

STORAGE NAME: h1319s1.cj

DATE: April 20, 1997

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
CRIMINAL JUSTICE APPROPRIATIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 1319

RELATING TO: Court Funding/County Article V Trust Fund

SPONSOR(S): Committee on Criminal Justice Appropriations, Representative's Villalobos, Thrasher, and others

STATUTE(S) AFFECTED: Section 318.21, Florida Statutes

COMPANION BILL(S): CS/SB 722 (s); HB 1333 (c); SB 902 (c); HB 1157 ©

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

- (1) CIVIL JUSTICE & CIVIL CLAIMS YEAS 8 NAYS 0
- (2) COMMUNITY AFFAIRS YEAS 7 NAYS 0
- (3) FINANCE & TAXATION (W/D)
- (4) CRIMINAL JUSTICE APPROPRIATIONS YEAS 9 NAYS 0
- (5)

I. SUMMARY:

This bill specifies operating procedures and funding for the County Article V Trust Fund. This bill requires the Supreme Court of Florida to administer the County Article V Trust Fund and use the proceeds from the fund to compensate counties for costs associated with the operation of the state courts system. The County Article V Trust Fund is created in a separate bill, HB 1333.

This bill requires the Supreme Court, and the Florida Association of Counties to appoint a twelve-member committee to develop and recommend to the Supreme Court a plan for allocation and disbursement of trust fund moneys.

This bill requires that percentages of civil fines currently paid into the general revenue fund of the state be incrementally diverted to the trust fund over a three year period with the entire twenty and six-tenths percentage being diverted to the trust fund in fiscal year 2001-2002. On June 30, 2002, the trust fund provision will expire and the twenty and six-tenths percentage will be paid into General Revenue as specified in current law.

This bill also provides for courts to assess additional costs against persons who plead guilty, nolo contendere, or who are found guilty of certain offenses. The additional costs assessments are to be deposited in a special fund within the county where the offense occurred, in accordance with the rules as established by the Administration Commission.

The bill provides that office space and services provided by counties to state attorneys shall not be less than was provided in the prior fiscal year. (See section IV. for Mandates applicability.)

The estimated state fiscal impact of this bill is a reduction to General Revenue of \$5.375 million in FY 1998-99. This bill is projected to result in increased revenues to the counties of \$10.4 million in FY 1997-98 and \$16.066 million in FY 1998-99. See section III. Fiscal Research for summary of five year impact.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Funding of Florida's Court System: Article V

Article V is the judicial article of the state constitution originally adopted in 1885. *Article V Funding: Historical Perspective, Legal Questions, and Local Reporting Systems*, Advisory Council on Intergovernmental Relations, 95-2, p. 2, March 1995. In 1972, the current Article V of the Florida Constitution was adopted by the citizens of Florida. Despite making numerous changes to the structure and administration of the courts, the revised Article V failed to explicitly address the funding of the Judicial Branch of government and the newly created state court system. *Id.* at 4. Historical research has determined that one of the purposes of the revision of Article V was to abolish "cash register justice" referring to the court system where local judges were reliant upon local governments for their salaries and consequently may find themselves entangled in an ethical conflict because they feel compelled to raise local revenues through the imposition of fines in order to perpetuate the court upon which they sit. *Id.* at 5. It has been argued that the framers of the modern Article V intended that the state was to assume the costs of Florida's courts, but it is not clear how much of those costs were to be assumed. *Id.* at 7. However, a study of the explanatory materials and media information used to educate and persuade the voters at the time Article V appeared on the ballot, led to a conclusion that:

It appears that the voters thought they were voting for a uniform *state-funded* court system which would abrogate the conflicts of interest inherent in the former court system funded by local governments, which mainly relied upon fines and forfeitures imposed and generated by the courts. *Id.* at 7, emphasis in original.

Despite this perceived intent, Florida counties purport that annually larger portions of the county budgets are funding the court system creating problems particularly for those counties that are at or near their constitutional ten mill caps on ad valorem taxation. *Id.* at 3. According to the Legislative Council on Intergovernmental Relations, from FY 88/89 to FY 93/94 the counties have paid approximately fifty-five percent of the costs for the courts. In addition, Article V has been included in legislation and construed by the courts to require local government funding of several court functions, including but not limited to indigent defense (private-court appointed attorneys), payment of judicial staff salaries and the payment of witness fees, and costs associated with housing and equipping the public defender and state attorney's offices. *Id.* at 8.

The requirement for county funding of state attorney's offices is provided in subsection (2) of section 27.34, F.S., 1996 Supplement. The subsection mandates that counties within the state attorney's judicial circuits provide the state attorneys with office space, utilities, telephone services, custodial services, library services, transportation services, and communication services as may be necessary for the proper and efficient functioning of the offices, except as otherwise provided in the General Appropriations Act. The subsection further specifies that the services and office space provided by the counties shall not be less than were provided in fiscal year 1984-1985.

Section 318.21, F.S.: Disposition of Civil Penalties by County Courts

From each civil penalty received by a county court, one dollar is to be paid to the Department of Children and Family Services and one dollar is to be paid to the Department for Juvenile Justice for specified purposes. s. 318.21(1), F.S.

The remainder of the civil penalty is divided as follows: After the first \$300,00 goes to the Department of Children and Family Services for a specified use, twenty and six-tenths percent goes to general revenue; seven and two-tenths goes to the Emergency Medical Services Trust Fund; five and one-tenth percent goes to the Additional Court Cost Clearing Trust Fund; eight and two-tenths percent goes to the Brain and Spinal Cord Injury Rehabilitation Fund; two percent goes to the Florida Endowment Foundation for Vocational Rehabilitation; and five-tenths goes to the clerk for administrative costs. s. 318.21(2), F.S.

If the violation occurred within a municipality or a special improvement district of the Seminole Indian Tribe or Miccosukee Indian tribe or in an unincorporated area of a county that is not a special improvement district of the Seminole Indian Tribe or Miccosukee Indian tribe, fifty-six and four-tenths percent of the fine is paid to the specified entity where the violation occurred for purposes specified by law. s. 318.21, F.S.

An additional \$250 fine may be assessed for a violation of traffic regulations is required to be used to assist blind persons under 316.1301, F.S. If the violation resulted in an injury to the pedestrian or the pedestrian's property, then forty percent of the additional fine must be deposited into the Grants and Donations Trust Fund of the Division of Blind Services of the Department of Labor and Employment Security and the remaining sixty percent must be distributed under subsections (1) and (2) of the statute. s. 318.21(4), F.S.

An additional \$250 fine may be assessed for a violation of traffic regulations to assist mobility-impaired persons under 316.1303, F.S., sixty percent must be deposited into the endowment fund for the Florida Endowment Foundation for Vocational Rehabilitation, and forty percent must be distributed under subsections (1) and (2) of the statute. s. 318.21(5), F.S.

Portions or all of other fines that are authorized are also directed to various organizations or funds including, but not limited to the following: the Epilepsy Services Trust Fund, the Nongame Wildlife Trust Fund, and the local School Crossing Guard Trust Funds.

Moneys collected by the clerk for deposit into a state trust fund, must be sent monthly to the Department of Highway Safety and Motor Vehicles for distribution and the submittal must be accompanied by a specific accounting of the amounts due to each fund. s. 318.21(8), F.S. The procedures for collecting, distributing and accounting for the other referenced charges is also provided within the statute.

The Department of Highway Safety and Motor Vehicles indicates there has been a stable receipt of funds paid into General Revenue since FY 1992-93. The portion of civil fines collected under s. 318.21(a), F.S. and paid into the General Revenue of the state was \$22.6 million in FY 1992-93, and \$22.3 million in FY 1995-96.

Section 939.01, F.S.: Criminal Costs

Mandatory Costs: Section 939.01, F.S., authorizes a court to enter into the judgment rendered against a criminal defendant for the costs of prosecuting a defendant, including the costs incurred by law enforcement agencies and by fire departments in prosecuting arson cases. When any person pleads nolo contendere to a misdemeanor or criminal offense under s. 318.14(10)(a), F.S., or pleads guilty or nolo contendere to, or is found guilty of, any felony, misdemeanor, or criminal traffic offense or the violation of any municipal or county ordinance which adopts by reference any misdemeanor, there is an additional cost in the case, in addition to any other cost required to be imposed by law. The following cost schedule applies: felonies (\$200), misdemeanors (\$50), criminal traffic offenses (\$50). s. 27.3455(1), F.S. In addition, costs of \$20 shall be assessed against the defendant if the victim of the crime is handicapped or elderly. s. 939.015, F.S. If the defendant is convicted of a misdemeanor involving drugs or alcohol, additional costs of \$15 are imposed. s. 939.017, F.S.

Trial courts are not required to determine the defendant's ability to pay statutorily mandated costs prior to assessing such costs unless the applicable statute specifically requires such a determination. *State v. Beasley*, 580 So.2d. 139 (Fla. 1991); *State v. Vamper*, 579 So.2d 730 (Fla. 1991).

Statutory Fines and Fees: In addition to the above-listed costs and fines, Florida Statutes authorize the courts to assess various fines and fees to persons convicted of crimes. Fines are assessed as a penalty for violating the law, while fees recover a portion of the costs of prosecution and support local and state trust funds and programs. The number of fines and fees to be assessed depends on the type of crime. According to the Auditor General, the statutes provide for the imposition of fourteen discretionary fines, four required fines, ten required fees, and three discretionary fees.

For example, s. 775.0835, F.S., provides for a 5 percent surcharge on all fines to be deposited in the Crimes Compensation Trust Fund; s. 775.0836, F.S., authorizes surcharges up to 10 percent of the fines in cases which involve victims who are handicapped or elderly; and s. 943.25(3), F.S., provides for a \$3 assessment on all convictions for violations of criminal and penal statutes and municipal or county ordinances (except parking violations), to be deposited as follows: \$2.75 to the Criminal Justice Standards and Training Trust Fund, and \$.25 to the Operating Trust Fund. Section 960.25, F.S., provides for a 5 percent surcharge on any fine for criminal offenses for compensating victims of crime. Section 893.13(8)(b), F.S., authorizes an assessment of an additional \$100 to any convicted drug offender to be used by the statewide criminal analysis laboratory system. Section 893.16, F.S., authorizes an additional assessment up to the amount imposed for certain alcohol and drug offenses to provide assistance grants to county alcohol and drug abuse treatment/education programs. Finally, s. 316.193, F.S., requires an additional \$100 surcharge to any fine for DUI offenses to be deposited as follows: 50 percent to the Criminal Justice Standards and Training Trust Fund; 25 percent to the Emergency Medical Services Trust Fund; and 25 percent to the Brain and Spinal Cord Injury Rehabilitation Trust Fund. This list is representative, not inclusive, of the fines and surcharges currently available under statute.

Assessment of Fines and Fees: In a 1991 study, the Auditor General found that judges typically do not assess all fees required by law. Of the cases reviewed, courts had assessed all required fees in approximately 34 percent of the cases. The courts assessed 61 percent of the required fees for state trust funds and 43 percent of the required fees for county trust funds. *Performance Audit of the Assessment of Required Criminal Fees Administered by the State Courts System of Florida*, Office of the Auditor General, Report No. 11757 (Tallahassee, FL, November 13, 1991).

The imposition of discretionary costs must be individually announced by the trial judge at sentencing to give a defendant an opportunity to object to the specific imposition. *Reyes v. State*, 655 So.2d 111, 114 (Fla. 2d DCA 1995). In addition, both mandatory and discretionary costs must be set out in written cost orders. The order must specify the supporting statutory authority to assist the defendant, the appellate court, and those responsible for the collection and remitting of the moneys in identifying the basis for the assessment. *Id.* Finally, no cost may be imposed that is not authorized by statute. *Id.* at 114-115.

In *Reyes*, the court acknowledged that “the legislature has increasingly enacted more complex cost statutes, created more crime-related trust funds, and given broader restitution rights to more citizens.” *Id.* at 115. The court issued a lengthy opinion addressing many aspects of the current complex cost, fee and fine system. Of particular relevance to the consideration of this bill is the portion of the opinion striking down an assessment made by the trial court under the Hillsborough County Court Improvement Fund (HCCIF), due to a lack of statutory authority. *Id.* at 119 -121. The HCCIF was originally created by county ordinance in 1982 and was funded under administrative orders of the Chief Judge of the Thirteenth Circuit (which consists only of Hillsborough County). The orders required local judges to assess a minimum cost of \$15 for all nonindigent defendants who pleaded guilty, nolo contendere, or who were found guilty to offenses. *Id.* In 1986, the county commission purported to give the judges authority to increase the court cost up to a maximum of \$500. No guidelines were provided to determine who was assessed the maximum or minimum amounts. *Id.* In its analysis, the court first declined its own earlier position that the assessment could possibly be a “fine”, *Arnold v. State*, 596 So.2d 486 (Fla. 2d DCA 1992). Then the court rejected the increase as being authorized under two statutes or as a special term of probation. Finally, the court concluded that “[i]f Hillsborough County wishes to create such a court improvement program, it will need the authorization of the legislature.” *Reyes*, 655 So.2d 111, 121.

Collection of Fines and Fees: In a separate 1992 study, the Auditor General found that of the total dollar amount assessed to cases in the sample, only 43 percent had been collected. Of the total dollar amount assessed to cases in the sample that was to go to county trust funds only 40 percent had been collected, while 65 percent of the amount to go to state trust funds had been collected. *Performance Audit of the Collection of Fines and Fees Assessed to Convicted Offenders by the State Courts System of Florida*, Office of the Auditor General, Report No. 11780 (Tallahassee, FL, January 6, 1992).

The collection and enforcement of fines and fees involves the clerks of the circuit courts, the county probation organizations, and the Florida Department of Corrections (DOC). If an offender’s penalty consists of paying fines and fees without incarceration, the clerk of the circuit court collects the assessment and initiates the enforcement action (if payment is not made by the court’s prescribed due date). If an offender is sentenced to a term of

probation, and payment is made a condition of probation then the organization designated by the county for such activities collects and initiates enforcement action. DOC collects and initiates enforcement actions in cases in which persons are incarcerated in the state prisons or in cases where persons are sentenced to state probation and the payment of fines is a condition of probation.

The Auditor General has also reported different collection rates for the different courts. Of the total amount collected, county courts collected 74 percent of assessed fines and fees, traffic courts collected 79 percent, and circuit courts collected only 5 percent. Incarcerated offenders had lower payment rates than those released on their own recognizance.

The Auditor General's analysis showed that for county and traffic court cases in the sample, there was a relationship between the amount of fine or fee assessed and the collection rate for those fines or fees. For example, the collection rates for assessments under \$100 were 85 and 92 percent for county and traffic courts, respectively, while the collection rates for amounts over \$300 dropped to 68 and 77 percent, respectively. For circuit courts, the collection rates were consistently low (11 percent of assessments under \$100 and 13 percent for assessments exceeding \$300).

B. EFFECT OF PROPOSED CHANGES:

Funding of Florida's Court System: Article V

The bill shifts some of the costs of the courts from the counties to the state by taking increasing percentages of the civil fees paid into the General Revenue Fund of the state until by FY 2001, the entire twenty and six-tenths percent (approximately \$21.5 million) would be deposited in the County Article V Trust Fund. The bill provides that the moneys in the trust fund must be used to compensate counties for the costs they incur under Article V in operating the state court system and in performing executive branch functions that are part of the civil justice system or criminal justice system. This includes costs incurred in providing and maintaining court facilities.

The Supreme Court will administer the trust fund in accordance with an allocation and disbursement plan which is to be included in its legislative budget request. A committee of twelve people will develop and recommend the allocation and disbursement plan to the Supreme Court, 6 will be appointed by the Florida Association of Counties and the remaining 6 will be appointed by the Chief Justice of the Supreme Court of Florida. The committee will also have equal representation from counties of three specified population sizes. These three specified population sizes are counties with populations of: less than 75,000; greater than 74,999, but less than 700,000; and counties with populations greater than 699,000.

The bill requires the allocation and disbursement plan to include provisions to compensate counties with fewer than 75,000 residents for court facility needs. Funds disbursed to those counties shall be grants-in-aid to be used for the following purposes, listed in priority order: consulting or architectural studies related to the improvement of courthouse facilities; improving court facilities to assure compliance with the Americans with Disabilities Act and other federal or state requirements; other renovations in court facilities; improvements in court security; expert witness fees in criminal cases; court

reporting and transcribing costs in criminal cases; and costs associated with the appointment of special public defenders.

The bill also provides that funds disbursed to those counties with populations exceeding 74,999 shall be grants-in-aid for costs paid by counties for expert witness fees in criminal cases, court reporting and transcribing costs in criminal cases, and costs associated with the appointment of special public defenders.

In addition, the bill creates a new assessment not to exceed \$150 that may be imposed upon persons who plead guilty to, nolo contendere to, or is found guilty of any felony, misdemeanor, or criminal traffic offense. These moneys must be accounted for in a special fund by the county in which the offense occurred. The moneys are to be used for providing and maintaining court facilities under rules adopted by the Supreme Court of Florida.

The bill provides that the clerks of the circuit courts keep a detailed accounting of the amount of court costs assessed and received and the expenditures and earnings from the investment of these funds. In accordance with rules established by the Administration Commission, the clerks must provide an annual report with these details to the board of county commissioners, the chief judge of the judicial circuit in which the county is situated, and the Administration Commission.

Finally, the bill provides that services and office space provided to the state attorneys by the counties shall not be less than services and office space provided in the prior fiscal year.

Section 318.21, F.S.: Disposition of Civil Penalties by County Courts

The bill incrementally decreases the percentage of the amount of civil fines collected under s. 318.21, F.S. to be paid to the General Revenue of the state and diverts those moneys to the County Article V Trust Fund as follows:

EFFECTIVE DATE	PERCENTAGE OF FINES TO	
	General Revenue	Article V Trust
Current law	20.60	does not exist
July 1, 1998	15.60	5.00
July 1, 1999	10.60	10.00
July 1, 2000	5.60	15.00
July 1, 2001	0	20.60

Section 939.01, F.S.: Criminal Costs

This bill allows a court to assess an additional court cost, not to exceed \$150, upon each person who pleads guilty, nolo contendere to, or is found guilty of, any felony, misdemeanor, or criminal traffic offense. The court may order the person to pay the cost

only if the court finds that the person has the ability to pay the assessment and the assessment will not prevent the person from paying restitution or other compensation to the victims or from paying child support.

The revenues derived from the assessment of additional court costs are to be deposited into a special fund of the county where the offense occurred. The money in the special fund is to be used to provide and maintain court facilities.

The Administration Commission is required to adopt rules for the special funds to prescribe the following: methods of expenditure, permissible purposes of expenditure, investment requirements, and accounting and reporting requirements.

The American with Disabilities Act requires that “no qualified individual with a disability shall, be reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” 42 USC 12132. It is the responsibility of the state to provide access to its programs and services. When those services are provided in a county facility the state has an interest in seeing that the facilities are brought into compliance with the Americans with Disabilities Act so that disabled persons will have access to the court and its services. In the case of existing facilities, while the federal act does not require a public entity to take actions in creating compliance that would result in undue financial burdens, the determination of whether such burdens are “undue” takes into consideration all public entity resources available for use in the funding and operation of the service, program or activity. *Americans with Disabilities Handbook*, EEOC & U.S. Dept. of Justice, October 1991, sec. 35.150 *analysis*.

This bill requires the clerks of the courts to prepare an annual financial report specifying the amount of court costs assessed and received, and the expenditures of and earnings from the investment of moneys from the funds. The report is to be filed with the board of county commissioners, the chief judge of the judicial circuit in which the county is located, and the Administration Commission.

The bill provides various effective dates and sunset dates for the provisions dealing with the allocations and disbursements of the trust fund. A final sunset date of June 30, 2002, is established for the provisions dealing with trust fund allocations and disbursements. For all other provisions of the bill there is an effective date of July 1, 1997.

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?

Yes. This bill requires the Florida Supreme Court to adopt an allocation and disbursement plan for the County Article V Trust Fund. This bill also requires the Administration Commission to adopt rules concerning counties' special fund for the assessment of additional penalties.

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

Yes. The Florida Supreme Court would be responsible for administering the County Article V Trust Fund and appointing individuals to serve on the allocation and disbursement recommendations committee.

The Florida Association of Counties and the Florida Association of Court Clerks and Comptrollers would be responsible for appointing individuals to serve on the allocation and disbursement committee.

County and circuit court judges would be responsible for assessing and collecting additional costs from the eligible individuals.

Counties would be required to maintain special funds in accordance to Administration Commission rules.

The Administration Commission would be responsible for developing special fund rules.

The clerks of the circuit courts would be responsible for the preparation and submission of the annual financial reports.

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

Not applicable (N/A).

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

N/A

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

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

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

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

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

Yes. This bill allows courts to assess up to \$150 in additional costs upon persons who plead guilty or nolo contendere to, or are found guilty of certain offenses.

- 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?

Yes. This bill would allow courts to assess court costs against certain defendants.

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:

N/A

(1) Who evaluates the family's needs?

(2) Who makes the decisions?

(3) Are private alternatives permitted?

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

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

- 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:

N/A

(1) parents and guardians?

(2) service providers?

(3) government employees/agencies?

D. SECTION-BY-SECTION RESEARCH:

Section 1: This bill creates section 25.042 ("County Article V Trust Fund"), Florida Statutes, and provides for the operation of the trust fund. A separate bill would create this fund. This bill requires the Supreme Court to administer the trust fund and use the proceeds to compensate counties for the costs associated with operating the state's court system and certain related executive branch activities.

This bill requires the Supreme Court to establish a committee of 12 people to develop and recommend a trust fund allocation and disbursement plan to the Court. The allocation and disbursement plan must be included in the Supreme Court legislative budget request.

The bill requires that the committee consist of the following members:

- 6 persons appointed by the Florida Association of Counties with 2 appointees residing in counties with populations of less than 75,000; 2 appointees residing in counties with populations between 75,000 and 700,000; and 2 appointees residing in counties with populations of over 700,000;
- 6 persons appointed by the Chief Justice of the Supreme Court with 2 appointees residing in counties with populations of less than 75,000; 2 appointees residing in counties with populations between 75,000 and 700,000; and 2 appointees residing in counties with populations of over 700,000.

This bill requires the allocation and disbursement plan to make specific provisions for counties with populations of less than 75,000. Funds disbursed to those counties will consist of grants-in-aid to be used for the following purposes, listed in order of priority:

- Consulting or architectural studies related to the improvement of courthouse facilities;
- Improving court facilities to assure compliance with the Americans with disabilities Act and other federal or state requirements;
- Other renovations in court facilities;
- Improvements in court security;
- Expert witness fees in criminal cases;
- Court reporting and transcribing costs in criminal cases; and
- Costs associated with the appointment of special public defenders.

This bill also provides for grants-to-aid to counties with populations exceeding 75,000 for expenses incurred in operating the state courts system.

This bill requires the moneys generated from the civil penalties pursuant to general law to be deposited in the County Article V Trust Fund.

This bill provides for a sunset date of June 30, 2002.

Section 2: Effective July 1, 1998, this bill amends subsection (1) of 318.21, F.S., 1996 Supplement, paragraph (a) of subsection (2), and creates paragraph (h). This bill changes references of the Department of Health and Rehabilitative Services to the Department of Children and Family Services. Beginning on the effective date, five and six-tenths percent of the civil fines will continue to be paid into the general revenue of the state and fifteen percent of the civil fines will be paid into the trust fund. The bill creates a sunset date of June 30, 1999, for the incremental transfer of funds.

Section 3: Effective July 1, 1999, this bill amends subsection (1) of 318.21, F.S., 1996 Supplement, paragraph (a) of subsection (2), and creates paragraph (h). This bill changes references of the Department of Health and Rehabilitative Services to the Department of Children and Family Services. Beginning on the effective date, ten and six-tenths percent of the civil fines will continue to be paid into the general revenue of the state and ten percent of the civil fines will be paid into the trust fund. The bill creates a sunset date of June 30, 2000, for the incremental transfer of funds.

Section 4: Effective July 1, 2000, this bill amends subsection (1) of 318.21, F.S., 1996 Supplement, paragraph (a) of subsection (2), and creates paragraph (h). This bill changes references of the Department of Health and Rehabilitative Services to the Department of Children and Family Services. Beginning on the effective date, five and six-tenths percent of the civil fines will continue to be paid into the general revenue of the state and fifteen percent of the civil fines will be paid into the trust fund. The bill creates a sunset date of June 30, 2001, for the incremental transfer of funds.

Section 5: Effective July 1, 2001, this bill amends subsection (1) of 318.21, F.S., 1996 Supplement, paragraph (a) of subsection (2), and creates paragraph (h). This bill changes references of the Department of Health and Rehabilitative Services to the Department of Children and Family Services. Beginning on the effective date, the entire twenty and six-tenths percent of the civil fines will be paid into the trust fund. The bill provides a sunset date of June 30, 2002, for the transfer of funds.

Section 6: Effective July 1, 2002, this bill amends subsection (1) of 318.21, F.S., 1996 Supplement, paragraph (a) of subsection (2). This bill changes references of the Department of Health and Rehabilitative Services to the Department of Children and Family Services. Beginning on the effective date, the entire twenty and six-tenths percent of the civil fins will be paid into General Revenue, except that the first \$300,000 shall be deposited into the Grants and Donations Trust Fund in the Department of Children and Family Services.

Section 7: This bill creates section 939.18 (Assessment of Additional Court Costs for Court Facilities), Florida Statutes, providing for an additional court imposed assessment, not to exceed \$150, on persons who plead guilty or nolo contendere or are found guilty of certain offenses. This bill permits the court to order the person to pay the addition cost only if the person has the ability to pay the assessment and payment of the assessment will not prevent him/her from paying restitution to the victim, making some other form of compensation to the victim, or paying child support.

This bill requires the revenues derived from the assessment of additional court costs to be deposited into a special fund of the county where the offense occurred. The fund is to be used for providing and maintaining court facilities.

This bill requires the county's special fund to conform to the Administration Commission's rules concerning methods of expenditure, permissible purposes of expenditure, investment requirements, and accounting and reporting requirements for the special fund. This bill requires the county to enforce the Administration Commission's special fund rules.

This bill requires the clerk of the court to prepare a special fund annual report. This report is to provide detailed information on the amount of court costs (assessed and received), expenditures, and earnings from investments. The report is to be submitted to the board of county commissioners, the chief judge of the judicial circuit, and the Administration Commission.

Section 8: Subsection (2) of section 27.34, F.S., 1996 supplement, is amended to provide that the services and office space provided for state attorneys by the counties shall not be less than the services and office space provided in the prior fiscal year.

Section 9: This bill provides for an effective date of July 1, 1997, of any section not otherwise provided for in this bill.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

The Office of the State Courts Administrator estimates that this bill will result in following reductions in state general revenue:

	<u>General Revenue Fund</u>
Fiscal Year 1997-1998	(\$0)
Fiscal Year 1998-1999	(\$5,375,000)
Fiscal Year 1999-2000	(\$10,750,000)
Fiscal Year 2000-2001	(\$16,125,000)
Fiscal Year 2001-2002	(\$21,500,000)

In addition, this bill may result in some administrative costs connected with managing the Article V Trust Fund.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See A.2. above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

The Office of the State Courts Administrator estimates trust fund and the additional court costs provisions of the bill will result in the following additional revenues to the counties:

	<u>Article V T.F.</u>	<u>Additional Court Cost</u>	<u>Total</u>
FY 1997-1998	0	\$10,400,000	\$10,400,000
FY 1998-1999	\$5,375,000	\$10,691,000	\$16,066,000
FY 1999-2000	\$10,750,000	\$10,991,000	\$21,741,000
FY 2000-2001	\$16,125,000	\$11,298,000	\$27,423,000
FY 2001-2002	\$21,500,000	\$11,940,000	\$33,440,000

The provision stipulating that office space and services provided by the counties to state attorneys shall not be less than was provided in the prior fiscal year will prevent counties from reducing state attorney funding in these areas below that of the prior fiscal year. As such, this provision will result in additional costs to those counties who would otherwise reduce funding. The fiscal impact to the counties is indeterminate.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

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

None.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The provision stipulating that office space and services provided by the counties to state attorneys shall not be less than was provided in the prior fiscal year will require counties to expend funds that they are not now statutorily required to expend. The cost of this provision to the counties is indeterminate.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

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

This bill would not reduce the percentage of state tax shared with counties or municipalities. Therefore, it would not contravene the requirements of Article VII, Section 18, of the state constitution.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Civil Justice & Claims Committee

One amendment was adopted by the House Committee on Civil Justice & Claims on April 8, 1997. The amendment removed from the bill everything after the enacting clause and incorporated the original bill with the following changes:

The amendment increased the number of members of the Supreme Court's allocation and disbursement committee from 12 to 15. It authorized the Florida Association of Court Clerks and Comptrollers to appoint 3 people to the Supreme Court's allocation and disbursement committee. Their appointments to the committee are to include the following: 1 appointee residing in a county with a population of less than 75,000; 1 appointee residing in a county

with a population between 75,000 and 700,000; and 1 appointee residing in a county with a population of over 700,000.

Community Affairs Committee

Two amendments to the Civil Justice & Claims Committee amendment were adopted by the House Community Affairs Committee on April 15, 1997. The amendments correct the technical concerns raised in this analysis. Amendment 1 gives rulemaking authority to the Administration Commission for the expenditure of funds put under its responsibility. Amendment 2 returns civil penalties received by county courts to their original distribution after the sunset provisions of the bill take effect; i.e., the twenty and six-tenths percent currently paid to General Revenue is restored.

Criminal Justice Appropriations Committee

Two amendments to the Civil Justice & Claims Committee amendment were adopted by the Committee on Criminal Justice Appropriations on April 18, 1997, and were incorporated with the previous amendments as a committee substitute. The differences between the committee substitute and bill as amended by the previous two committees are as follows:

- A new provision requires the Supreme Court to include the allocation and disbursement plan in its legislative budget request. The total amount disbursed from the County Article V Trust Fund may not exceed the amount authorized by the General Appropriations Act.
- The authorized use of the County Article V Trust Fund was changed. The bill included within the list of authorized uses by the counties costs paid by the counties pursuant to s. 34.171, F.S., (salaries of bailiffs, secretaries, and assistants of the circuit court and county courts and all reasonable expenses of the offices of the circuit and county court judges), or s. 43.28, F.S. (courtroom, facilities, equipment, and personnel necessary to operate the circuit and county courts). These authorized uses were eliminated and replaced with costs for expert witness fees in criminal cases and costs associated with the appointment of public defenders.
- A new provision requires that services and office space provided to the state attorneys by the counties shall not be less than the services and office space provided in the prior fiscal year.

Additionally, several technical corrections were included in the committee substitute.

VII. SIGNATURES:

COMMITTEE ON CIVIL JUSTICE & CLAIMS:

Prepared by:

Legislative Research Director:

Charles R. Boning

STORAGE NAME: h1319s1.cj

DATE: April 20, 1997

PAGE 18

AS REVISED BY THE COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Legislative Research Director:

Tonya Sue Chavis

Jenny Underwood Dietzel

AS FURTHER REVISED BY THE COMMITTEE ON CRIMINAL JUSTICE

APPROPRIATIONS:

Prepared by:

Legislative Research Director:

Kathy Donald

Mary Cintron