

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 217 Court Costs

SPONSOR(S): Eisnaugle

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Public Safety & Domestic Security Policy Committee		Kramer	Kramer
2) Criminal & Civil Justice Policy Council			
3) Finance & Tax Council			
4) Criminal & Civil Justice Appropriations Committee			
5) Full Appropriations Council on General Government & Health Care			

SUMMARY ANALYSIS

Currently, section 938.10, F.S. provides that if a person pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, any offense against a minor in violation of a specified list of criminal statutes, the court must impose a court cost of \$101 against the offender in addition to any other cost or penalty required by law.

The section provides that \$100 of the court cost must be deposited into the Department of Children and Family Services' Grants and Donations Trust Fund for disbursement to the Florida Network of Children's Advocacy Centers, Inc. for the purpose of funding children's advocacy centers that are members of the network.

The bill expands the list of criminal statutes referenced and will require that the \$101 court cost be imposed against offenders convicted of one of these additional offenses.

This bill could result in increased revenue into the Department of Children and Family Services' Grants and Donations Trust Fund for disbursement to the Florida Network of Children's Advocacy Centers, Inc. At the time of the writing of this analysis, information was not yet available as to the amount of revenue that this may generate into the trust fund.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

Chapter 938 sets forth several court costs which must be imposed in criminal cases. Sections 938.01 – 938.06 relate to mandatory court costs which must be applied in all criminal cases. Sections 938.07 – 938.13, F.S. relate to mandatory court cost which must be assessed in specific types of cases. Section 938.10, F.S. provides that if a person pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, any offense against a minor in violation of a specified list of criminal statutes, the court must impose a court costs of \$101 against the offender in addition to any other cost or penalty required by law.

The listed offenses are as follows:

1. Section 784.085, F.S. – relating to battery of a child by throwing, tossing, projecting, or expelling certain fluids or materials.
2. Chapter 787, F.S. – relating to kidnapping, false imprisonment, luring or enticing a child.
3. Chapter 794, F.S. – relating to sexual battery.
4. Section 796.03, F.S. – relating to procuring person under age of 18 for prostitution.
5. Section 800.04, F.S. – relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.
6. Chapter 827, F.S. – relating to abuse of children.
7. Section 847.0135(5), F.S. – relating to computer pornography.
8. Section 847.0145, F.S. – relating to buying or selling of minors.
9. Section 985.701, F.S. – relating to sexual misconduct.

The section provides that \$100<sup>1</sup> of the court cost must be deposited into the Department of Children and Family Services' Grants and Donations Trust Fund for disbursement to the Florida Network of Children's Advocacy Centers, Inc. for the purpose of funding children's advocacy centers that are members of the network.

Section 39.0935, F.S. provides that in order to be eligible for membership in the Florida Network of Children's Advocacy Centers, a child advocacy center in the state shall:

- (a) Be a private, nonprofit incorporated agency or a governmental entity.

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<sup>1</sup> One dollar from the \$101 is retained by the clerk of the court as a service charge. s. 938.10(2), F.S.

- (b) Be a child protection team, or by written agreement incorporate the participation and services of a child protection team, with established community protocols which meet all of the requirements of the National Network of Children's Advocacy Centers, Inc.
- (c) Have a neutral, child-focused facility where joint department [Department of Children and Family Services] and law enforcement interviews take place with children in appropriate cases of suspected child sexual abuse or physical abuse. All multidisciplinary agencies shall have a place to interact with the child as investigative or treatment needs require.
- (d) Have a minimum designated staff that is supervised and approved by the local board of directors or governmental entity.
- (e) Have a multidisciplinary case review team that meets on a regularly scheduled basis or as the caseload of the community requires. The team shall consist of representatives from the Office of the State Attorney, the department, the child protection team, mental health services, law enforcement, and the child advocacy center staff. Medical personnel and a victim's advocate may be part of the team.
- (f) Provide case tracking of child abuse cases seen through the center. A center shall also collect data on the number of child abuse cases seen at the center, by sex, race, age, and other relevant data; the number of cases referred for prosecution; and the number of cases referred for mental health therapy. Case records shall be subject to the confidentiality provisions of s. 39.202.
- (g) Provide referrals for medical exams and mental health therapy. The center shall provide followup on cases referred for mental health therapy.
- (h) Provide training for various disciplines in the community that deal with child abuse.
- (i) Have an interagency commitment, in writing, covering those aspects of agency participation in a multidisciplinary approach to the handling of child sexual abuse and serious physical abuse cases.

The section provides that a child advocacy center within this state may not receive the funds generated pursuant to s. 938.10, F.S. unless all of the standards set forth in the section are met. The Florida Network of Children's Advocacy Centers, Inc. has the responsibility for tracking and documenting compliance with the section for any of the funds it administers to member child advocacy centers.

The bill adds several sections of statute to the list of offenses for which the \$101 court cost must be imposed as follows:

1. Section 775.21, F.S. – relating to the Florida Sexual Predators Act
2. Section 796.035, F.S. – relating to selling or buying of minors into sex trafficking or prostitution.
3. Section 823.07, F.S. – relating to abandonment of iceboxes, refrigerators, deep-freeze lockers, clothes washers, clothes dryers, or airtight units.
4. Section 847.012, F.S. – relating to sale of harmful materials to minors or use of minors in production in harmful materials.
5. Section 847.0125, F.S. – relating to the retail display of materials harmful to minors.
6. Section 847.0133, F.S. – relating to the prohibition of certain acts in connection with obscenity.
7. Section 847.0134, F.S. - relating to the prohibition of an adult entertainment establishment that displays, sells, or distributes materials harmful to minors within 2,500 feet of a school.
8. Section 847.0138, F.S. – relating to transmission of material harmful to minors to a minor by electronic device or equipment.
9. Section 893.147, F.S. – relating to use, possession, manufacture, delivery, transportation, or advertisement of drug paraphernalia
10. Section 943.0435, F.S. – relating to sexual offenders.

A judge will be required to impose a court cost of \$101 on a person convicted of one of these offenses against a minor.

## B. SECTION DIRECTORY:

Section 1. Amends s. 938.10, F.S., relating to additional court cost imposed in cases of certain crimes against minors.

Section 2. Provides effective date of July 1, 2009.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See fiscal comments.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill increases court costs which must be assessed against a person who is convicted of certain criminal offenses.

The bill may result in increased revenue for children's advocacy centers.

### D. FISCAL COMMENTS:

The bill will require the imposition of a \$101 court costs against defendants convicted of certain criminal offenses. \$100 of these funds will be deposited into the Department of Children and Family Services' Grants and Donations Trust Fund for disbursement to the Florida Network of Children's Advocacy Centers, Inc. for the purpose of funding children's advocacy centers that are members of the network. At the time of the writing of this analysis, information was not yet available as to the amount of revenue that this is expected to generate into the trust fund.

According to the Florida Network of Children's Advocacy Centers, since 2004, \$196,698 has been deposited in total into the trust fund for disbursement to the children's advocacy centers.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill requires the imposition of a \$101 court cost against an offender convicted of any offense against a minor in violation of several statutes including s. 775.21, F.S. Section 775.21, F.S. requires people who have been convicted of certain qualifying offenses to register as a sexual predator. Although there are criminal penalties within that section of statute which relate to violating the requirements to register such as the requirement to report address information, these are not offenses which are committed "against a minor". If the intent is to impose the court cost against every offense listed in s. 775.21, F.S. for which a person is currently required to register as a sexual predator, this language should be clarified. The same issues apply to the bill's reference to s. 943.0435, F.S., the sexual offender statute.

The bill includes a reference to s. 893.147, F.S. which relates to drug paraphernalia. Subsection 3 of that statute makes it a felony to deliver drug paraphernalia to a minor. The bill requires the imposition of a court cost against an offender who commits one of the qualifying offenses "*against a minor*". Although clearly involving a minor, it is not clear whether the offense in s. 893.147(3), F.S. would be considered as one committed *against* a minor. The same issue applies to the bill's references to sections 847.0125, and 847.0134 which relate to obscenity and adult entertainment establishments, offenses that are meant to protect minors but are not necessarily committed against a minor.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**