

STORAGE NAME: h0611a.cp

DATE: March 30, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CRIME AND PUNISHMENT
ANALYSIS**

BILL #: HB 611

RELATING TO: Court Costs in Domestic Violence Cases

SPONSOR(S): Representative Henriquez

COMPANION BILL(S): SB 1732 (I)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) CRIME AND PUNISHMENT YEAS 5 NAYS 0
 - (2) FAMILY LAW & CHILDREN
 - (3) HEALTH & HUMAN SERVICES APPROPRIATIONS
 - (4)
 - (5)
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I. SUMMARY:

The bill requires that a \$36 court cost be imposed upon a person who pleads guilty or nolo contendere to or is found guilty of an act of domestic violence.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Act of Domestic Violence

Section 741.28 defines "domestic violence" as "any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another who is or was residing in the same single dwelling unit."

Court Costs

Chapter 938 divides court costs into four categories: mandatory costs in all cases, mandatory costs in specific types of cases, mandatory court costs authorized by local government entities and discretionary costs in specific types of cases. The following is a sample of the costs provided for in Chapter 938:

Mandatory Costs in All Cases:

- Crimes Compensation Trust Fund: Any person convicted of a felony, misdemeanor, delinquent act or criminal traffic offense is assessed a 50 dollar court cost. The funds are forwarded to the Crimes Compensation Trust Fund.
- Local Government Criminal Justice Trust Fund: When any person is convicted of a crime, the trial court must impose a \$200 cost for a felony and a \$50 cost for a misdemeanor or a criminal traffic offense. The funds collected are retained by the county in which the offense was committed.

Mandatory Costs in Specific Types of Cases:

- Driving Under the Influence: A court cost of \$135 is imposed upon any defendant convicted of driving under the influence. 25 dollars of the total is deposited in the Emergency Medical Services Trust Fund, 50 dollars into the Criminal Justice Standards and Training Trust Fund of the Department of Law Enforcement to be used for operational expenses of the Division of Local Law Enforcement Assistance in conducting the statewide criminal analysis system and 60 dollars is to be deposited in the Brain and Spinal Cord Injury Rehabilitation Trust Fund.
- Cases in Which Victim is Handicapped or Elderly: When any person is convicted of a felony or misdemeanor in which the victim is handicapped or elderly, a twenty dollar cost is imposed.
- Misdemeanor Conviction Involving Drugs or Alcohol: When any person is convicted of a misdemeanor in which the unlawful use of alcohol or drugs is involved, a fifteen dollar cost is imposed against the defendant. These funds are to be deposited in the County Alcohol and Other Drug Abuse Trust Fund.

Mandatory Costs Authorized by Local Governmental Entities:

- Criminal justice education for local government: Municipalities and counties may assess an additional \$2 cost for expenditures for criminal justice education degree programs and training courses.

Discretionary Costs in Specific Types of Cases:

- Operating Trust Fund of the Department of Law Enforcement: The court may assess a \$100 cost against a defendant who has been convicted of sale of a controlled substance. This money is to be forwarded to the Operating Trust Fund of the Department of Law Enforcement to be used by the statewide criminal analysis laboratory.

Additionally, if authorized by the statute that the defendant violated, the trial court may impose a \$15,000 fine for a life felony, a \$10,000 fine for a felony of the first or second degree, a \$5,000 fine for a felony of the third degree, a \$1,000 fine for a misdemeanor of the first degree and a \$500 fine for a misdemeanor of the second degree or a noncriminal violation.

Section 948.09 provides that a defendant placed on probation or community control must pay for the costs of supervision. Also, section 775.089 provides that a defendant must pay restitution to a victim for the damage or loss caused directly or indirectly by the defendant's offense.

Domestic Violence Trust Fund

Section 741.01 provides that the "Executive Office of the Governor shall establish a Domestic Violence Trust Fund". The funds which are generated are to be directed to the Department of Health and Rehabilitative Services for the purpose of funding domestic violence centers. Section 28.101 provides that an eighteen dollar fee shall be collected from a party filing for a dissolution of marriage and deposited in the Domestic Violence Trust Fund. Section 741.01 provides for an increase in the marriage license fee and designates the funds to the Domestic Violence Trust Fund.

In fiscal year 1997-1998, the Domestic Violence Trust Fund disbursed approximately 6.1 million dollars to certified domestic violence centers.

B. EFFECT OF PROPOSED CHANGES:

HB 611 requires the trial court to impose a 36 dollar court cost when a defendant pleads guilty or nolo contendere to or is convicted of an act of domestic violence as defined in s. 741.28. The bill requires that this cost be imposed in addition to any other court cost imposed.

The bill requires the clerk of the court to collect the 36 dollar fee on a monthly basis and transfer the money for deposit in the account of the Domestic Violence Trust Fund for disbursement in accordance with 741.01.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

- a. Does the bill create, increase or reduce, either directly or indirectly:

- (1) any authority to make rules or adjudicate disputes?

- No.

- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

- No.

- (3) any entitlement to a government service or benefit?

- No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

The bill provides for a 36 dollar court cost for a defendant convicted of domestic violence.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Creates section 938.14.

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Provides that a person convicted of a crime of domestic violence shall be assessed 36 dollars in court costs.

Section 2: Provides for effective date of October 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

If the \$36 court cost is imposed as required by the trial court in domestic violence cases and subsequently paid by the defendant, the bill will provide additional money for the Domestic Violence Trust Fund to be used to fund domestic violence centers.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require local governments to expend funds or to take any action requiring the expenditure of funds. Therefore, it is exempt from the provisions of Article VII, Section 18 of the Florida Constitution.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce anyone's revenue raising authority.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the state tax shared with counties and municipalities.

V. COMMENTS:

As discussed above, a trial court is required to impose a fifty dollar court cost against every defendant convicted of a felony, misdemeanor or criminal traffic offense. In 1997, 58 percent of the costs which could have been collected were actually collected. It is possible that a smaller percentage of costs will be collected from defendants convicted of acts of domestic violence because a trial court will be less likely to be aware of the requirement that the cost be imposed and therefore less likely to impose it.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON CRIME AND PUNISHMENT:

Prepared by:

Staff Director:

Trina Kramer

J. Willis Renaut