650, F.S.;
 11 requiring traffic citation forms to include certain
 12 language relating to payment of a penalty; amending s.
 13 318.15, F.S.; prohibiting the suspension of a person's
 14 driver license solely for failure to pay a penalty
 15 under certain circumstances; amending s. 318.18, F.S.;
 16 requiring a court to inquire at the time a certain
 17 civil penalty is ordered whether the person is able to
 18 pay it; amending s. 322.055, F.S.; decreasing the
 19 period for revocation or suspension of, or delay of
 20 eligibility for, driver licenses or driving privileges
 21 for certain persons convicted of certain drug
 22 offenses; deleting provisions authorizing a driver to
 23 petition the Department of Highway Safety and Motor
 24 Vehicles for restoration of his or her driving
 25 privilege; amending s. 322.056, F.S.; decreasing the

26 period for revocation or suspension of, or delay of
 27 eligibility for, driver licenses or driving privileges
 28 for certain persons found guilty of certain drug
 29 offenses; deleting a provision authorizing a court to
 30 direct the department to issue a license for certain
 31 restricted driving privileges under certain
 32 circumstances; deleting requirements relating to the
 33 revocation or suspension of, or delay of eligibility
 34 for, driver licenses or driving privileges for certain
 35 persons found guilty of certain alcohol or tobacco
 36 offenses; repealing s. 322.057, F.S., relating to
 37 discretionary revocation or suspension of a driver
 38 license for certain persons who provide alcohol to
 39 persons under a specified age; amending s. 322.09,
 40 F.S.; conforming provisions to changes made by the
 41 act; repealing s. 322.091, F.S., relating to
 42 attendance requirements for driving privileges;
 43 amending s. 322.245, F.S.; prohibiting the suspension
 44 of a person's driver license solely for failure to pay
 45 a penalty under certain circumstances; repealing s.
 46 322.251(7), F.S., relating to notice of suspension or
 47 revocation of driving privileges, reasons for
 48 reinstatement of such driving privileges, and certain
 49 electronic access to identify a person who is the
 50 subject of an outstanding warrant or capias for

51 passing worthless bank checks; amending s. 322.271,
 52 F.S.; authorizing a person whose driver license or
 53 privilege to drive has been suspended to have his or
 54 her driver license or driving privilege reinstated on
 55 a restricted basis under certain circumstances;
 56 providing the period of validity of such restricted
 57 license; amending s. 322.34, F.S.; revising the
 58 underlying violations resulting in driver license or
 59 driving privilege cancellation, suspension, or
 60 revocation for which specified penalties apply;
 61 amending s. 562.11, F.S.; revising penalties for
 62 selling or serving alcoholic beverages to a person
 63 under a specified age or permitting such person to
 64 consume such beverages on licensed premises; revising
 65 penalties for misrepresentation of age for purchase or
 66 consumption of alcoholic beverages; conforming
 67 provisions to changes made by the act; repealing s.
 68 562.111(3), F.S., relating to withholding issuance of,
 69 or suspending or revoking, a driver license or driving
 70 privilege for possession of alcoholic beverages by
 71 persons under a specified age; amending s. 569.11,
 72 F.S.; revising penalties for persons under a specified
 73 age who knowingly possess, misrepresent their age or
 74 military service to purchase, or purchase or attempt
 75 to purchase tobacco products; authorizing, rather than

76 requiring, the court to direct the department to
 77 withhold issuance of or suspend a person's driver
 78 license or driving privilege for certain violations;
 79 amending s. 790.22, F.S.; revising penalties relating
 80 to suspending, revoking, or withholding issuance of
 81 driver licenses or driving privileges for minors under
 82 a specified age who possess firearms under certain
 83 circumstances; deleting provisions relating to
 84 penalties for certain offenses involving the use or
 85 possession of a firearm by a minor under a specified
 86 age; amending s. 806.13, F.S.; deleting provisions
 87 relating to certain penalties for criminal mischief by
 88 a minor; repealing s. 812.0155, F.S., relating to
 89 suspension of a driver license following an
 90 adjudication of guilt for theft; repealing s. 832.09,
 91 F.S., relating to suspension of a driver license after
 92 a warrant or capias is issued in a worthless check
 93 case; amending s. 877.112, F.S.; revising penalties
 94 for persons under a specified age who knowingly
 95 possess, misrepresent their age or military service to
 96 purchase, or purchase or attempt to purchase any
 97 nicotine product or nicotine dispensing device;
 98 authorizing, rather than requiring, the court to
 99 direct the department to withhold issuance of or
 100 suspend a person's driver license or driving privilege

101 for certain violations; amending s. 938.30, F.S.;

102 authorizing a judge to convert certain financial

103 obligations into court-ordered community service

104 obligations by reliance on specified information under

105 certain circumstances; amending s. 1003.27, F.S.;

106 deleting provisions relating to procedures and

107 penalties for minor students in nonenrollment and

108 nonattendance cases; amending ss. 318.14, 322.05,

109 322.27, and 1003.01, F.S.; conforming provisions to

110 changes made by the act; providing applicability of

111 certain changes made by the act; requiring the

112 department to notify the Division of Law Revision and

113 Information upon the adoption of certain uniform

114 traffic citation forms; providing effective dates.

115

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

117

118 Section 1. Paragraph (a) of subsection (1) of section

119 27.52, Florida Statutes, is amended to read:

120 27.52 Determination of indigent status.—

121 (1) APPLICATION TO THE CLERK.—A person seeking appointment

122 of a public defender under s. 27.51 based upon an inability to

123 pay must apply to the clerk of the court for a determination of

124 indigent status using an application form developed by the

125 Florida Clerks of Court Operations Corporation with final

126 approval by the Supreme Court.

127 (a) The application must include, at a minimum, the
 128 following financial information:

129 1. Net income, consisting of total salary and wages, minus
 130 deductions required by law, including court-ordered support
 131 payments.

132 2. Other income, including, but not limited to, social
 133 security benefits, union funds, veterans' benefits, workers'
 134 compensation, other regular support from absent family members,
 135 public or private employee pensions, reemployment assistance or
 136 unemployment compensation, dividends, interest, rent, trusts,
 137 and gifts.

138 3. Assets, including, but not limited to, cash, savings
 139 accounts, bank accounts, stocks, bonds, certificates of deposit,
 140 equity in real estate, and equity in a boat or a motor vehicle
 141 or in other tangible property.

142 4. All liabilities and debts.

143 5. If applicable, the amount of any bail paid for the
 144 applicant's release from incarceration and the source of the
 145 funds.

146 6. The election or refusal of the option to fulfill any
 147 court-ordered financial obligation associated with the case by
 148 the completion of community service as ordered by the court.

149

150 The application must include a signature by the applicant which

151 attests to the truthfulness of the information provided. The
 152 application form developed by the corporation must include
 153 notice that the applicant may seek court review of a clerk's
 154 determination that the applicant is not indigent, as provided in
 155 this section.

156 Section 2. Subsections (4) and (6) of section 28.246,
 157 Florida Statutes, are amended to read:

158 28.246 Payment of court-related fines or other monetary
 159 penalties, fees, charges, and costs; partial payments;
 160 distribution of funds.-

161 (4) The clerk of the circuit court shall accept partial
 162 payments for court-related fees, service charges, costs, and
 163 fines in accordance with the terms of an established payment
 164 plan. An individual seeking to defer payment of fees, service
 165 charges, costs, or fines imposed by operation of law or order of
 166 the court under any provision of general law shall apply to the
 167 clerk for enrollment in a payment plan. ~~The clerk shall enter~~
 168 ~~into a payment plan with an individual who the court determines~~
 169 ~~is indigent for costs.~~ A monthly payment amount, calculated
 170 based upon all fees and all anticipated costs, may ~~is presumed~~
 171 ~~to correspond to the person's ability to pay if the amount does~~
 172 not exceed 2 percent of the person's annual net income, as
 173 defined in s. 27.52(1), divided by 12, without the person's
 174 consent. The court may review the reasonableness of the payment
 175 plan.

176 (6) (a) A clerk of court shall pursue the collection of any
 177 fees, service charges, fines, court costs, and liens for the
 178 payment of attorney fees and costs pursuant to s. 938.29 which
 179 remain unpaid after 90 days by referring the account to a
 180 private attorney who is a member in good standing of The Florida
 181 Bar or collection agent who is registered and in good standing
 182 pursuant to chapter 559. In pursuing the collection of such
 183 unpaid financial obligations through a private attorney or
 184 collection agent, the clerk of the court must have attempted to
 185 collect the unpaid amount through a collection court,
 186 collections docket, or other collections process, if any,
 187 established by the court, find this to be cost-effective, and
 188 follow any applicable procurement practices.

189 (b) In retaining a private attorney or collection agent as
 190 provided in this subsection, the clerk shall solicit competitive
 191 bids from private attorneys or collection agents. The contract
 192 awarded to the successful bidder may be in effect for no longer
 193 than 3 years, with a maximum of two 1-year extensions.

194 (c) The clerk shall consider all pertinent criteria when
 195 considering bids, including, but not limited to, performance
 196 quality and customer service. The collection fee, ~~including any~~
 197 ~~reasonable attorney's fee,~~ paid to the private ~~any~~ attorney or
 198 collection agent retained by the clerk may be added to the
 199 balance owed in an amount not to exceed 40 percent of the amount
 200 owed at the time the account is referred to the attorney or

201 agent for collection.

202 (d) The clerk may not assess any surcharge to refer the
 203 account to a private attorney or collection agent.

204 (e) The private attorney or collection agent may not
 205 impose any additional fees or surcharges other than the
 206 contractually agreed-upon amounts.

207 (f) The clerk shall give the private attorney or
 208 collection agent the application for the appointment of court-
 209 appointed counsel regardless of whether the court file is
 210 otherwise confidential from disclosure.

211 Section 3. Paragraphs (b), (c), and (d) of subsection (1)
 212 of section 316.650, Florida Statutes, are redesignated as
 213 paragraphs (c), (d), and (e), respectively, a new paragraph (b)
 214 is added to that subsection, and present paragraph (c) of that
 215 subsection is amended, to read:

216 316.650 Traffic citations.—

217 (1)

218 (b) The traffic citation form must include language
 219 indicating that a person may enter into a payment plan with the
 220 clerk of court to pay a penalty. The form must also indicate
 221 that a person ordered to pay a penalty for a noncriminal traffic
 222 infraction and who is unable to comply due to demonstrable
 223 financial hardship will be allowed by the court to satisfy the
 224 payment by participating in community service pursuant to s.
 225 318.18(8)(b).

226 ~~(d)(e)~~ Notwithstanding paragraphs (a) and ~~(c) (b)~~, a
 227 traffic enforcement agency may produce uniform traffic citations
 228 by electronic means. Such citations must be consistent with the
 229 state traffic court rules and the procedures established by the
 230 department and must be appropriately numbered and inventoried.
 231 Affidavit-of-compliance forms may also be produced by electronic
 232 means.

233 Section 4. Subsection (4) is added to section 318.15,
 234 Florida Statutes, to read:

235 318.15 Failure to comply with civil penalty or to appear;
 236 penalty.-

237 (4) Notwithstanding any other law, a person's driver
 238 license may not be suspended solely for failure to pay a penalty
 239 if the person requests a hearing and demonstrates to the court,
 240 after notice of the penalty and before the suspension takes
 241 place, that the person is unable to pay the penalty.

242 Section 5. Paragraph (b) of subsection (8) of section
 243 318.18, Florida Statutes, is amended to read:

244 318.18 Amount of penalties.—The penalties required for a
 245 noncriminal disposition pursuant to s. 318.14 or a criminal
 246 offense listed in s. 318.17 are as follows:

247 (8)

248 (b)1.a. If a person has been ordered to pay a civil
 249 penalty for a noncriminal traffic infraction and the person is
 250 unable to comply with the court's order due to demonstrable

251 financial hardship, the court shall allow the person to satisfy
 252 the civil penalty by participating in community service until
 253 the civil penalty is paid.

254 b. The court shall inquire at the time the civil penalty
 255 is ordered whether the person is able to pay it.

256 ~~c.b.~~ If a court orders a person to perform community
 257 service, the person shall receive credit for the civil penalty
 258 at the specified hourly credit rate per hour of community
 259 service performed, and each hour of community service performed
 260 shall reduce the civil penalty by that amount.

261 2.a. As used in this paragraph, the term "specified hourly
 262 credit rate" means the wage rate that is specified in 29 U.S.C.
 263 s. 206(a)(1) under the federal Fair Labor Standards Act of 1938,
 264 that is then in effect, and that an employer subject to such
 265 provision must pay per hour to each employee subject to such
 266 provision.

267 b. However, if a person ordered to perform community
 268 service has a trade or profession for which there is a community
 269 service need, the specified hourly credit rate for each hour of
 270 community service performed by that person shall be the average
 271 prevailing wage rate for the trade or profession that the
 272 community service agency needs.

273 3.a. The community service agency supervising the person
 274 shall record the number of hours of community service completed
 275 and the date the community service hours were completed. The

276 community service agency shall submit the data to the clerk of
 277 court on the letterhead of the community service agency, which
 278 must also bear the notarized signature of the person designated
 279 to represent the community service agency.

280 b. When the number of community service hours completed by
 281 the person equals the amount of the civil penalty, the clerk of
 282 court shall certify this fact to the court. Thereafter, the
 283 clerk of court shall record in the case file that the civil
 284 penalty has been paid in full.

285 4. As used in this paragraph, the term:

286 a. "Community service" means uncompensated labor for a
 287 community service agency.

288 b. "Community service agency" means a not-for-profit
 289 corporation, community organization, charitable organization,
 290 public officer, the state or any political subdivision of the
 291 state, or any other body the purpose of which is to improve the
 292 quality of life or social welfare of the community and which
 293 agrees to accept community service from persons unable to pay
 294 civil penalties for noncriminal traffic infractions.

295 Section 6. Subsections (1) through (4) of section 322.055,
 296 Florida Statutes, are amended to read:

297 322.055 Revocation or suspension of, or delay of
 298 eligibility for, driver license for persons 18 years of age or
 299 older convicted of certain drug offenses.—

300 (1) Notwithstanding s. 322.28, upon the conviction of a

301 person 18 years of age or older for possession or sale of,
 302 trafficking in, or conspiracy to possess, sell, or traffic in a
 303 controlled substance, the court shall direct the department to
 304 revoke the driver license or driving privilege of the person.
 305 The period of such revocation shall be 6 months ~~1 year~~ or until
 306 the person is evaluated for and, if deemed necessary by the
 307 evaluating agency, completes a drug treatment and rehabilitation
 308 program approved or regulated by the Department of Children and
 309 Families. However, the court may, in its sound discretion,
 310 direct the department to issue a license for driving privilege
 311 restricted to business or employment purposes only, as defined
 312 by s. 322.271, if the person is otherwise qualified for such a
 313 license. ~~A driver whose license or driving privilege has been~~
 314 ~~suspended or revoked under this section or s. 322.056 may, upon~~
 315 ~~the expiration of 6 months, petition the department for~~
 316 ~~restoration of the driving privilege on a restricted or~~
 317 ~~unrestricted basis depending on length of suspension or~~
 318 ~~revocation. In no case shall~~ A restricted license may not be
 319 available until 6 months of the ~~suspension or~~ revocation period
 320 has been completed ~~expired~~.

321 (2) If a person 18 years of age or older is convicted for
 322 the possession or sale of, trafficking in, or conspiracy to
 323 possess, sell, or traffic in a controlled substance and such
 324 person is eligible by reason of age for a driver license or
 325 privilege, the court shall direct the department to withhold

326 issuance of such person's driver license or driving privilege
 327 for a period of 6 months ~~1 year~~ after the date the person was
 328 convicted or until the person is evaluated for and, if deemed
 329 necessary by the evaluating agency, completes a drug treatment
 330 and rehabilitation program approved or regulated by the
 331 Department of Children and Families. However, the court may, in
 332 its sound discretion, direct the department to issue a license
 333 for driving privilege restricted to business or employment
 334 purposes only, as defined by s. 322.271, if the person is
 335 otherwise qualified for such a license. ~~A driver whose license~~
 336 ~~or driving privilege has been suspended or revoked under this~~
 337 ~~section or s. 322.056 may, upon the expiration of 6 months,~~
 338 ~~petition the department for restoration of the driving privilege~~
 339 ~~on a restricted or unrestricted basis depending on the length of~~
 340 ~~suspension or revocation. In no case shall~~ A restricted license
 341 may not be available until 6 months of the withholding
 342 ~~suspension or revocation~~ period has been completed ~~expired~~.

343 (3) If a person 18 years of age or older is convicted for
 344 the possession or sale of, trafficking in, or conspiracy to
 345 possess, sell, or traffic in a controlled substance and such
 346 person's driver license or driving privilege is already under
 347 suspension or revocation for any reason, the court shall direct
 348 the department to extend the period of such suspension or
 349 revocation by an additional period of 6 months ~~1 year~~ or until
 350 the person is evaluated for and, if deemed necessary by the

351 evaluating agency, completes a drug treatment and rehabilitation
 352 program approved or regulated by the Department of Children and
 353 Families. However, the court may, in its sound discretion,
 354 direct the department to issue a license for driving privilege
 355 restricted to business or employment purposes only, as defined
 356 by s. 322.271, if the person is otherwise qualified for such a
 357 license. ~~A driver whose license or driving privilege has been~~
 358 ~~suspended or revoked under this section or s. 322.056 may, upon~~
 359 ~~the expiration of 6 months, petition the department for~~
 360 ~~restoration of the driving privilege on a restricted or~~
 361 ~~unrestricted basis depending on the length of suspension or~~
 362 ~~revocation. In no case shall~~ A restricted license may not be
 363 available until 6 months of the suspension or revocation period
 364 has been completed ~~expired~~.

365 (4) If a person 18 years of age or older is convicted for
 366 the possession or sale of, trafficking in, or conspiracy to
 367 possess, sell, or traffic in a controlled substance and such
 368 person is ineligible by reason of age for a driver license or
 369 driving privilege, the court shall direct the department to
 370 withhold issuance of such person's driver license or driving
 371 privilege for a period of 6 months ~~1 year~~ after the date that he
 372 or she would otherwise have become eligible or until he or she
 373 becomes eligible by reason of age for a driver license and is
 374 evaluated for and, if deemed necessary by the evaluating agency,
 375 completes a drug treatment and rehabilitation program approved

376 or regulated by the Department of Children and Families.
 377 However, the court may, in its sound discretion, direct the
 378 department to issue a license for driving privilege restricted
 379 to business or employment purposes only, as defined by s.
 380 322.271, if the person is otherwise qualified for such a
 381 license. ~~A driver whose license or driving privilege has been~~
 382 ~~suspended or revoked under this section or s. 322.056 may, upon~~
 383 ~~the expiration of 6 months, petition the department for~~
 384 ~~restoration of the driving privilege on a restricted or~~
 385 ~~unrestricted basis depending on the length of suspension or~~
 386 ~~revocation. In no case shall~~ A restricted license may not be
 387 available until 6 months of the withholding ~~suspension or~~
 388 ~~revocation~~ period has been completed ~~expired~~.

389 Section 7. Section 322.056, Florida Statutes, is amended
 390 to read:

391 322.056 Mandatory revocation or suspension of, or delay of
 392 eligibility for, driver license for persons under age 18 found
 393 guilty of ~~certain alcohol, drug, or tobacco~~ offenses;
 394 prohibition.-

395 (1) Notwithstanding ~~the provisions of~~ s. 322.055, if a
 396 person under 18 years of age is found guilty of or delinquent
 397 for a violation of ~~s. 562.11(2), s. 562.111, or~~ chapter 893,
 398 and:

399 (a) The person is eligible by reason of age for a driver
 400 license or driving privilege, the court shall direct the

401 department to revoke or to withhold issuance of his or her
 402 driver license or driving privilege for a period of 6 months+

403 ~~1. Not less than 6 months and not more than 1 year for the~~
 404 ~~first violation.~~

405 ~~2. Two years, for a subsequent violation.~~

406 (b) The person's driver license or driving privilege is
 407 under suspension or revocation for any reason, the court shall
 408 direct the department to extend the period of suspension or
 409 revocation by an additional period of 6 months+

410 ~~1. Not less than 6 months and not more than 1 year for the~~
 411 ~~first violation.~~

412 ~~2. Two years, for a subsequent violation.~~

413 (c) The person is ineligible by reason of age for a driver
 414 license or driving privilege, the court shall direct the
 415 department to withhold issuance of his or her driver license or
 416 driving privilege for a period of+

417 ~~1. Not less than 6 months and not more than 1 year after~~
 418 ~~the date on which he or she would otherwise have become~~
 419 ~~eligible, for the first violation.~~

420 ~~2. Two years after the date on which he or she would~~
 421 ~~otherwise have become eligible, for a subsequent violation.~~

422
 423 ~~However, the court may, in its sound discretion, direct the~~
 424 ~~department to issue a license for driving privileges restricted~~
 425 ~~to business or employment purposes only, as defined in s.~~

426 ~~322.271, if the person is otherwise qualified for such a~~
 427 ~~license.~~

428 ~~(2) If a person under 18 years of age is found by the~~
 429 ~~court to have committed a noncriminal violation under s. 569.11~~
 430 ~~or s. 877.112(6) or (7) and that person has failed to comply~~
 431 ~~with the procedures established in that section by failing to~~
 432 ~~fulfill community service requirements, failing to pay the~~
 433 ~~applicable fine, or failing to attend a locally available~~
 434 ~~school-approved anti-tobacco program, and:~~

435 ~~(a) The person is eligible by reason of age for a driver~~
 436 ~~license or driving privilege, the court shall direct the~~
 437 ~~department to revoke or to withhold issuance of his or her~~
 438 ~~driver license or driving privilege as follows:~~

- 439 ~~1. For the first violation, for 30 days.~~
- 440 ~~2. For the second violation within 12 weeks of the first~~
 441 ~~violation, for 45 days.~~

442 ~~(b) The person's driver license or driving privilege is~~
 443 ~~under suspension or revocation for any reason, the court shall~~
 444 ~~direct the department to extend the period of suspension or~~
 445 ~~revocation by an additional period as follows:~~

- 446 ~~1. For the first violation, for 30 days.~~
- 447 ~~2. For the second violation within 12 weeks of the first~~
 448 ~~violation, for 45 days.~~

449 ~~(c) The person is ineligible by reason of age for a driver~~
 450 ~~license or driving privilege, the court shall direct the~~

451 ~~department to withhold issuance of his or her driver license or~~
 452 ~~driving privilege as follows:~~

453 ~~1. For the first violation, for 30 days.~~

454 ~~2. For the second violation within 12 weeks of the first~~
 455 ~~violation, for 45 days.~~

456
 457 ~~Any second violation of s. 569.11 or s. 877.112(6) or (7) not~~
 458 ~~within the 12 week period after the first violation will be~~
 459 ~~treated as a first violation and in the same manner as provided~~
 460 ~~in this subsection.~~

461 ~~(3) If a person under 18 years of age is found by the~~
 462 ~~court to have committed a third violation of s. 569.11 or s.~~
 463 ~~877.112(6) or (7) within 12 weeks of the first violation, the~~
 464 ~~court must direct the Department of Highway Safety and Motor~~
 465 ~~Vehicles to suspend or withhold issuance of his or her driver~~
 466 ~~license or driving privilege for 60 consecutive days. Any third~~
 467 ~~violation of s. 569.11 or s. 877.112(6) or (7) not within the~~
 468 ~~12-week period after the first violation will be treated as a~~
 469 ~~first violation and in the same manner as provided in subsection~~
 470 ~~(2).~~

471 (2)(4) A penalty imposed under this section shall be in
 472 addition to any other penalty imposed by law.

473 ~~(5) The suspension or revocation of a person's driver~~
 474 ~~license imposed pursuant to subsection (2) or subsection (3),~~
 475 ~~shall not result in or be cause for an increase of the convicted~~

476 ~~person's, or his or her parent's or legal guardian's, automobile~~
 477 ~~insurance rate or premium or result in points assessed against~~
 478 ~~the person's driving record.~~

479 Section 8. Section 322.057, Florida Statutes, is repealed.

480 Section 9. Subsections (4) and (5) of section 322.09,
 481 Florida Statutes, are renumbered as subsections (3) and (4),
 482 respectively, and present subsection (3) of that section is
 483 amended to read:

484 322.09 Application of minors; responsibility for
 485 negligence or misconduct of minor.-

486 ~~(3) The department may not issue a driver license or~~
 487 ~~learner's driver license to any applicant under the age of 18~~
 488 ~~years who is not in compliance with the requirements of s.~~
 489 ~~322.091.~~

490 Section 10. Section 322.091, Florida Statutes, is
 491 repealed.

492 Section 11. Subsection (6) is added to section 322.245,
 493 Florida Statutes, to read:

494 322.245 Suspension of license upon failure of person
 495 charged with specified offense under chapter 316, chapter 320,
 496 or this chapter to comply with directives ordered by traffic
 497 court or upon failure to pay child support in non-IV-D cases as
 498 provided in chapter 61 or failure to pay any financial
 499 obligation in any other criminal case.-

500 (6) Notwithstanding any other law, a person's driver

501 license may not be suspended solely for failure to pay a penalty
 502 if the person requests a hearing and demonstrates to the court,
 503 after notice of the penalty and before the suspension takes
 504 place, that the person is unable to pay the penalty.

505 Section 12. Subsection (7) of section 322.251, Florida
 506 Statutes, is repealed.

507 Section 13. Subsection (8) is added to section 322.271,
 508 Florida Statutes, to read:

509 322.271 Authority to modify revocation, cancellation, or
 510 suspension order.—

511 (8) A person whose driver license or privilege to drive
 512 has been suspended under s. 318.15 or s. 322.245, with the
 513 exception of any suspension related to s. 61.13016, may have his
 514 or her driver license or driving privilege reinstated on a
 515 restricted basis by the department in accordance with this
 516 section. The restricted license is valid until the 7-year
 517 suspension period provided in s. 318.15 expires or until the
 518 debt is paid.

519 Section 14. Subsection (10) of section 322.34, Florida
 520 Statutes, is amended to read:

521 322.34 Driving while license suspended, revoked, canceled,
 522 or disqualified.—

523 (10)(a) Notwithstanding any other provision of this
 524 section, if a person does not have a prior forcible felony
 525 conviction as defined in s. 776.08, the penalties provided in

526 paragraph (b) apply if a person's driver license or driving
 527 privilege is canceled, suspended, or revoked for:

528 1. Failing to pay child support as provided in s. 322.245
 529 or s. 61.13016;

530 2. Failing to pay any other financial obligation as
 531 provided in s. 322.245 ~~other than those specified in s.~~
 532 ~~322.245(1);~~

533 3. Failing to comply with a civil penalty required in s.
 534 318.15;

535 4. Failing to maintain vehicular financial responsibility
 536 as required by chapter 324; or

537 ~~5. Failing to comply with attendance or other requirements~~
 538 ~~for minors as set forth in s. 322.091; or~~

539 ~~5.6.~~ Having been designated a habitual traffic offender
 540 under s. 322.264(1)(d) as a result of suspensions of his or her
 541 driver license or driver privilege for any underlying violation
 542 listed in subparagraphs 1.-4. ~~1.-5.~~

543 (b)1. Upon a first conviction for knowingly driving while
 544 his or her license is suspended, revoked, or canceled for any of
 545 the underlying violations listed in subparagraphs (a)1.-5.
 546 ~~(a)1.-6.~~, a person commits a misdemeanor of the second degree,
 547 punishable as provided in s. 775.082 or s. 775.083.

548 2. Upon a second or subsequent conviction for the same
 549 offense of knowingly driving while his or her license is
 550 suspended, revoked, or canceled for any of the underlying

551 violations listed in subparagraphs (a)1.-5. ~~(a)1.-6.~~, a person
 552 commits a misdemeanor of the first degree, punishable as
 553 provided in s. 775.082 or s. 775.083.

554 Section 15. Paragraph (a) of subsection (1) and paragraph
 555 (c) of subsection (2) of section 562.11, Florida Statutes, are
 556 amended to read:

557 562.11 Selling, giving, or serving alcoholic beverages to
 558 person under age 21; providing a proper name; misrepresenting or
 559 misstating age or age of another to induce licensee to serve
 560 alcoholic beverages to person under 21; penalties.-

561 (1) ~~(a)1.-~~ A person may not sell, give, serve, or permit to
 562 be served alcoholic beverages to a person under 21 years of age
 563 or permit a person under 21 years of age to consume such
 564 beverages on the licensed premises. A person who violates this
 565 paragraph ~~subparagraph~~ commits a misdemeanor of the second
 566 degree, punishable as provided in s. 775.082 or s. 775.083. A
 567 person who violates this paragraph ~~subparagraph~~ a second or
 568 subsequent time within 1 year after a prior conviction commits a
 569 misdemeanor of the first degree, punishable as provided in s.
 570 775.082 or s. 775.083.

571 ~~2. In addition to any other penalty imposed for a~~
 572 ~~violation of subparagraph 1., the court may order the Department~~
 573 ~~of Highway Safety and Motor Vehicles to withhold the issuance~~
 574 ~~of, or suspend or revoke, the driver license or driving~~
 575 ~~privilege, as provided in s. 322.057, of any person who violates~~

576 ~~subparagraph 1. This subparagraph does not apply to a licensee,~~
 577 ~~as defined in s. 561.01, who violates subparagraph 1. while~~
 578 ~~acting within the scope of his or her license or an employee or~~
 579 ~~agent of a licensee, as defined in s. 561.01, who violates~~
 580 ~~subparagraph 1. while engaged within the scope of his or her~~
 581 ~~employment or agency.~~

582 ~~3. A court that withholds the issuance of, or suspends or~~
 583 ~~revokes, the driver license or driving privilege of a person~~
 584 ~~pursuant to subparagraph 2. may direct the Department of Highway~~
 585 ~~Safety and Motor Vehicles to issue the person a license for~~
 586 ~~driving privilege restricted to business purposes only, as~~
 587 ~~defined in s. 322.271, if he or she is otherwise qualified.~~

588 (2) It is unlawful for any person to misrepresent or
 589 misstate his or her age or the age of any other person for the
 590 purpose of inducing any licensee or his or her agents or
 591 employees to sell, give, serve, or deliver any alcoholic
 592 beverages to a person under 21 years of age, or for any person
 593 under 21 years of age to purchase or attempt to purchase
 594 alcoholic beverages.

595 (c) In addition to any other penalty imposed for a
 596 violation of this subsection, if a person uses a driver license
 597 or identification card issued by the Department of Highway
 598 Safety and Motor Vehicles in violation of this subsection, the
 599 court+

600 ~~+~~ may order the person to participate in public service

601 or a community work project for a period not to exceed 40 hours,
 602 and

603 ~~2. Shall direct the Department of Highway Safety and Motor~~
 604 ~~Vehicles to withhold issuance of, or suspend or revoke, the~~
 605 ~~person's driver license or driving privilege, as provided in s.~~
 606 ~~322.056.~~

607 Section 16. Subsection (3) of section 562.111, Florida
 608 Statutes, is repealed.

609 Section 17. Subsections (1), (2), and (5) of section
 610 569.11, Florida Statutes, are amended to read:

611 569.11 Possession, misrepresenting age or military service
 612 to purchase, and purchase of tobacco products by persons under
 613 18 years of age prohibited; penalties; jurisdiction; disposition
 614 of fines.-

615 (1) A ~~It is unlawful for any~~ person under 18 years of age
 616 may not ~~to~~ knowingly possess any tobacco product. A ~~Any~~ person
 617 under 18 years of age who violates ~~the provisions of~~ this
 618 subsection commits a noncriminal violation as provided in s.
 619 775.08(3), punishable by:

620 (a) For a first violation, 16 hours of community service
 621 or, instead of community service, a \$25 fine. In addition, the
 622 person must attend a school-approved anti-tobacco program, if
 623 locally available; or

624 (b) For a second or subsequent violation within 12 weeks
 625 after ~~of~~ the first violation, a \$25 fine, ~~or~~

626 ~~(c) For a third or subsequent violation within 12 weeks of~~
 627 ~~the first violation, the court must direct the Department of~~
 628 ~~Highway Safety and Motor Vehicles to withhold issuance of or~~
 629 ~~suspend or revoke the person's driver license or driving~~
 630 ~~privilege, as provided in s. 322.056.~~

631
 632 A ~~Any~~ second or subsequent violation not within 12 weeks ~~the 12-~~
 633 ~~week time period~~ after the first violation is punishable as
 634 provided for a first violation.

635 (2) A ~~It is unlawful for any person under 18 years of age~~
 636 may not ~~to~~ misrepresent his or her age or military service for
 637 the purpose of inducing a dealer or an agent or employee of the
 638 dealer to sell, give, barter, furnish, or deliver any tobacco
 639 product, or ~~to~~ purchase, or attempt to purchase, any tobacco
 640 product from a person or a vending machine. A ~~Any~~ person under
 641 18 years of age who violates ~~a provision of~~ this subsection
 642 commits a noncriminal violation as provided in s. 775.08(3),
 643 punishable by:

644 (a) For a first violation, 16 hours of community service
 645 or, instead of community service, a \$25 fine. and, In addition,
 646 the person must attend a school-approved anti-tobacco program,
 647 if locally available; or

648 (b) For a second or subsequent violation within 12 weeks
 649 after ~~of~~ the first violation, a \$25 fine, ~~or~~

650 ~~(c) For a third or subsequent violation within 12 weeks of~~

651 ~~the first violation, the court must direct the Department of~~
 652 ~~Highway Safety and Motor Vehicles to withhold issuance of or~~
 653 ~~suspend or revoke the person's driver license or driving~~
 654 ~~privilege, as provided in s. 322.056.~~

655
 656 A ~~Any~~ second or subsequent violation not within 12 weeks ~~the 12-~~
 657 ~~week time period~~ after the first violation is punishable as
 658 provided for a first violation.

659 (5) (a) If a person under 18 years of age is found by the
 660 court to have committed a noncriminal violation under this
 661 section and that person has failed to complete community
 662 service, pay the fine as required by paragraph (1) (a) or
 663 paragraph (2) (a), or attend a school-approved anti-tobacco
 664 program, if locally available, the court may ~~must~~ direct the
 665 Department of Highway Safety and Motor Vehicles to withhold
 666 issuance of or suspend the driver license or driving privilege
 667 of that person for ~~a period of~~ 30 consecutive days.

668 (b) If a person under 18 years of age is found by the
 669 court to have committed a noncriminal violation under this
 670 section and that person has failed to pay the applicable fine as
 671 required by paragraph (1) (b) or paragraph (2) (b), the court may
 672 ~~must~~ direct the Department of Highway Safety and Motor Vehicles
 673 to withhold issuance of or suspend the driver license or driving
 674 privilege of that person for ~~a period of~~ 45 consecutive days.

675 Section 18. Subsections (5) and (10) of section 790.22,

676 Florida Statutes, are amended to read:

677 790.22 Use of BB guns, air or gas-operated guns, or
 678 electric weapons or devices by minor under 16; limitation;
 679 possession of firearms by minor under 18 prohibited; penalties.-

680 (5) ~~(a)~~ A minor who violates subsection (3):

681 (a) For a first offense, commits a misdemeanor of the
 682 first degree; ~~for a first offense,~~ may serve a period of
 683 detention of up to 3 days in a secure detention facility, + and,
 684 in addition to any other penalty provided by law, shall be
 685 required to perform 100 hours of community service; ~~and:~~

686 ~~1. If the minor is eligible by reason of age for a driver~~
 687 ~~license or driving privilege, the court shall direct the~~
 688 ~~Department of Highway Safety and Motor Vehicles to revoke or to~~
 689 ~~withhold issuance of the minor's driver license or driving~~
 690 ~~privilege for up to 1 year.~~

691 ~~2. If the minor's driver license or driving privilege is~~
 692 ~~under suspension or revocation for any reason, the court shall~~
 693 ~~direct the Department of Highway Safety and Motor Vehicles to~~
 694 ~~extend the period of suspension or revocation by an additional~~
 695 ~~period of up to 1 year.~~

696 ~~3. If the minor is ineligible by reason of age for a~~
 697 ~~driver license or driving privilege, the court shall direct the~~
 698 ~~Department of Highway Safety and Motor Vehicles to withhold~~
 699 ~~issuance of the minor's driver license or driving privilege for~~
 700 ~~up to 1 year after the date on which the minor would otherwise~~

701 ~~have become eligible.~~

702 (b) For a second or subsequent offense, ~~a minor who~~
 703 ~~violates subsection (3)~~ commits a felony of the third degree,
 704 ~~and~~ shall serve a period of detention of up to 15 days in a
 705 secure detention facility, and shall be required to perform not
 706 less than 100 or ~~nor~~ more than 250 hours of community service,
 707 ~~and:~~

708 ~~1. If the minor is eligible by reason of age for a driver~~
 709 ~~license or driving privilege, the court shall direct the~~
 710 ~~Department of Highway Safety and Motor Vehicles to revoke or to~~
 711 ~~withhold issuance of the minor's driver license or driving~~
 712 ~~privilege for up to 2 years.~~

713 ~~2. If the minor's driver license or driving privilege is~~
 714 ~~under suspension or revocation for any reason, the court shall~~
 715 ~~direct the Department of Highway Safety and Motor Vehicles to~~
 716 ~~extend the period of suspension or revocation by an additional~~
 717 ~~period of up to 2 years.~~

718 ~~3. If the minor is ineligible by reason of age for a~~
 719 ~~driver license or driving privilege, the court shall direct the~~
 720 ~~Department of Highway Safety and Motor Vehicles to withhold~~
 721 ~~issuance of the minor's driver license or driving privilege for~~
 722 ~~up to 2 years after the date on which the minor would otherwise~~
 723 ~~have become eligible.~~

724

725 For the purposes of this subsection, community service shall be

726 performed, if possible, in a manner involving a hospital
 727 emergency room or other medical environment that deals on a
 728 regular basis with trauma patients and gunshot wounds.

729 ~~(10) If a minor is found to have committed an offense~~
 730 ~~under subsection (9), the court shall impose the following~~
 731 ~~penalties in addition to any penalty imposed under paragraph~~
 732 ~~(9)(a) or paragraph (9)(b):~~

733 ~~(a) For a first offense:~~

734 ~~1. If the minor is eligible by reason of age for a driver~~
 735 ~~license or driving privilege, the court shall direct the~~
 736 ~~Department of Highway Safety and Motor Vehicles to revoke or to~~
 737 ~~withhold issuance of the minor's driver license or driving~~
 738 ~~privilege for up to 1 year.~~

739 ~~2. If the minor's driver license or driving privilege is~~
 740 ~~under suspension or revocation for any reason, the court shall~~
 741 ~~direct the Department of Highway Safety and Motor Vehicles to~~
 742 ~~extend the period of suspension or revocation by an additional~~
 743 ~~period for up to 1 year.~~

744 ~~3. If the minor is ineligible by reason of age for a~~
 745 ~~driver license or driving privilege, the court shall direct the~~
 746 ~~Department of Highway Safety and Motor Vehicles to withhold~~
 747 ~~issuance of the minor's driver license or driving privilege for~~
 748 ~~up to 1 year after the date on which the minor would otherwise~~
 749 ~~have become eligible.~~

750 ~~(b) For a second or subsequent offense:~~

751 ~~1. If the minor is eligible by reason of age for a driver~~
 752 ~~license or driving privilege, the court shall direct the~~
 753 ~~Department of Highway Safety and Motor Vehicles to revoke or to~~
 754 ~~withhold issuance of the minor's driver license or driving~~
 755 ~~privilege for up to 2 years.~~

756 ~~2. If the minor's driver license or driving privilege is~~
 757 ~~under suspension or revocation for any reason, the court shall~~
 758 ~~direct the Department of Highway Safety and Motor Vehicles to~~
 759 ~~extend the period of suspension or revocation by an additional~~
 760 ~~period for up to 2 years.~~

761 ~~3. If the minor is ineligible by reason of age for a~~
 762 ~~driver license or driving privilege, the court shall direct the~~
 763 ~~Department of Highway Safety and Motor Vehicles to withhold~~
 764 ~~issuance of the minor's driver license or driving privilege for~~
 765 ~~up to 2 years after the date on which the minor would otherwise~~
 766 ~~have become eligible.~~

767 Section 19. Subsection (9) of section 806.13, Florida
 768 Statutes, is renumbered as subsection (7), and present
 769 subsections (7) and (8) of that section are amended to read:

770 806.13 Criminal mischief; penalties; penalty for minor.—

771 ~~(7) In addition to any other penalty provided by law, if a~~
 772 ~~minor is found to have committed a delinquent act under this~~
 773 ~~section for placing graffiti on any public property or private~~
 774 ~~property, and:~~

775 ~~(a) The minor is eligible by reason of age for a driver~~

776 ~~license or driving privilege, the court shall direct the~~
 777 ~~Department of Highway Safety and Motor Vehicles to revoke or~~
 778 ~~withhold issuance of the minor's driver license or driving~~
 779 ~~privilege for not more than 1 year.~~

780 ~~(b) The minor's driver license or driving privilege is~~
 781 ~~under suspension or revocation for any reason, the court shall~~
 782 ~~direct the Department of Highway Safety and Motor Vehicles to~~
 783 ~~extend the period of suspension or revocation by an additional~~
 784 ~~period of not more than 1 year.~~

785 ~~(c) The minor is ineligible by reason of age for a driver~~
 786 ~~license or driving privilege, the court shall direct the~~
 787 ~~Department of Highway Safety and Motor Vehicles to withhold~~
 788 ~~issuance of the minor's driver license or driving privilege for~~
 789 ~~not more than 1 year after the date on which he or she would~~
 790 ~~otherwise have become eligible.~~

791 ~~(8) A minor whose driver license or driving privilege is~~
 792 ~~revoked, suspended, or withheld under subsection (7) may elect~~
 793 ~~to reduce the period of revocation, suspension, or withholding~~
 794 ~~by performing community service at the rate of 1 day for each~~
 795 ~~hour of community service performed. In addition, if the court~~
 796 ~~determines that due to a family hardship, the minor's driver~~
 797 ~~license or driving privilege is necessary for employment or~~
 798 ~~medical purposes of the minor or a member of the minor's family,~~
 799 ~~the court shall order the minor to perform community service and~~
 800 ~~reduce the period of revocation, suspension, or withholding at~~

801 ~~the rate of 1 day for each hour of community service performed.~~
 802 ~~As used in this subsection, the term "community service" means~~
 803 ~~cleaning graffiti from public property.~~

804 Section 20. Section 812.0155, Florida Statutes, is
 805 repealed.

806 Section 21. Section 832.09, Florida Statutes, is repealed.

807 Section 22. Subsections (6) and (7) and paragraphs (c) and
 808 (d) of subsection (8) of section 877.112, Florida Statutes, are
 809 amended to read:

810 877.112 Nicotine products and nicotine dispensing devices;
 811 prohibitions for minors; penalties; civil fines; signage
 812 requirements; preemption.—

813 (6) PROHIBITIONS ON POSSESSION OF NICOTINE PRODUCTS OR
 814 NICOTINE DISPENSING DEVICES BY MINORS.—~~A It is unlawful for any~~
 815 ~~person under 18 years of age may not~~ ~~to~~ knowingly possess any
 816 nicotine product or a nicotine dispensing device. A ~~Any~~ person
 817 under 18 years of age who violates this subsection commits a
 818 noncriminal violation as defined in s. 775.08(3), punishable by:

819 (a) For a first violation, 16 hours of community service
 820 or, instead of community service, a \$25 fine. In addition, the
 821 person must attend a school-approved anti-tobacco and nicotine
 822 program, if locally available; or

823 (b) For a second or subsequent violation within 12 weeks
 824 after ~~of~~ the first violation, a \$25 fine; ~~or~~

825 ~~(c) For a third or subsequent violation within 12 weeks of~~

826 ~~the first violation, the court must direct the Department of~~
 827 ~~Highway Safety and Motor Vehicles to withhold issuance of or~~
 828 ~~suspend or revoke the person's driver license or driving~~
 829 ~~privilege, as provided in s. 322.056.~~

830
 831 A ~~Any~~ second or subsequent violation not within 12 weeks ~~the 12-~~
 832 ~~week time period~~ after the first violation is punishable as
 833 provided for a first violation.

834 (7) PROHIBITION ON MISREPRESENTING AGE. ~~A~~ ~~It is unlawful~~
 835 ~~for any~~ person under 18 years of age may not ~~to~~ misrepresent his
 836 or her age or military service for the purpose of inducing a
 837 retailer of nicotine products or nicotine dispensing devices or
 838 an agent or employee of such retailer to sell, give, barter,
 839 furnish, or deliver any nicotine product or nicotine dispensing
 840 device, or ~~to~~ purchase, or attempt to purchase, any nicotine
 841 product or nicotine dispensing device from a person or a vending
 842 machine. A ~~Any~~ person under 18 years of age who violates this
 843 subsection commits a noncriminal violation as defined in s.
 844 775.08(3), punishable by:

845 (a) For a first violation, 16 hours of community service
 846 or, instead of community service, a \$25 fine. ~~and,~~ In addition,
 847 the person must attend a school-approved anti-tobacco and
 848 nicotine program, if locally available; or

849 (b) For a second or subsequent violation within 12 weeks
 850 of the first violation, a \$25 fine, ~~or~~

851 ~~(c) For a third or subsequent violation within 12 weeks of~~
 852 ~~the first violation, the court must direct the Department of~~
 853 ~~Highway Safety and Motor Vehicles to withhold issuance of or~~
 854 ~~suspend or revoke the person's driver license or driving~~
 855 ~~privilege, as provided in s. 322.056.~~

856
 857 A ~~Any~~ second or subsequent violation not within 12 weeks ~~the 12-~~
 858 ~~week time period~~ after the first violation is punishable as
 859 provided for a first violation.

860 (8) PENALTIES FOR MINORS.—

861 (c) If a person under 18 years of age is found by the
 862 court to have committed a noncriminal violation under this
 863 section and that person has failed to complete community
 864 service, pay the fine as required by paragraph (6)(a) or
 865 paragraph (7)(a), or attend a school-approved anti-tobacco and
 866 nicotine program, if locally available, the court may ~~must~~
 867 direct the Department of Highway Safety and Motor Vehicles to
 868 withhold issuance of or suspend the driver license or driving
 869 privilege of that person for 30 consecutive days.

870 (d) If a person under 18 years of age is found by the
 871 court to have committed a noncriminal violation under this
 872 section and that person has failed to pay the applicable fine as
 873 required by paragraph (6)(b) or paragraph (7)(b), the court may
 874 ~~must~~ direct the Department of Highway Safety and Motor Vehicles
 875 to withhold issuance of or suspend the driver license or driving

876 | privilege of that person for 45 consecutive days.

877 | Section 23. Subsection (2) of section 938.30, Florida
878 | Statutes, is amended to read:

879 | 938.30 Financial obligations in criminal cases;
880 | supplementary proceedings.—

881 | (2) The court may require a person liable for payment of
882 | an obligation to appear and be examined under oath concerning
883 | the person's financial ability to pay the obligation. The judge
884 | may convert the statutory financial obligation into a court-
885 | ordered obligation to perform community service, subject to ~~the~~
886 | ~~provisions of~~ s. 318.18(8), after examining a person under oath
887 | and determining the person's inability to pay, or by relying
888 | upon information provided under s. 27.52(1)(a)6. ~~A~~ Any person
889 | who fails to attend a hearing may be arrested on warrant or
890 | capias issued by the clerk upon order of the court.

891 | Section 24. Subsection (2) of section 1003.27, Florida
892 | Statutes, is amended to read:

893 | 1003.27 Court procedure and penalties.—The court procedure
894 | and penalties for the enforcement of the provisions of this
895 | part, relating to compulsory school attendance, shall be as
896 | follows:

897 | (2) NONENROLLMENT AND NONATTENDANCE CASES.—

898 | ~~(a)~~ In each case of nonenrollment or of nonattendance upon
899 | the part of a student who is required to attend some school,
900 | when no valid reason for such nonenrollment or nonattendance is

901 found, the district school superintendent shall institute a
 902 criminal prosecution against the student's parent.

903 ~~(b) Each public school principal or the principal's~~
 904 ~~designee shall notify the district school board of each minor~~
 905 ~~student under its jurisdiction who accumulates 15 unexcused~~
 906 ~~absences in a period of 90 calendar days. Each designee of the~~
 907 ~~governing body of each private school, and each parent whose~~
 908 ~~child is enrolled in a home education program, may provide the~~
 909 ~~Department of Highway Safety and Motor Vehicles with the legal~~
 910 ~~name, sex, date of birth, and social security number of each~~
 911 ~~minor student under his or her jurisdiction who fails to satisfy~~
 912 ~~relevant attendance requirements and who fails to otherwise~~
 913 ~~satisfy the requirements of s. 322.091. The district school~~
 914 ~~superintendent must provide the Department of Highway Safety and~~
 915 ~~Motor Vehicles the legal name, sex, date of birth, and social~~
 916 ~~security number of each minor student who has been reported~~
 917 ~~under this paragraph and who fails to otherwise satisfy the~~
 918 ~~requirements of s. 322.091. The Department of Highway Safety and~~
 919 ~~Motor Vehicles may not issue a driver license or learner's~~
 920 ~~driver license to, and shall suspend any previously issued~~
 921 ~~driver license or learner's driver license of, any such minor~~
 922 ~~student, pursuant to the provisions of s. 322.091.~~

923 Section 25. Paragraph (a) of subsection (10) of section
 924 318.14, Florida Statutes, is amended to read:

925 318.14 Noncriminal traffic infractions; exception;

926 | procedures.—

927 | (10) (a) Any person who does not hold a commercial driver
 928 | license or commercial learner's permit and who is cited while
 929 | driving a noncommercial motor vehicle for an offense listed
 930 | under this subsection may, in lieu of payment of fine or court
 931 | appearance, elect to enter a plea of nolo contendere and provide
 932 | proof of compliance to the clerk of the court, designated
 933 | official, or authorized operator of a traffic violations bureau.
 934 | In such case, adjudication shall be withheld; however, a person
 935 | may not make an election under this subsection if the person has
 936 | made an election under this subsection in the preceding 12
 937 | months. A person may not make more than three elections under
 938 | this subsection. This subsection applies to the following
 939 | offenses:

940 | 1. Operating a motor vehicle without a valid driver
 941 | license in violation of s. 322.03, s. 322.065, or s. 322.15(1),
 942 | or operating a motor vehicle with a license that has been
 943 | suspended for failure to appear, failure to pay civil penalty,
 944 | or failure to attend a driver improvement course pursuant to s.
 945 | 322.291.

946 | 2. Operating a motor vehicle without a valid registration
 947 | in violation of s. 320.0605, s. 320.07, or s. 320.131.

948 | 3. Operating a motor vehicle in violation of s. 316.646.

949 | 4. Operating a motor vehicle with a license that has been
 950 | suspended under s. 61.13016 or s. 322.245 for failure to pay

951 child support or for failure to pay any other financial
 952 obligation as provided in s. 322.245; however, this subparagraph
 953 does not apply if the license has been suspended pursuant to s.
 954 322.245(1).

955 ~~5. Operating a motor vehicle with a license that has been~~
 956 ~~suspended under s. 322.091 for failure to meet school attendance~~
 957 ~~requirements.~~

958 Section 26. Subsections (1) and (2) of section 322.05,
 959 Florida Statutes, are amended to read:

960 322.05 Persons not to be licensed.—The department may not
 961 issue a license:

962 (1) To a person who is under the age of 16 years, except
 963 that the department may issue a learner's driver license to a
 964 person who is at least 15 years of age and who meets the
 965 requirements of s. ss. 322.091 and 322.1615 and of any other
 966 applicable law or rule.

967 (2) To a person who is at least 16 years of age but is
 968 under 18 years of age unless the person ~~meets the requirements~~
 969 ~~of s. 322.091 and~~ holds a valid:

970 (a) Learner's driver license for at least 12 months, with
 971 no moving traffic convictions, before applying for a license;

972 (b) Learner's driver license for at least 12 months and
 973 who has a moving traffic conviction but elects to attend a
 974 traffic driving school for which adjudication must be withheld
 975 pursuant to s. 318.14; or

976 (c) License that was issued in another state or in a
 977 foreign jurisdiction and that would not be subject to suspension
 978 or revocation under the laws of this state.

979 Section 27. Paragraph (b) of subsection (5) of section
 980 322.27, Florida Statutes, is amended to read:

981 322.27 Authority of department to suspend or revoke driver
 982 license or identification card.-

983 (5)

984 (b) If a person whose driver license has been revoked
 985 under paragraph (a) as a result of a third violation of driving
 986 a motor vehicle while his or her license is suspended or revoked
 987 provides proof of compliance for an offense listed in s.

988 318.14(10)(a)1.-4. ~~318.14(10)(a)1.-5.~~, the clerk of court shall
 989 submit an amended disposition to remove the habitual traffic
 990 offender designation.

991 Section 28. Subsection (9) of section 1003.01, Florida
 992 Statutes, is amended to read:

993 1003.01 Definitions.-As used in this chapter, the term:

994 (9) "Dropout" means a student who meets any one or more of
 995 the following criteria:

996 (a) The student has voluntarily removed himself or herself
 997 from the school system before graduation for reasons that
 998 include, but are not limited to, marriage, or the student has
 999 withdrawn from school because he or she has failed the statewide
 1000 student assessment test and thereby does not receive any of the

1001 certificates of completion;

1002 (b) The student has not met the relevant attendance
 1003 requirements of the school district pursuant to State Board of
 1004 Education rules, or the student was expected to attend a school
 1005 but did not enter as expected for unknown reasons, or the
 1006 student's whereabouts are unknown;

1007 (c) The student has withdrawn from school, but has not
 1008 transferred to another public or private school or enrolled in
 1009 any career, adult, home education, or alternative educational
 1010 program;

1011 (d) The student has withdrawn from school due to hardship,
 1012 unless such withdrawal has been granted because of ~~under the~~
 1013 ~~provisions of s. 322.091,~~ court action, expulsion, medical
 1014 reasons, or pregnancy; or

1015 (e) The student is not eligible to attend school because
 1016 of reaching the maximum age for an exceptional student program
 1017 in accordance with the district's policy.

1018
 1019 The State Board of Education may adopt rules to implement ~~the~~
 1020 ~~provisions of~~ this subsection.

1021 Section 29. The amendments made by this act to s. 316.650,
 1022 Florida Statutes, shall take effect upon the depletion of the
 1023 current inventory of uniform traffic citation forms and the
 1024 adoption by rule of new uniform traffic citation forms. The
 1025 Department of Highway Safety and Motor Vehicles shall notify the

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1026 | Division of Law Revision and Information upon the adoption of
1027 | the new forms.

1028 | Section 30. Except as otherwise expressly provided in this
1029 | act, this act shall take effect October 1, 2018.