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**FLORIDA LAWS PERTINENT TO A DISCRIMINATION CASE  
CHAPTER 57: COURT COSTS**

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**CHAPTER 57 FLORIDA STATUTES | FLORIDA**

**TITLE:** VI CIVIL PRACTICE AND PROCEDURE

**CHAPTER:** 57 COURT COSTS

**PART:** --

**SECTIONS:** §57.081, §57.082, §57.085, and §57.105 only

**NOTE:**



**§57.081 COSTS | RIGHT TO PROCEED WHERE PREPAYMENT OF COSTS AND PAYMENT OF FILING FEES WAIVED**

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

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

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

*(History.—ss. 1, 2, 3, ch. 17883, 1937; CGL 1940 Supp. 4680(2); s. 15, ch. 29615, 1955; s. 1, ch. 57-251; s. 13, ch. 67-254; s. 14, ch. 73-334; s. 1, ch. 80-348; s. 18, ch. 94-348; s. 1362, ch. 95-147; s. 1, ch. 96-106; s. 9, ch. 97-107; s. 71, ch. 2003-402; s. 34, ch. 2005-236; s. 8, ch. 2009-61; s. 12, ch. 2012-100.)*

*(Note.—Former s. 58.09.)*



**§57.082 Florida Statute | DETERMINATION OF CIVIL INDIGENT STATUS.**

(1) APPLICATION TO THE CLERK.—A person seeking appointment of an attorney in a civil case eligible for court-appointed counsel, or seeking relief from payment of filing fees and prepayment of costs under s. 57.081, based upon an inability to pay must apply to the clerk of the court for a determination of civil indigent status using an application form developed by the Florida Clerks of Court Operations Corporation with final approval by the Supreme Court.

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

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

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

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

4. All liabilities and debts. The application must include a signature by the applicant which attests to the truthfulness of the information provided. The application form developed by the corporation must include notice that the applicant may seek court review of a clerk's determination that the applicant is not indigent, as provided in this section.

(b) The clerk shall assist a person who appears before the clerk and requests assistance in completing the application, and the clerk shall notify the court if a person is unable to complete the application after the clerk has provided assistance.



(c) The clerk shall accept an application that is signed by the applicant and submitted on his or her behalf by a private attorney who is representing the applicant in the applicable matter.

(d) A person who seeks appointment of an attorney in a proceeding under chapter 39, at shelter hearings or during the adjudicatory process, during the judicial review process, upon the filing of a petition to terminate parental rights, or upon the filing of any appeal, or if the person seeks appointment of an attorney in a reopened proceeding, for which an indigent person is eligible for court-appointed representation must pay a \$50 application fee to the clerk for each application filed. A person is not required to pay more than one application fee per case. However, an appeal or the reopening of a proceeding shall be deemed to be a distinct case. The applicant must pay the fee within 7 days after submitting the application. If the applicant has not paid the fee within 7 days, the court shall enter an order requiring payment, and the clerk shall pursue collection under s. 28.246. The clerk shall transfer monthly all application fees collected under this paragraph to the Department of Revenue for deposit into the Indigent Civil Defense Trust Fund, to be used as appropriated by the Legislature. The clerk may retain 10 percent of application fees collected monthly for administrative costs prior to remitting the remainder to the Department of Revenue. If the person cannot pay the application fee, the clerk shall enroll the person in a payment plan pursuant to s. 28.246.

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

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

2. There is a presumption that the applicant is not indigent if the applicant owns, or has equity in,



any intangible or tangible personal property or real property or the expectancy of an interest in any such property having a net equity value of \$2,500 or more, excluding the value of the person's homestead and one vehicle having a net value not exceeding \$5,000.

(b) Based upon its review, the clerk shall make one of the following determinations:

1. The applicant is not indigent.
2. The applicant is indigent.

(c) If the clerk determines that the applicant is indigent, the clerk shall immediately file the determination in the case record.

(d) The duty of the clerk in determining whether an applicant is indigent is limited to receiving the application and comparing the information provided in the application to the criteria prescribed in this subsection. The determination of indigent status is a ministerial act of the clerk and may not be based on further investigation or the exercise of independent judgment by the clerk. The clerk may contract with third parties to perform functions assigned to the clerk under this section.

(e) The applicant may seek review of the clerk's determination that the applicant is not indigent in the court having jurisdiction over the matter by filing a petition to review the clerk's determination of nonindigent status, for which a filing fee may not be charged. If the applicant seeks review of the clerk's determination of indigent status, the court shall make a final determination as provided in subsection (4).

(3) APPOINTMENT OF COUNSEL ON AN INTERIM BASIS.—If the clerk of the court has not made a determination of indigent status at the time a person requests appointment of an attorney in a civil case eligible for court-appointed counsel, the court shall make a preliminary determination of indigent status, pending further review by the clerk, and may, by court order, appoint counsel on an interim basis.



(4) REVIEW OF THE CLERK'S DETERMINATION.—

(a) If the clerk of the court determines that the applicant is not indigent and the applicant seeks review of the clerk's determination, the court shall make a final determination of indigent status by reviewing the information provided in the application against the criteria prescribed in subsection (2) and by considering the following additional factors:

1. Whether paying for private counsel or other fees and costs creates a substantial hardship for the applicant or the applicant's family.
2. Whether the applicant is proceeding pro se or is represented by a private attorney for a fee or on a pro bono basis.
3. When the applicant retained private counsel.
4. The amount of any attorney's fees and who is paying the fees.
5. Any other relevant financial circumstances of the applicant or the applicant's family.

(b) Based upon its review, the court shall make one of the following determinations and shall, if appropriate, appoint counsel:

1. The applicant is not indigent.
2. The applicant is indigent.

(5) APPOINTMENT OF COUNSEL.—In appointing counsel after a determination that a person is indigent under this section, the court shall first appoint the office of criminal conflict and civil regional counsel, as provided in s. 27.511, unless specific provision is made in law for the appointment of the public defender in the particular civil proceeding. The court shall also order the person to pay the application fee under subsection (1), or enroll in a payment plan if he or she is unable to pay the fee, if the fee remains unpaid or if the person has not enrolled in a payment plan at the time the court appoints counsel. However, a person who is found to be indigent may not be refused counsel.



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

(7) FINANCIAL DISCREPANCIES; FRAUD; FALSE INFORMATION. —

(a) If the court learns of discrepancies between the application and the actual financial status of the person found to be indigent, the court shall determine whether the status and any relief provided as a result of that status shall be revoked. The person may be heard regarding the information learned by the court. If the court, based on the information, determines that the person is not indigent, the court shall revoke the provision of any relief under this section.

(b) If the court has reason to believe that any applicant, through fraud or misrepresentation, was improperly determined to be indigent, the matter shall be referred to the state attorney. Twenty-five percent of any amount recovered by the state attorney as reasonable value of the services rendered, including fees, charges, and costs paid by the state on the person's behalf, shall be remitted to the Department of Revenue for deposit into the Grants and Donations Trust Fund within the Justice Administrative Commission. Seventy-five percent of any amount recovered shall be remitted to the Department of Revenue for deposit into the General Revenue Fund.



(c) A person who knowingly provides false information to the clerk or the court in seeking a determination of indigent status under this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

*(History.—s. 35, ch. 2005-236; s. 24, ch. 2007-62; s. 27, ch. 2008-111; s. 9, ch. 2009-61; s. 21, ch. 2010-162; s. 35, ch. 2012-30.)*



**§57.085 FS | DEFERRAL OF PREPAYMENT OF COURT COSTS AND FEES FOR INDIGENT PRISONERS**

(1) For the purposes of this section, the term “prisoner” means a person who has been convicted of a crime and is incarcerated for that crime or who is being held in custody pending extradition or sentencing.

(2) When a prisoner who is intervening in or initiating a judicial proceeding seeks to defer the prepayment of court costs and fees because of indigence, the prisoner must file an affidavit of indigence with the appropriate clerk of the court. The affidavit must contain complete information about the prisoner’s identity; the nature and amount of the prisoner’s income; all real property owned by the prisoner; all tangible and intangible property worth more than \$100 which is owned by the prisoner; the amount of cash held by the prisoner; the balance of any checking, savings, or money market account held by the prisoner; the prisoner’s dependents, including their names and ages; the prisoner’s debts, including the name of each creditor and the amount owed to each creditor; and the prisoner’s monthly expenses. The prisoner must certify in the affidavit whether the prisoner has been adjudicated indigent under this section, certified indigent under s. 57.081, or authorized to proceed as an indigent under 28 U.S.C. s. 1915 by a federal court. The prisoner must attach to the affidavit a photocopy of the prisoner’s trust account records for the preceding 6 months or for the length of the prisoner’s incarceration, whichever period is shorter. The affidavit must contain the following statements: “I am presently unable to pay court costs and fees. Under penalty of perjury, I swear or affirm that all statements in this affidavit are true and complete.”

(3) Before a prisoner may receive a deferral of prepayment of any court costs and fees for an action brought under this section, the clerk of court must review the affidavit and determine the prisoner to be indigent.

(4) When the clerk has found the prisoner to be indigent but concludes the prisoner is able to pay part of the court costs and fees required by law, the court shall order the prisoner to make, prior to service of process, an initial partial payment of those court costs and fees. The initial partial payment must total at least 20 percent of the average monthly balance of the prisoner’s trust account for the preceding 6 months or for the length of the prisoner’s incarceration, whichever period is shorter.



(5) When the clerk has found the prisoner to be indigent, the court shall order the prisoner to make monthly payments of no less than 20 percent of the balance of the prisoner's trust account as payment of court costs and fees. When a court orders such payment, the Department of Corrections or the local detention facility shall place a lien on the inmate's trust account for the full amount of the court costs and fees, and shall withdraw money maintained in that trust account and forward the money, when the balance exceeds \$10, to the appropriate clerk of the court until the prisoner's court costs and fees are paid in full.

(6) Before an indigent prisoner may intervene in or initiate any judicial proceeding, the court must review the prisoner's claim to determine whether it is legally sufficient to state a cause of action for which the court has jurisdiction and may grant relief. The court shall dismiss all or part of an indigent prisoner's claim which:

(a) Fails to state a claim for which relief may be granted;

(b) Seeks monetary relief from a defendant who is immune from such relief;

(c) Seeks relief for mental or emotional injury where there has been no related allegation of a physical injury; or

(d) Is frivolous, malicious, or reasonably appears to be intended to harass one or more named defendants.

(7) A prisoner who has twice in the preceding 3 years been adjudicated indigent under this section, certified indigent under s. 57.081, or authorized to proceed as an indigent under 28 U.S.C. s. 1915 by a federal court may not be adjudicated indigent to pursue a new suit, action, claim, proceeding, or appeal without first obtaining leave of court. In a request for leave of court, the prisoner must provide a complete listing of each suit, action, claim, proceeding, or appeal brought by the prisoner or intervened in by the prisoner in any court or other adjudicatory forum in the preceding 5 years. The prisoner must attach to a request for leave of court a copy of each complaint, petition, or other document purporting to commence a lawsuit and a record of disposition of the proceeding.



(8) In any judicial proceeding in which a certificate of indigence has been issued to a prisoner, the court may at any time dismiss the prisoner's action, in whole or in part, upon a finding that:

(a) The prisoner's claim of indigence is false or misleading;

(b) The prisoner provided false or misleading information regarding another judicial or administrative proceeding in which the prisoner was a party;

(c) The prisoner failed to pay court costs and fees under this section despite having the ability to pay; or

(d) The prisoner's action or a portion of the action is frivolous or malicious.

(9) In determining whether an action is frivolous or malicious, the court may consider whether:

(a) The prisoner's claim has no arguable basis in law or fact;

(b) The prisoner's claim reasonably appears intended solely to harass a party filed against;

(c) The prisoner's claim is substantially similar to a previous claim in that it involves the same parties or arises from the same operative facts as a previous claim;

(d) The prisoner's claim has little likelihood of success on its merits; or

(e) The allegations of fact in the prisoner's claim are fanciful or not credible.

(10) This section does not apply to a criminal proceeding or a collateral criminal proceeding.

**History** - s. 2, ch. 96-106; s. 6, ch. 2003-1; s. 72, ch. 2003-402; s. 49, ch. 2004-265.



**§57.105 FS | ATTORNEY'S FEE; SANCTIONS FOR RAISING UNSUPPORTED CLAIMS OR DEFENSES; EXCEPTIONS; SERVICE OF MOTIONS; DAMAGES FOR DELAY OF LITIGATION**

(1) Upon the court's initiative or motion of any party, the court shall award a reasonable attorney's fee, including prejudgment interest, to be paid to the prevailing party in equal amounts by the losing party and the losing party's attorney on any claim or defense at any time during a civil proceeding or action in which the court finds that the losing party or the losing party's attorney knew or should have known that a claim or defense when initially presented to the court or at any time before trial:

(a) Was not supported by the material facts necessary to establish the claim or defense; or

(b) Would not be supported by the application of then-existing law to those material facts.

(2) At any time in any civil proceeding or action in which the moving party proves by a preponderance of the evidence that any action taken by the opposing party, including, but not limited to, the filing of any pleading or part thereof, the assertion of or response to any discovery demand, the assertion of any claim or defense, or the response to any request by any other party, was taken primarily for the purpose of unreasonable delay, the court shall award damages to the moving party for its reasonable expenses incurred in obtaining the order, which may include attorney's fees, and other loss resulting from the improper delay.

(3) Notwithstanding subsections (1) and (2), monetary sanctions may not be awarded:

(a) Under paragraph (1)(b) if the court determines that the claim or defense was initially presented to the court as a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law, as it applied to the material facts, with a reasonable expectation of success.

(b) Under paragraph (1)(a) or paragraph (1)(b) against the losing party's attorney if he or she has acted in good faith, based on the representations of his or her client as to the existence of those material facts.



(c) Under paragraph (1)(b) against a represented party.

(d) On the court's initiative under subsections (1) and (2) unless sanctions are awarded before a voluntary dismissal or settlement of the claims made by or against the party that is, or whose attorneys are, to be sanctioned.

(4) A motion by a party seeking sanctions under this section must be served but may not be filed with or presented to the court unless, within 21 days after service of the motion, the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected.

(5) In administrative proceedings under chapter 120, an administrative law judge shall award a reasonable attorney's fee and damages to be paid to the prevailing party in equal amounts by the losing party and a losing party's attorney or qualified representative in the same manner and upon the same basis as provided in subsections (1)-(4). Such award shall be a final order subject to judicial review pursuant to s. 120.68. If the losing party is an agency as defined in s. 120.52(1), the award to the prevailing party shall be against and paid by the agency. A voluntary dismissal by a nonprevailing party does not divest the administrative law judge of jurisdiction to make the award described in this subsection.

(6) The provisions of this section are supplemental to other sanctions or remedies available under law or under court rules.

(7) If a contract contains a provision allowing attorney's fees to a party when he or she is required to take any action to enforce the contract, the court may also allow reasonable attorney's fees to the other party when that party prevails in any action, whether as plaintiff or defendant, with respect to the contract. This subsection applies to any contract entered into on or after October 1, 1988.



(8) Attorney fees may not be awarded under this section in proceedings for an injunction for protection pursuant to s. 741.30, s. 784.046, or s. 784.0485, unless the court finds by clear and convincing evidence that the petitioner knowingly made a false statement or allegation in the petition or that the respondent knowingly made a false statement or allegation in an asserted defense, with regard to a material matter as defined in s. 837.011(3).

**History** - (s. 1, ch. 78-275; s. 61, ch. 86-160; ss. 1, 2, ch. 88-160; s. 1, ch. 90-300; s. 316, ch. 95-147; s. 4, ch. 99-225; s. 1, ch. 2002-77; s. 9, ch. 2003-94; s. 1, ch. 2010-129; s. 4, ch. 2019-167.)



APPENDIX



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