

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Finance and Tax Committee

BILL: CS/CS/SB 1030

INTRODUCER: Judiciary Committee, Criminal Justice Committee and Senators Argenziano and Bennett

SUBJECT: Court Costs

DATE: April 20, 2007

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
2. <u>Luczynski</u>	<u>Maclure</u>	<u>JU</u>	<u>Fav/CS</u>
3. <u>Keating</u>	<u>Johansen</u>	<u>FT</u>	<u>Favorable</u>
4. _____	_____	<u>JA</u>	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____

I. Summary:

The bill increases court costs in the amount of two dollars (\$2) assessed against a person who is found to have violated a criminal law and certain civil infractions. The bill also increases, by the same amount, the assessment to be remitted to the Department of Revenue from every bond estreatment or forfeited bail bond.

The additional \$2 dollars is earmarked for the Florida Department of Law Enforcement's Criminal Justice Standards and Training Trust Fund.

The bill also requires a person seeking sealing or expunction of his or her criminal history records to pay all outstanding fines and court costs, unless the court makes a finding otherwise.

This bill substantially amends the following sections of the Florida Statutes: 318.18, 327.73, 938.01, and 938.30.

II. Present Situation:

The following statutory provisions provide for court costs to be paid and to be distributed as provided in s. 938.01, F.S.:

- Section 938.01(1), F.S., provides that courts shall assess a \$3 court cost to be paid by citizens who have been convicted for violation of a criminal law, or convicted for violation of a municipal or county ordinance. It also requires a payment of \$3 from every bond estreatment or forfeited bail bond related to a penal statute or penal ordinance.

- Section 318.18(11)(d), F.S., provides that a \$3 court cost shall be paid for each noncriminal traffic infraction.
- Section 327.73(11)(b), F.S., provides that courts shall assess a \$3 court cost for each noncriminal swimming, diving, or boating infraction.

Section 938.01, F.S., provides that the above costs shall be collected and remitted to the Department of Revenue for deposit into the Additional Court Cost Clearing Trust Fund. These costs and the funds deposited in the Additional Court Cost Clearing Trust Fund pursuant to s. 318.21(2)(c), F.S.,¹ are allocated as follows:

- Ninety-two percent to the Department of Law Enforcement Criminal Justice Standards and Training Trust Fund;
- Six and three-tenths percent to the Department of Law Enforcement Operating Trust Fund for the Criminal Justice Grant Program; and
- One and seven-tenths percent to the Department of Children and Family Services Domestic Violence Trust Fund for the domestic violence program pursuant to s. 39.903(3), F.S.

The Florida Department of Law Enforcement (FDLE) reports that the Criminal Justice Standards and Training Trust Fund provides funding for:

- The payment of expenses incurred by the Criminal Justice Standards and Training Commission (CJSTC) and the FDLE Professionalism Program;
- CJSTC approved criminal justice training programs and training school enhancements;
- The establishment of basic recruit, advanced, and career development training programs; and
- The development of psychological, selection, and performance evaluation tests.

According to FDLE, the Department of Law Enforcement Criminal Justice Standards Trust Fund revenues have been relatively flat for the past four years while the demand for training dollars is steadily increasing. The FDLE projected that stabilizing the per officer funding level at \$85 per officer for fiscal year 2007-08 would require approximately \$500,000. The FDLE indicated that it has a goal over the next three years of funding training at \$110 per officer. That goal would require approximately \$2.3 million of additional funding over the level for fiscal year 2006-07. The FDLE also indicated that to accomplish the goal of the Florida Criminal Justice Executive Institute to regionalize the Florida Leadership Academy program requires additional funding of \$650,000 per year. The total additional funding needs identified, for fiscal year 2007-08, total \$1,150,000.

The following table shows the increases in officers over the last 10 years and the changes in revenue and training budget as reported by FDLE.

¹ Section 318.21, F.S., provides that after the first \$2 of a civil penalty received by a county court pursuant to the provisions of ch. 318, F.S., the Florida Uniform Disposition of Traffic Infractions Act is distributed as specified that 5.1 percent of the remainder shall be remitted to the Department of Revenue for deposit in the Additional Court Cost Clearing Trust Fund established pursuant to s. 938.01, F.S., for criminal justice purposes.

FISCAL YEAR	REVENUE	OFFICER COUNT	% INCR IN OFFICER COUNT OVER 96-97	PER OFFICER FUNDING	REGIONAL TRAINING SCHOOL BUDGET	TRAINING BUDGET % of TOTAL BUDGET
96-97	7,166,148	63,051		\$65	\$4,098,315	57.2%
97-98	9,549,544	65,826	4.4%	\$65	\$4,278,690	44.8%
98-99	11,985,941	67,586	7.2%	\$110	\$7,434,460	62.0%
99-00	12,699,971	68,584	8.8%	\$80	\$5,486,720	43.2%
00-01	13,900,922	70,268	11.4%	\$95	\$6,675,460	48.0%
01-02	13,163,409	70,855	12.4%	\$95	\$6,731,225	51.1%
02-03	16,112,656	71,579	13.5%	\$80	\$5,726,320	35.5%
03-04	15,961,554	71,586	13.5%	\$80	\$5,726,880	35.9%
04-05	15,087,323	73,031	15.8%	\$80	\$5,842,480	38.7%
05-06	16,693,799	74,925	18.8%	\$76	\$5,713,031	34.2%
06-07 (est.)	16,712,568	75,822	20.3%	\$80	\$6,065,760	36.3%

As mentioned above, one and seven-tenths percent of the funds from the Additional Court Cost Clearing Trust Fund Section is allocated to the Department of Children and Family Services Domestic Violence Trust Fund for the domestic violence program pursuant to s. 39.903(3), F.S. Section 39.903(3), F.S., requires the Department of Children and Family Services to operate the domestic violence program, which provides supervision, direction, coordination, and administration of statewide activities related to domestic violence prevention. The program is responsible for certifying the leading providers of domestic violence services in Florida.

Florida law provides that if a person meets statutory criteria set forth in s. 943.0585 or s. 943.059, F.S., he or she may request that a court expunge or seal his or her criminal history record. The statutory requirements do not include the payment of any outstanding costs or fines, although the petitioner must not be under the supervision of the court for the offense for which the expunction² or sealing³ is sought at the time of the petition.

III. Effect of Proposed Changes:

The bill increases the court costs to be paid to \$5 from \$3 in the following statutory provisions:

- In s. 938.01(1), F.S., by citizens who have been convicted for violation of a criminal law, or convicted for violation of a municipal or county ordinance. Also, in s. 938.01(1), F.S., from every bond estreature or forfeited bail bond related to a penal statute or penal ordinance.
- In s. 318.18(11)(d), F.S., for each noncriminal traffic infraction.
- In s. 327.73(11)(b), F.S., for each noncriminal swimming, diving, or boating infraction.

² Section 943.0585(2)(g), F.S.

³ Section 943.059(2)(f), F.S.

As with the current law, these court costs are to be collected and remitted to the Additional Court Cost Clearing Trust Fund, pursuant to s. 938.01, F.S. The bill adjusts the disbursement percentages as follows:

Disbursement	Current Law	Proposed Change
FDLE Criminal Justice Standards & Training Trust Fund	92.00%	95.20%
FDLE Operating Trust Fund (for Criminal Justice Grant Program)	6.30%	3.78%
Department of Children & Family Services Domestic Violence Trust Fund	1.70%	1.02%

The intent of the changes in the percentages of distribution of the Court Cost Clearing Trust Fund is to have the total \$2 per case increase allocated to the Criminal Justice Standards and Training Trust Fund. As the table below illustrates, the proposed percentage allocations have that effect as applied to fiscal year 2005-06 revenues.

Disbursement	Current Law	Allocation of \$3	Proposed Change	Allocation of \$5	Increase
FDLE Criminal Justice Standards & Training Trust Fund	92.0%	\$2.760	95.20%	\$4.760	\$2.00
FDLE Operating Trust Fund (for Criminal Justice Grant Program)	6.3%	\$0.189	3.78%	\$0.189	\$0.00
Department of Children & Family Services Domestic Violence Trust Fund	1.7%	\$0.051	1.02%	\$0.051	\$0.00

The bill applies the new distribution percentages to funds authorized to be distributed as provided in s. 938.01(1), F.S., with the exception of those funds deposited in the Additional Court Cost Clearing Trust Fund pursuant to s. 318.21(2)(c), F.S.⁴ Those funds will continue to be distributed according to the existing distribution percentages.

The bill further requires, by amending s. 938.30, F.S., that a person seeking an expunction or sealing of his or her criminal history from a court must first pay all outstanding fines and court costs, unless the court makes written findings about the appropriateness of expunging or sealing despite the outstanding costs and fines.

The bill provides that it takes effect on July 1, 2007.

⁴ See *supra* note 1.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The bill will require citizens who are found by the courts to have committed criminal law violations, local ordinance violations, and civil traffic or vessel infractions to remit an additional \$2 in court costs per case.

The Revenue Estimating Conference estimated a recurring increase in court costs revenue collections of \$6.1 million - \$0.4 million to the General Revenue Fund from the 7% General Revenue Service Charge and \$5.7 million to state trust funds. Applying the new distribution percentages to the \$5.7 million results in the following increased distributions to the three trust funds:

Disbursement	Increased Revenues
FDLE Criminal Justice Standards & Training Trust Fund	\$5.4
FDLE Operating Trust Fund (for Criminal Justice Grant Program)	\$0.2
Department of Children & Family Services Domestic Violence T F	\$0.1

B. Private Sector Impact:

As stated above, citizens before the courts for certain law violations will be expected to pay an additional \$2 in court costs if they are found to have committed the violation.

C. Government Sector Impact:

The increased court costs will generate an additional \$5.4 million in recurring revenue to the FDLE for training and professionalism programs and associated costs.

The bill provides that the Department of Children and Families should maintain the current level of allocations from the Trust Fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
