

By Representatives Heyman and Crist

1 A bill to be entitled
2 An act relating to court costs; providing
3 legislative intent; creating chapter 970, F.S.;
4 providing for certain mandatory costs in all
5 cases; providing for certain mandatory costs in
6 specific types of cases; providing for
7 mandatory costs as authorized by local
8 governmental entities; providing discretionary
9 costs in specific types of cases; providing
10 miscellaneous provisions; amending and
11 renumbering s. 943.25(3), F.S., relating to
12 certain additional costs deposited in
13 Additional Court Cost Clearing Trust Fund;
14 conforming terminology and references; amending
15 and renumbering s. 960.20, F.S., relating to
16 assessment of certain additional costs
17 deposited in Crimes Compensation Trust Fund;
18 conforming terminology; amending and
19 renumbering s. 27.3455(1), (2), (3), F.S.,
20 relating to certain additional court costs in
21 special local government trust fund for
22 criminal justice purposes; conforming
23 terminology and references; providing for
24 certain additions to fines imposed under s.
25 316.193, F.S., relating to fines and other
26 penalties for driving under the influence, and
27 amending s. 316.193, F.S., to conform;
28 renumbering and amending s. 939.015, F.S.,
29 relating to certain additional costs in cases
30 in which victim is handicapped or elderly;
31 conforming terminology; amending and

1 renumbering s. 775.0836, F.S., relating to
2 certain surcharges in cases in which victim is
3 handicapped or elderly; conforming terminology;
4 renumbering s. 939.017, F.S., relating to
5 certain additional costs for misdemeanor
6 convictions involving drugs or alcohol;
7 amending and renumbering s. 943.25(13), F.S.,
8 relating to certain assessments for criminal
9 justice education for local government;
10 conforming terminology; amending and
11 renumbering s. 775.0833, F.S., relating to
12 certain fines for county delinquency
13 prevention; conforming terminology; amending
14 and renumbering s. 39.019, F.S., relating to
15 certain costs for teen court operation and
16 maintenance; conforming terminology; amending
17 and renumbering s. 893.16, F.S., relating to
18 certain additional assessments for alcohol and
19 other drug abuse programs; conforming
20 terminology and references; renumbering s.
21 939.01, F.S., relating to judgment for costs on
22 conviction; amending and renumbering s. 27.56,
23 F.S., relating to lien for payment of
24 attorney's fees and costs in connection with
25 certain legal assistance; providing for
26 incorporation of references to the new chapter
27 or subdivisions thereof; providing for
28 construction; repealing s. 893.13(8), F.S.,
29 relating to additional assessments against
30 certain violators for alcohol and other drug
31 abuse programs; providing an effective date.

1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. The Legislature declares its intent to
4 provide for the creation of a new chapter of the Florida
5 Statutes consolidating and categorizing the provisions
6 relating to court costs, in order to accomplish the purposes
7 of assisting the judiciary and other court participants to
8 identify and locate applicable law relating to court costs and
9 thereby facilitating the uniform imposition and collection of
10 court costs.

11 Section 2. Sections 970.01, 970.03, and 970.05,
12 Florida Statutes, are designated as part I of chapter 970,
13 Florida Statutes, and entitled "mandatory costs in all cases."

14 Section 3. Subsection (3) of section 943.25, Florida
15 Statutes, is renumbered as subsection (1) of section 970.01,
16 Florida Statutes, and amended, and subsection (2) is created
17 to read:

18 970.01 Additional Court Cost Clearing Trust Fund;
19 costs.--

20 ~~(1)(3)~~ All courts created by Art. V of the State
21 Constitution shall, in addition to any fine or other penalty,
22 assess \$3 as a court cost against every person convicted for
23 violation of a state penal or criminal statute or convicted
24 for violation of a municipal or county ordinance. However,
25 such assessment shall not be imposed in addition to civil
26 penalties provided in s. 318.18. Any person whose
27 adjudication is withheld pursuant to the provisions of s.
28 318.14(9) or (10) shall also be assessed such cost. In
29 addition, \$3 from every bond estreature or forfeited bail bond
30 related to such penal statutes or penal ordinances shall be
31 forwarded to the Treasurer as described in this subsection.

1 However, no such assessment may be made against any person
2 convicted for violation of any state statute, municipal
3 ordinance, or county ordinance relating to the parking of
4 vehicles.

5 (a) All such costs collected by the courts shall be
6 remitted to the Department of Revenue, in accordance with
7 administrative rules adopted by the executive director of the
8 Department of Revenue, for deposit in the Additional Court
9 Cost Clearing Trust Fund and shall be earmarked to the
10 Department of Law Enforcement and the Department of Community
11 Affairs for distribution as follows:

12 1. Two dollars and seventy-five cents of each \$3
13 assessment shall be deposited in the Criminal Justice
14 Standards and Training Trust Fund, and the remaining 25 cents
15 of each such assessment shall be deposited into the Operating
16 Trust Fund and shall be disbursed to the Bureau of Public
17 Safety Management of the Department of Community Affairs.

18 2. Ninety-two percent of the money distributed to the
19 Additional Court Cost Clearing Trust Fund pursuant to s.
20 318.21 shall be earmarked to the Department of Law Enforcement
21 for deposit in the Criminal Justice Standards and Training
22 Trust Fund, and 8 percent of such money shall be deposited
23 into the Operating Trust Fund and shall be disbursed to the
24 Bureau of Public Safety Management of the Department of
25 Community Affairs.

26 (b) The funds deposited in the Criminal Justice
27 Standards and Training Trust Fund and the Operating Trust Fund
28 may be invested. Any interest earned from investing such funds
29 and any unencumbered funds remaining at the end of the budget
30 cycle shall be deposited, for redistribution, in the
31 Additional Court Cost Clearing Trust Fund. However, revenues

1 generated from officer certification examination fees shall
2 not revert to the Additional Court Cost Clearing Trust Fund
3 and shall remain in the Criminal Justice Standards and
4 Training Trust Fund.

5 (c) All funds in the Criminal Justice Standards and
6 Training Trust Fund earmarked to the Department of Law
7 Enforcement shall be disbursed only in compliance with s.
8 943.25(10)~~subsection (10)~~.

9 (2) Except as provided by s. 970.15 and
10 notwithstanding any other provision of law, no funds collected
11 and deposited pursuant to this section or s. 943.25 shall be
12 expended unless specifically appropriated by the Legislature.

13 Section 4. Section 960.20, Florida Statutes, is
14 renumbered as section 970.03, Florida Statutes, and the
15 catchline is amended to read:

16 970.03 ~~960.20~~ Crimes Compensation Trust Fund;
17 ~~Additional costs.--~~

18 (1) When any person pleads guilty or nolo contendere
19 to, or is convicted of or adjudicated delinquent for, any
20 felony, misdemeanor, delinquent act, or criminal traffic
21 offense under the laws of this state or the violation of any
22 municipal or county ordinance which adopts by reference any
23 misdemeanor under state law, there shall be imposed as an
24 additional cost in the case, in addition and prior to any
25 other cost required to be imposed by law, the sum of \$50. Any
26 person whose adjudication is withheld shall also be assessed
27 such cost.

28 (2) These costs are considered assessed unless
29 specifically waived by the court. If the court does not order
30 these costs, it shall state on the record, in detail, the
31 reasons therefor.

1 (3) In the event that the individual has been ordered
2 to pay restitution in accordance with s. 775.089, costs
3 referenced in this section shall be included in a judgment.

4 (4) The clerk of the court shall collect and forward
5 \$49 of each \$50 collected to the Treasurer, to be deposited in
6 the Crimes Compensation Trust Fund. The clerk shall retain the
7 remaining \$1 of each \$50 collected as a service charge of the
8 clerk's office. Under no condition shall a political
9 subdivision be held liable for the payment of this sum of \$50.

10 Section 5. Subsections (1), (2), and (3) of section
11 27.3455, Florida Statutes, 1996 Supplement, are renumbered as
12 section 970.05, Florida Statutes, and amended to read:

13 970.05 Local Government Criminal Justice Trust Fund;
14 costs.--

15 (1) When any person pleads nolo contendere to a
16 misdemeanor or criminal traffic offense under s. 318.14(10)(a)
17 or pleads guilty or nolo contendere to, or is found guilty of,
18 any felony, misdemeanor, or criminal traffic offense under the
19 laws of this state or the violation of any municipal or county
20 ordinance which adopts by reference any misdemeanor under
21 state law, there shall be imposed as a cost in the case, in
22 addition to any other cost required to be imposed by law, a
23 sum in accordance with the following schedule:

- 24 (a) Felonies.....\$200
25 (b) Misdemeanors.....\$50
26 (c) Criminal traffic offenses.....\$50

27 (2) Payment of the additional court costs provided for
28 in subsection (1) shall be made part of any plea agreement
29 reached by the prosecuting attorney and defense counsel or the
30 criminal defendant where the plea agreement provides for the
31 defendant to plead guilty or nolo contendere to any felony,

1 misdemeanor, or criminal traffic offense under the laws of
2 this state or any municipal or county ordinance which adopts
3 by reference any misdemeanor under state law.

4 (3) The clerk of the court shall collect such
5 additional costs and shall notify the agency supervising a
6 person upon whom costs have been imposed upon full payment of
7 fees. The clerk shall deposit all but \$3 for each misdemeanor
8 or criminal traffic case and all but \$5 for each felony case
9 in a special trust fund of the county. Such funds shall be
10 used exclusively for those purposes set forth in s. 27.3455(6)
11 ~~subsection (6)~~. The clerk shall retain \$3 for each
12 misdemeanor or criminal traffic case and \$5 for each felony
13 case of each scheduled amount collected as a service charge of
14 the clerk's office. A political subdivision shall not be held
15 liable for the payment of the additional costs imposed by this
16 section.

17 Section 6. Sections 970.07, 970.09, 970.11, and
18 970.13, Florida Statutes, are designated as part II of chapter
19 970, Florida Statutes, and entitled "mandatory costs in
20 specific types of cases."

21 Section 7. Section 970.07, Florida Statutes, is
22 created to read:

23 970.07 Driving under the influence;
24 finest.--Notwithstanding any other provision of this section,
25 \$100 shall be added to any fine imposed pursuant to s.
26 316.193, of which one-quarter shall be deposited in the
27 Emergency Medical Services Trust Fund, one-half shall be
28 deposited in the Criminal Justice Standards and Training Trust
29 Fund of the Department of Law Enforcement to be used for
30 operational expenses of the Division of Local Law Enforcement
31 Assistance in conducting the statewide criminal analysis

1 laboratory system established in s. 943.32, and one-quarter
2 shall be deposited in the Brain and Spinal Cord Injury
3 Rehabilitation Trust Fund created in s. 413.613. However, in
4 satisfaction of any fine imposed pursuant to this section or
5 s. 316.193, the court may, upon a finding that the defendant
6 is financially unable to pay either all or part of the fine,
7 order that the defendant participate for a specified
8 additional period of time in public service or a community
9 work project in lieu of payment of that portion of the fine
10 which the court determines the defendant is unable to pay. In
11 determining such additional sentence, the court shall consider
12 the amount of the unpaid portion of the fine and the
13 reasonable value of the services to be ordered; however, the
14 court may not compute the reasonable value of services at a
15 rate less than the federal minimum wage at the time of
16 sentencing.

17 Section 8. Section 939.015, Florida Statutes, is
18 renumbered as section 970.09, Florida Statutes, and amended to
19 read:

20 970.09 ~~939.015~~ Cases in which victim is handicapped or
21 elderly; additional costs.--

22 (1) When any person pleads guilty or nolo contendere
23 to, or is convicted of, any felony or misdemeanor under the
24 laws of this state or any county or municipal ordinance
25 violation in which any victim is handicapped or elderly, as
26 defined in s. 426.002, there shall be imposed an additional
27 cost in the case, in addition to any other cost required to be
28 imposed by law, in the sum of \$20. Under no condition shall a
29 political subdivision be held liable for the payment of such
30 sum of \$20.

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1 (2) The clerk of the court shall collect the \$20 and
2 forward \$19 thereof to the Treasurer, to be deposited in the
3 General Revenue Fund. The clerk shall retain the remaining \$1
4 of each \$20 collected as a service charge of the clerk's
5 office.

6 (3) The costs imposed by this section apply only in
7 counties containing housing projects ~~as defined in this~~
8 ~~chapter.~~

9 Section 9. Section 775.0836, Florida Statutes, is
10 renumbered as section 970.11, Florida Statutes, and amended to
11 read:

12 970.11 ~~775.0836~~ Surcharges in cases in which victim is
13 handicapped or elderly; finer.--

14 (1) In addition to any fine prescribed by law for any
15 criminal offense or any county or municipal ordinance, when
16 any victim of such criminal offense or any county or municipal
17 ordinance violation is handicapped or elderly, as defined in
18 s. 426.002, there is hereby assessed an additional 10-percent
19 surcharge on such fine, which surcharge shall be imposed by
20 all county and circuit courts, and collected by the clerk of
21 the court together with such fine. The surcharge shall be
22 deposited in the General Revenue Fund.

23 (2) The surcharges imposed by this section apply only
24 in counties containing housing projects ~~as defined in this~~
25 ~~chapter.~~

26 Section 10. Section 939.017, Florida Statutes, is
27 renumbered as section 970.13, Florida Statutes, to read:

28 970.13 ~~939.017~~ Misdemeanor convictions involving drugs
29 or alcohol; additional costs.--

30 (1)(a) When any person, on or after October 1, 1988,
31 is found guilty of any misdemeanor under the laws of this

1 state in which the unlawful use of drugs or alcohol is
2 involved, there shall be imposed an additional cost in the
3 case, in addition to any other cost required to be imposed by
4 law, in the sum of \$15. Under no condition shall a political
5 subdivision be held liable for the payment of such sum.

6 (b) The clerk of the court shall collect the \$15 and
7 forward \$14 thereof to the Treasurer to be deposited to the
8 credit of the Department of Health and Rehabilitative Services
9 for allocation to local substance abuse treatment programs
10 under s. 397.321. The clerk shall retain the remaining \$1 of
11 each \$15 collected as a service charge of the clerk's office.

12 (2) The costs imposed by this section apply only in
13 each county in which the board of county commissioners has
14 adopted an ordinance which requires the collection of such
15 costs.

16 Section 11. Sections 970.15, 970.17, and 970.19,
17 Florida Statutes, are designated as part III of chapter 970,
18 Florida Statutes, and entitled "mandatory court costs
19 authorized by local governmental entities."

20 Section 12. Subsection (13) of section 943.25, Florida
21 Statutes, is renumbered as section 970.15, Florida Statutes,
22 and amended to read:

23 970.15 ~~943.25~~ Criminal justice education for local
24 government; assessments.--

25 ~~(13)~~ In addition to the costs provided for in s.
26 970.01, municipalities and counties may assess an additional
27 \$2 for expenditures for criminal justice education degree
28 programs and training courses, including basic recruit
29 training, for their respective officers and employing agency
30 support personnel, provided such education degree programs and
31 training courses are approved by the employing agency

1 administrator, on a form provided by the commission, for local
2 funding.

3 (1)~~(a)~~ Workshops, meetings, conferences, and
4 conventions shall, on a form approved by the commission for
5 use by the employing agency, be individually approved by the
6 employing agency administrator prior to attendance. The form
7 shall include, but not be limited to, a demonstration by the
8 employing agency of the purpose of the workshop, meeting,
9 conference, or convention; the direct relationship of the
10 training to the officer's job; the direct benefits the officer
11 and agency will receive; and all anticipated costs.

12 (2)~~(b)~~ The commission may inspect and copy the
13 documentation of independent audits conducted of the
14 municipalities and counties which make such assessments to
15 ensure that such assessments have been made and that
16 expenditures are in conformance with the requirements of this
17 subsection and with other applicable procedures.

18 Section 13. Section 775.0833, Florida Statutes, 1996
19 Supplement, is renumbered as section 970.17, Florida Statutes,
20 and the catchline is amended to read:

21 970.17 ~~775.0833~~ County delinquency prevention;
22 fines.--

23 (1) A county may adopt a mandatory cost to be assessed
24 in specific cases by incorporating by reference the provisions
25 of this section in a county ordinance. Prior to the adoption
26 of the county ordinance, the sheriff's office of the county
27 must be a partner in a written agreement with the Department
28 of Juvenile Justice to participate in a juvenile assessment
29 center or with the district school board to participate in a
30 suspension program.

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1 (2) In counties in which the sheriff's office is a
2 partner in a juvenile justice assessment center pursuant to s.
3 39.0471, or a partner in a suspension program developed in
4 conjunction with the district school board in the county of
5 the sheriff's jurisdiction, the court shall assess court costs
6 of \$3 per case, in addition to any other authorized cost or
7 fine, on every person who, with respect to a charge,
8 indictment, prosecution commenced, or petition of delinquency
9 filed in that county or circuit, pleads guilty, nolo
10 contendere to, or is convicted of, or adjudicated delinquent
11 for, or has an adjudication withheld for, a felony or
12 misdemeanor, or a criminal traffic offense or handicapped
13 parking violation under state law, or a violation of any
14 municipal or county ordinance, if the violation constitutes a
15 misdemeanor under state law.

16 (3)(a) The clerks of the county and circuit court, in
17 a county where the sheriff's office is a partner in an
18 assessment center or suspension program as specified in
19 subsection (1), shall collect and deposit the assessments
20 collected pursuant to this section in an appropriate,
21 designated account established by the clerk of the court, for
22 disbursement to the sheriff as needed for the implementation
23 and operation of an assessment center or suspension program.

24 (b) The clerk of the circuit and county court shall
25 withhold 5 percent of the assessments each court collects
26 pursuant to this section, for the costs of administering the
27 collection of assessments under this section.

28 (c) Assessments collected by clerks of the circuit
29 courts comprised of more than one county shall remit the funds
30 collected pursuant to this section to the county in which the
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1 offense at issue was committed for deposit and disbursement
2 according to this section.

3 (d) Any other funds the sheriff's office obtains for
4 the implementation or operation of an assessment center or
5 suspension program may be deposited into the designated
6 account for disbursement to the sheriff as needed.

7 (4) A sheriff's office that receives the cost
8 assessments established in subsection (1) shall account for
9 all funds that have been deposited into the designated account
10 by August 1 annually in a written report to the county
11 juvenile justice council if funds are used for assessment
12 centers, and to the district school board if funds are used
13 for suspension programs.

14 Section 14. Section 39.019, Florida Statutes, 1996
15 Supplement, is renumbered as section 970.19, Florida Statutes,
16 and the catchline is amended to read:

17 970.19 ~~39.019~~ Teen courts; operation and
18 administration; costs.--In each county in which a teen court
19 has been created, a county may adopt a mandatory cost to be
20 assessed in specific cases as provided for in subsection (1)
21 by incorporating by reference the provisions of this section
22 in a county ordinance. Assessments collected by the clerk of
23 the circuit court pursuant to this section shall be deposited
24 into an account specifically for the operation and
25 administration of the teen court:

26 (1) A sum of \$3, which shall be assessed as a court
27 cost by both the circuit court and the county court in the
28 county against every person who pleads guilty or nolo
29 contendere to, or is convicted of, regardless of adjudication,
30 a violation of a state criminal statute or a municipal
31 ordinance or county ordinance or who pays a fine or civil

1 penalty for any violation of chapter 316. Any person whose
2 adjudication is withheld pursuant to the provisions of s.
3 318.14(9) or (10) shall also be assessed such cost. The \$3
4 assessment for court costs shall be assessed in addition to
5 any fine, civil penalty, or other court cost and shall not be
6 deducted from the proceeds of that portion of any fine or
7 civil penalty which is received by a municipality in the
8 county or by the county in accordance with ss. 316.660 and
9 318.21. The \$3 assessment shall specifically be added to any
10 civil penalty paid for a violation of chapter 316, whether
11 such penalty is paid by mail, paid in person without request
12 for a hearing, or paid after hearing and determination by the
13 court. However, the \$3 assessment shall not be made against a
14 person for a violation of any state statutes, county
15 ordinance, or municipal ordinance relating to the parking of
16 vehicles, with the exception of a violation of the handicapped
17 parking laws. The clerk of the circuit court shall collect
18 the respective \$3 assessments for court costs established in
19 this subsection and shall remit the same to the teen court
20 monthly, less 5 percent, which is to be retained as fee income
21 of the office of the clerk of the circuit court.

22 (2) Such other moneys as become available for
23 establishing and operating teen courts under the provisions of
24 Florida law.

25 Section 15. Sections 970.21, 970.23, 970.25, 970.27,
26 and 970.29, Florida Statutes, are designated as part IV of
27 chapter 970, Florida Statutes, and entitled "discretionary
28 costs in specific types of cases."

29 Section 16. Section 970.21, Florida Statutes, is
30 created to read:

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1 970.21 Alcohol and Drug Abuse Programs;
2 fines.--Notwithstanding any provision to the contrary of the
3 laws of this state, the court may assess for alcohol and other
4 drug abuse programs as provided in s. 893.165 any defendant
5 who pleads guilty or nolo contendere to, or is convicted of, a
6 violation of any provision of this chapter or which involves a
7 criminal violation of s. 316.193, s. 856.011, s. 856.015, or
8 chapter 562, chapter 567, or chapter 568, in addition to any
9 fine and other penalty provided by law, an amount up to the
10 amount of the fine authorized for the violation. The court is
11 authorized to order a defendant to pay an additional
12 assessment if it finds that the defendant has the ability to
13 pay the fine and the additional assessment and will not be
14 prevented thereby from being rehabilitated or from making
15 restitution.

16 Section 17. Section 893.16, Florida Statutes, is
17 renumbered as section 970.23, Florida Statutes, and amended to
18 read:

19 970.23 ~~893.16~~ ~~Assessment for~~ Alcohol and other drug
20 abuse programs; additional assessments.--

21 (1) In addition to any fine imposed by law for any
22 criminal offense under this chapter or for any criminal
23 violation of s. 316.193, s. 856.011, s. 856.015, or chapter
24 562, chapter 567, or chapter 568, the court shall be
25 authorized, pursuant to the requirements of s. 970.21
26 ~~893.13(8)(a)~~, to impose an additional assessment in an amount
27 up to the amount of the fine authorized for the offense. Such
28 additional assessments shall be deposited for the purpose of
29 providing assistance grants to drug abuse treatment or alcohol
30 treatment or education programs as provided in s. 893.165.

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1 (2) All assessments authorized by this section shall
2 be collected by the clerk of court and remitted to the
3 jurisdictional county as described in s. 893.165(2) for
4 deposit into the County Alcohol and Other Drug Abuse Trust
5 Fund or to the Department of Health and Rehabilitative
6 Services for deposit into the department's Community Alcohol
7 and Other Drug Abuse Services Grants and Donations Trust Fund
8 pursuant to guidelines and priorities developed by the
9 department. If a County Alcohol and Other Drug Abuse Trust
10 Fund has not been established for any jurisdictional county,
11 assessments collected by the clerk of court shall be remitted
12 to the Department of Health and Rehabilitative Services for
13 deposit into the department's Community Alcohol and Other Drug
14 Abuse Services Grants and Donations Trust Fund.

15 Section 18. Section 970.25, Florida Statutes, is
16 created to read:

17 970.25 Operating Trust Fund of the Department of Law
18 Enforcement.--Notwithstanding any provision to the contrary of
19 the laws of this state, the court may assess any defendant who
20 pleads guilty or nolo contendere to, or is convicted of, a
21 violation of any provision of this section, without regard to
22 whether adjudication was withheld, in addition to any fine and
23 other penalty provided or authorized by law, an amount of
24 \$100, to be paid to the clerk of the court, who shall forward
25 it to the Operating Trust Fund of the Department of Law
26 Enforcement to be used by the statewide criminal analysis
27 laboratory system for the purposes specified in s. 943.361.
28 The court is authorized to order a defendant to pay an
29 additional assessment if it finds that the defendant has the
30 ability to pay the fine and the additional assessment and will

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1 not be prevented thereby from being rehabilitated or from
2 making restitution.

3 Section 19. Section 939.01, Florida Statutes, is
4 renumbered as section 970.27, Florida Statutes, to read:

5 970.27 ~~939.01~~ Judgment for costs on conviction.--

6 (1) In all criminal cases the costs of prosecution,
7 including investigative costs incurred by law enforcement
8 agencies, and by fire departments for arson investigations, if
9 requested and documented by such agencies, shall be included
10 and entered in the judgment rendered against the convicted
11 person.

12 (2) If the court does not enter costs, or orders only
13 partial costs under this section, it shall state on the record
14 the reasons therefor.

15 (3)(a) The court may require that the defendant pay
16 the costs within a specified period or in specified
17 installments.

18 (b) The end of such period or the last such
19 installment shall not be later than:

20 1. The end of the period of probation or community
21 control, if probation or community control is ordered;

22 2. Five years after the end of the term of
23 imprisonment imposed, if the court does not order probation or
24 community control; or

25 3. Five years after the date of sentencing in any
26 other case.

27 (c) If not otherwise provided by the court under this
28 section, costs shall be paid immediately.

29 (4) If a defendant is placed on probation or community
30 control, any costs ordered under this section shall be a
31 condition of such probation or community control. The court

1 may revoke probation or community control if the defendant
2 fails to comply with such order.

3 (5) The court, in determining whether to order costs
4 and the amount of such costs, shall consider the amount of the
5 costs incurred, the financial resources of the defendant, the
6 financial needs and earning ability of the defendant, and such
7 other factors which it deems appropriate.

8 (6) Any dispute as to the proper amount or type of
9 costs ordered shall be resolved by the court by the
10 preponderance of the evidence. The burden of demonstrating
11 the amount of costs incurred is on the state attorney. The
12 burden of demonstrating the financial resources of the
13 defendant and the financial needs of the defendant is on the
14 defendant. The burden of demonstrating such other matters as
15 the court deems appropriate is upon the party designated by
16 the court as justice requires.

17 (7) Any default in payment of costs ordered may be
18 collected by any means authorized by law for enforcement of a
19 judgment.

20 (8) The court may order the clerk of the court to
21 collect and dispense cost payments in any case.

22 (9) Investigative costs which are recovered shall be
23 returned to the appropriate investigative agency which
24 incurred the expense. Costs shall include actual expenses
25 incurred in conducting the investigation and prosecution of
26 the criminal case; however, costs may also include the
27 salaries of permanent employees.

28 (10) Costs that are collected by the state attorney
29 under this section shall be deposited into the state
30 attorney's grants and donations trust fund to be used during
31 the fiscal year in which the funds are collected, or in any

1 subsequent fiscal year, for actual expenses incurred in
2 investigating and prosecuting criminal cases, which may
3 include the salaries of permanent employees.

4 Section 20. Section 27.56, Florida Statutes, 1996
5 Supplement, is renumbered as section 970.29, Florida Statutes,
6 and the catchline is amended to read:

7 970.29 ~~27.56~~ Legal assistance; lien for payment of
8 attorney's fees or costs.--

9 (1)(a) The court having jurisdiction over any
10 defendant who has been determined to be guilty of a criminal
11 act by a court or jury or through a plea of guilty or nolo
12 contendere and who has received the assistance of the public
13 defender's office or a special assistant public defender, or
14 the services of a private attorney appointed pursuant to the
15 Florida Statutes or the Florida Rules of Criminal Procedure,
16 but is not indigent under s. 27.52(2), or has been determined
17 indigent but able to contribute, may assess attorney's fees
18 and costs against the defendant. At the sentencing hearing,
19 the court shall assess attorney's fees and costs against the
20 defendant and shall determine the appropriate amount and
21 method of payment. Such costs may include the cost of
22 depositions; cost of transcripts of depositions, including the
23 cost of defendant's copy, which transcripts are certified by
24 the defendant's attorney as having served a useful purpose in
25 the disposition of the case; investigative costs; witness
26 fees; the cost of psychiatric examinations; or other
27 reasonable costs specially incurred by the county for the
28 defense of the defendant in criminal prosecutions within the
29 county. Costs shall not include expenses inherent in providing
30 a constitutionally guaranteed jury trial or expenditures in
31 connection with the maintenance and operation of government

1 agencies that must be made by the public irrespective of
2 specific violations of law. Any cost assessed pursuant to
3 this paragraph shall be reduced by any amount assessed against
4 a defendant pursuant to s. 27.3455.

5 (b) Upon entering a judgment of conviction, the trial
6 court may order the defendant to pay the costs assessed by the
7 court in full, or within a time certain as set by the court,
8 after the judgment of conviction becomes final.

9 (c) After assessment of the attorney's fees and costs,
10 the court may order the defendant to pay the attorney's fees
11 in full or in installments, at the time or times specified.
12 The court may order payment of the assessed attorney's fees as
13 a condition of probation, of suspension of sentence, or of
14 withholding the imposition of sentence.

15 (2)(a) When payment of attorney's fees or costs has
16 been ordered by the court, there is hereby created in the name
17 of the county in which such assistance was rendered a lien,
18 enforceable as hereinafter provided, upon all the property,
19 both real and personal, of any person who:

- 20 1. Has received any assistance from any public
21 defender of the state, from any special assistant public
22 defender, or from any appointed private legal counsel; or
23 2. Is a parent of an accused minor or an accused adult
24 tax-dependent person who is being, or has been, represented by
25 any public defender of the state, by any special assistant
26 public defender, or by any appointed private legal counsel.

27
28 Such lien shall constitute a claim against the
29 defendant-recipient or parent and his or her estate,
30 enforceable according to law, in an amount to be determined by
31 the court in which such assistance was rendered.

1 (b) Immediately after the issuance of an order for the
2 payment of attorney's fees or costs, a judgment showing the
3 name and residence of the defendant-recipient or parent shall
4 be filed for record in the office of the clerk of the circuit
5 court in the county where the defendant-recipient or parent
6 resides and in each county in which such defendant-recipient
7 or parent then owns or later acquires any property. Such
8 judgments shall be enforced on behalf of the county by the
9 board of county commissioners of the county in which
10 assistance was rendered.

11 (3) In lieu of the procedure above described, the
12 court is authorized to require that the defendant-recipient of
13 the services of the public defender, special assistant public
14 defender, or appointed private legal counsel, or that the
15 parent of an accused minor or an accused adult tax-dependent
16 person who has received such services, execute a lien upon his
17 or her real or personal property, presently owned or
18 after-acquired, as security for the debt created hereby. Such
19 lien shall be recorded in the public records of the county at
20 no charge by the clerk of the circuit court and shall be
21 enforceable in the same manner as a mortgage.

22 (4) The board of county commissioners of the county
23 wherein the defendant-recipient was tried or received the
24 services of a public defender, special assistant public
25 defender, or appointed private legal counsel shall enforce,
26 satisfy, compromise, settle, subordinate, release, or
27 otherwise dispose of any debt or lien imposed under this
28 section. A defendant-recipient or parent, who has been
29 ordered to pay attorney's fees or costs and who is not in
30 willful default in the payment thereof, may, at any time,
31 petition the court which entered the order for remission of

1 the payment of attorney's fees or costs or of any unpaid
2 portion thereof. If it appears to the satisfaction of the
3 court that payment of the amount due will impose manifest
4 hardship on such person or his or her immediate family, the
5 court may remit all or part of the amount due in attorney's
6 fees or costs or may modify the method of payment.

7 (5) The board of county commissioners of the county
8 claiming such lien is authorized to contract with a collection
9 agency for collection of such debts or liens, provided the fee
10 for such collection shall be on a contingent basis not to
11 exceed 50 percent of the recovery. However, no fee shall be
12 paid to any collection agency by reason of foreclosure
13 proceedings against real property or from the proceeds from
14 the sale or other disposition of real property.

15 (6) No lien thus created shall be foreclosed upon the
16 homestead of such defendant-recipient or parent, nor shall any
17 defendant-recipient or parent who is ordered to pay attorney's
18 fees or costs be denied any of the protections afforded any
19 other civil judgment debtor.

20 (7) The court having jurisdiction of the
21 defendant-recipient may, at such stage of the proceedings as
22 the court may deem appropriate, determine the value of the
23 services of the public defender, special assistant public
24 defender, or appointed private legal counsel and costs, at
25 which time the defendant-recipient or parent, after adequate
26 notice thereof, shall have opportunity to be heard and offer
27 objection to the determination, and to be represented by
28 counsel, with due opportunity to exercise and be accorded the
29 procedures and rights provided in the laws and court rules
30 pertaining to civil cases at law.

31

1 Section 21. Section 970.31, Florida Statutes, is
2 designated as part V of chapter 970, Florida Statutes, and
3 entitled "miscellaneous provisions."

4 970.31 Incorporation by reference.--The purpose of
5 this chapter is to facilitate uniform imposition and
6 collection of court costs throughout the state and, to this
7 end, a reference to this chapter or to any section or
8 subdivision within this chapter, constitutes a general
9 reference under the doctrine of incorporation by reference.

10 Section 22. Subsection (6) of section 316.193, Florida
11 Statutes, 1996 Supplement, is amended to read:

12 316.193 Driving under the influence; penalties.--

13 (6) With respect to any person convicted of a
14 violation of subsection (1), regardless of any penalty imposed
15 pursuant to subsection (2), subsection (3), or subsection (4):

16 (a) For the first conviction, the court shall place
17 the defendant on probation for a period not to exceed 1 year
18 and, as a condition of such probation, shall order the
19 defendant to participate in public service or a community work
20 project for a minimum of 50 hours; or the court may order
21 instead, that any defendant pay an additional fine of \$10 for
22 each hour of public service or community work otherwise
23 required, if, after consideration of the residence or location
24 of the defendant at the time public service or community work
25 is required, payment of the fine is in the best interests of
26 the state. However, the total period of probation and
27 incarceration may not exceed 1 year.

28 (b) For the second conviction for an offense that
29 occurs within a period of 5 years after the date of a prior
30 conviction for violation of this section, the court shall

31

1 order imprisonment for not less than 10 days. At least 48
2 hours of confinement must be consecutive.

3 (c) For the third or subsequent conviction for an
4 offense that occurs within a period of 10 years after the date
5 of a prior conviction for violation of this section, the court
6 shall order imprisonment for not less than 30 days. At least
7 48 hours of confinement must be consecutive.

8 (d) In addition to the penalty imposed under paragraph
9 (a), paragraph (b), or paragraph (c), the court shall also
10 order the impoundment or immobilization of the vehicle that
11 was driven by, or in the actual physical control of, the
12 offender, unless the court finds that the family of the owner
13 of the vehicle has no other public or private means of
14 transportation. The period of impoundment or immobilization is
15 10 days, or, for the second conviction within 3 years, 30
16 days, or, for the third conviction within 5 years, 90 days and
17 may not be concurrent with probation or imprisonment. If the
18 vehicle is leased or rented, the period of impoundment or
19 immobilization may not extend beyond the expiration of the
20 lease or rental agreement. Within 7 business days after the
21 date that the court issues the order of impoundment or
22 immobilization, the clerk of the court shall send notice by
23 certified mail, return receipt requested, to the registered
24 owner of the vehicle if the registered owner is a person other
25 than the offender and to each person of record claiming a lien
26 against the vehicle. All costs and fees for the impoundment or
27 immobilization, including the cost of notification, must be
28 paid by the owner of the vehicle or, if the vehicle is leased
29 or rented, by the person leasing or renting the vehicle. The
30 person who owns a vehicle that is impounded or immobilized
31 under this paragraph, or a person who has a lien of record

1 against such a vehicle, may, within 10 days after the date
2 that person has knowledge of the location of the vehicle, file
3 a complaint in the county in which the owner resides to
4 determine whether the vehicle was wrongfully taken or withheld
5 from the owner or lienholder. Upon the filing of a complaint,
6 the owner or lienholder may have the vehicle released by
7 posting with the court a bond or other adequate security equal
8 to the amount of the costs and fees for impoundment or
9 immobilization, including towing or storage, to ensure the
10 payment of such costs and fees if the owner or lienholder does
11 not prevail. When the bond is posted and the fee is paid as
12 set forth in s. 28.24, the clerk of the court shall issue a
13 certificate releasing the vehicle. At the time of release,
14 after reasonable inspection, the owner or lienholder must give
15 a receipt to the towing or storage company indicating any loss
16 or damage to the vehicle or to the contents of the vehicle.

17 (e) A defendant, in the court's discretion, may be
18 required to serve all or any portion of a term of imprisonment
19 to which the defendant has been sentenced pursuant to this
20 section in a residential alcoholism treatment program or a
21 residential drug abuse treatment program. Any time spent in
22 such a program must be credited by the court toward the term
23 of imprisonment.

24
25 For the purposes of this section, any conviction for a
26 violation of s. 327.35; a previous conviction for the
27 violation of former s. 316.1931, former s. 860.01, or former
28 s. 316.028; or a previous conviction outside this state for
29 driving under the influence, driving while intoxicated,
30 driving with an unlawful blood-alcohol level, driving with an
31 unlawful breath-alcohol level, or any other similar

1 alcohol-related or drug-related traffic offense, is also
2 considered a previous conviction for violation of this
3 section. ~~Notwithstanding any other provision of this section,~~
4 ~~\$100 shall be added to any fine imposed pursuant to this~~
5 ~~section, of which one quarter shall be deposited in the~~
6 ~~Emergency Medical Services Trust Fund, one half shall be~~
7 ~~deposited in the Criminal Justice Standards and Training Trust~~
8 ~~Fund of the Department of Law Enforcement to be used for~~
9 ~~operational expenses of the Division of Local Law Enforcement~~
10 ~~Assistance in conducting the statewide criminal analysis~~
11 ~~laboratory system established in s. 943.32, and one quarter~~
12 ~~shall be deposited in the Brain and Spinal Cord Injury~~
13 ~~Rehabilitation Trust Fund created in s. 413.613. However, in~~
14 ~~satisfaction of the fine imposed pursuant to this section, the~~
15 ~~court may, upon a finding that the defendant is financially~~
16 ~~unable to pay either all or part of the fine, order that the~~
17 ~~defendant participate for a specified additional period of~~
18 ~~time in public service or a community work project in lieu of~~
19 ~~payment of that portion of the fine which the court determines~~
20 ~~the defendant is unable to pay. In determining such additional~~
21 ~~sentence, the court shall consider the amount of the unpaid~~
22 ~~portion of the fine and the reasonable value of the services~~
23 ~~to be ordered; however, the court may not compute the~~
24 ~~reasonable value of services at a rate less than the federal~~
25 ~~minimum wage at the time of sentencing.~~

26 Section 23. This act shall be liberally construed so
27 as to facilitate the permanent statutory revision plan of this
28 state created in s. 11.241, Florida Statutes.

29 Section 24. Subsection (8) of section 893.13, Florida
30 Statutes, is hereby repealed.

31 Section 25. This act shall take effect July 1, 1997.

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HOUSE SUMMARY

Creates chapter 970, F.S., including part I, relating to certain mandatory costs in all cases, part II, relating to certain mandatory costs in specific types of cases, part III, relating to mandatory costs as authorized by local governmental entities, part IV, relating to discretionary costs in specific types of cases, and part V, relating to miscellaneous provisions. Provides for construction of the act. See bill for details.