

**STORAGE NAME:** h1025.cor

**DATE:** March 3, 2000

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
CORRECTIONS  
ANALYSIS**

**BILL #:** HB 1025

**RELATING TO:** County Reimbursement for Supervision Violations Trust Fund

**SPONSOR(S):** Morroni

**TIED BILL(S):**

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

- (1) Corrections
  - (2) Judiciary
  - (3) Criminal Justice Appropriations
  - (4)
  - (5)
- 

**I. SUMMARY:**

This bill creates the County Reimbursement For Supervision Violations Trust Fund, to be administered by the Department of Corrections. The trust fund will be funded from money currently collected by the Department of Corrections from offenders who are currently required to reimburse the department for a portion of their supervision costs. The trust fund shall be used to reimburse counties for the cost of incarcerating an offender who has violated the terms and conditions of his or her release or supervision.

The bill requires the department to deduct \$5.00 each month from the amount collected from each offender who is required to reimburse the department for his or her supervision costs. The \$5-per-month deduction will be placed into the newly created trust fund. Upon receipt by the department of written documentation from a county detailing the amount expended by the county for the purpose of housing offenders who have violated their release or supervision, the department shall distribute money from the trust fund, up to \$15.00 per day, to the county as reimbursement.

Evaluation of the fiscal impact of the bill is problematic because the necessary data is difficult to compile. It is also difficult to anticipate the number of offenders who will violate their supervision or release and receive county jail time for the violation. Determining fiscal impact for the department is problematic because the number of offenders who are required to pay the department for their costs of supervision fluctuates on a daily basis.

Providing reimbursement to counties of \$15.00 per day per inmate will not cover the average cost the counties pay to house the offender, but it will offset some of the costs.

Pursuant to Article III, Section 19(f) of the Florida Constitution, this bill must receive at least a three-fifths vote of the membership of each house of the Legislature in order to pass. In addition, as required by the State Constitution, most trust funds (including the trust fund which would be created by this bill) are to be terminated no more than four years after their effective date. Prior to such termination, the Legislature is to review the trust fund in order to re-create, terminate, or determine them exempt from automatic termination in accordance with the Constitution.

The bill provides for an effective starting date.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |                             |   |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

The Florida Statutes, s. 948.09, currently require offenders who are placed on probation or parole, or who are placed into various release or pretrial intervention programs, to pay the Department of Corrections for the costs of their supervision. Offenders pay the department a set amount each month for supervision, generally around \$50.00. This amount is usually set by the sentencing body and is based on the length of the supervision sentence and the date the offender is placed in supervision. This set amount generally does not cover the entire cost of supervision services, which can vary based on the type of supervision the offender is receiving. Such funds are to be used by the department to offset the costs associated with community supervision programs. The statute also requires such offenders to pay an additional \$2-per-month surcharge to the department to be used by the department to pay for correctional probation officers' training and equipment, including firearm training, firearms, and radios. The department collected over \$25 million in cost of supervision payments from offenders during FY 1998-99.<sup>1</sup>

Some offenders are required by the court to also pay restitution costs to their victims. If this is the case, the offender writes one lump-sum check to the Department of Corrections which includes restitution payments and supervision payment, and the department distributes the money accordingly.

As of March 2, 2000, there were 141,114 offenders under active supervision by the department.<sup>2</sup> Approximately 38,000 of these offenders are not required to pay the department for their supervision costs because it has been determined that they have insufficient income or funds to afford such payments.<sup>3</sup> Unfortunately, it is hard to estimate the number of the remaining offenders (approximately 102,800) who will actually submit their payments. It is also difficult to determine how much money the department should be collecting from these remaining offenders because some of the offenders pay different amounts, based on the date they were placed in supervision.

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<sup>1</sup>Information supplied by Tony Proto of the Department of Corrections on March 3, 2000.

<sup>2</sup>Information supplied by Tony Proto of the Department of Corrections on March 3, 2000.

<sup>3</sup>Information supplied by Tony Proto of the Department of Corrections on March 3, 2000.

If an offender does not pay his or her required amount each month, then that is considered a violation of supervision and/or release, and the department can take them to court for the violation.

When an offender violates his or her release or supervision, it is up to the discretion of the court whether or not to place the offender in a county jail. In some instances, an offender may be sentenced to serve time in a county jail, or the offender's supervision may be revoked, depending on the violation, and he or she may be sent back to state prison. In other instances, the judge may issue a summons to appear in court, without any jail time to be served. According to staff at DOC, most technical violations of supervision or release do not result in jail time.

Currently, counties which house offenders who have violated their supervision or release do not receive any type of compensation or reimbursement from the state.

**C. EFFECT OF PROPOSED CHANGES:**

This bill creates a trust fund which will be used to provide a monetary reimbursement to counties for housing offenders who have violated their supervision or release.

The trust fund will be administered by the Department of Corrections, and will be funded from offender supervision payments currently collected by the department.

The department will deduct \$5.00 each month from the amount they collect from each offender who is required to reimburse the Department for his or her supervision costs. The \$5-per-month deduction will be placed into the County Reimbursement for Supervision Violations Trust Fund. Upon receipt by the department of written documentation from a county detailing the amount expended by the county for the purpose of housing offenders who have violated their release or supervision, the department will distribute money from the Trust Fund, up to \$15.00 per day, to the county as reimbursement.

**D. SECTION-BY-SECTION ANALYSIS:**

This section need be completed only in the discretion of the Committee.

**III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

**1. Revenues:**

This bill may reduce the funds available for the Legislature to appropriate to offset departmental costs associated with community supervision costs. As stated in the bill, \$5-per-month per supervised offender must be deducted from the whole amount the department collects from offenders who are required to pay, and the amount must be placed into the County Reimbursement for Supervision Violations Trust Fund.

2. Expenditures:

The department will be required to place a certain amount of money (\$5 per supervised offender per month) into the County Reimbursement for Supervision Violations Trust Fund.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill will provide monies to counties which house offenders who have violated the terms and conditions of their release or supervision. The amount of money received by the counties will be dependent upon the number of offenders they are housing.

Providing reimbursement to counties of up to \$15.00 per day per inmate will not cover the average cost the county pays to house the offender, but it will help to offset such costs. The cost of housing offender per day in county jails varies between counties.<sup>4</sup> The cost can be as high as \$80 per day and as low as \$30 per day. The cost can be dependent on several factors, including the number of offenders, the number of staff, the number of cost of maintaining correctional facilities, and the frequency of various crimes. It costs approximately \$50 per day to house an offender in the Leon County jail.<sup>5</sup>

2. Expenditures:

This bill will not require any additional expenditures on the part of local governments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill will not have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

Please see comments under State and Local Government fiscal analyses.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend additional funds or take action requiring the additional expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenue.

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<sup>4</sup>Information supplied by the Sheriff's Association on March 3, 2000.

<sup>5</sup>Information supplied by Lt. Howe with the Leon County Sheriff's Office on March 3, 2000.

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

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill provides a maximum reimbursement amount (\$15.00 per day) to counties, but it does not establish a minimum amount of required reimbursement, nor does it set out criteria for determining the amount of reimbursement to be given. An amendment needs to be drawn which confers upon the department rule-making authority and the responsibility to establish a reimbursement rate schedule.

C. OTHER COMMENTS:

It is unclear from the language of the bill whether counties are to receive a total reimbursement of up to \$15.00 per day, or a reimbursement of up to \$15.00 per day **per offender**. An amendment needs to be drawn which specifies that counties are to be reimbursed up to \$15.00 per day per offender housed in a county jail.

The bill is silent on what to do if the trust fund does not have sufficient funds available to provide all the requested county reimbursements. An amendment needs to be drawn which defines the procedure for what to do if the trust fund is ever insufficiently funded.

The bill does not offer specific language which would credit the offender for the \$5.00 deduction. An amendment needs to be offered which clarifies that the \$5 deduction is not an additional charge to the offender.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON CORRECTIONS:

Prepared by:

Staff Director:

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Melinda A. Smith

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Jo Ann Levin