

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1137 Court Costs
SPONSOR(S): Quinones
TIED BILLS: **IDEN./SIM. BILLS:** SB 1186

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Judiciary		Birtman	Havlicak
2) Finance & Tax			
3) Judicial Appropriations (Sub)			
4) Appropriations			
5)			

SUMMARY ANALYSIS

This bill creates s. 938.20, F.S., to allow a county in which a drug court has been established, to require by ordinance the assessment of a mandatory court cost of \$6. The \$6 cost is to be assessed against every person who pleads guilty or nolo contendere to, or is convicted of, regardless of adjudication, a violation of a state criminal statute, a municipal ordinance, a county ordinance, or any violation of chapter 316 which results in a payment of a fine or a civil penalty. The \$6 cost is to be assessed in addition to any fine, civil penalty, or other court cost. The bill makes an exception for persons who violate provisions relating to parking vehicles.

The bill requires the clerk to collect the cost and remit the assessment to the drug court monthly, less 8% to be retained by the clerk as fee income.

Costs collected by the clerk pursuant to the bill are required to be deposited into an account specifically for the operation and administration of the drug court program within the county.

This bill appears to have no fiscal impact on the state.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

B. EFFECT OF PROPOSED CHANGES:

Section 397.334, F.S., provides for treatment-based drug court programs in every judicial circuit. The programs were implemented in an effort to reduce crime and recidivism, abuse and neglect cases, and family dysfunction by breaking the cycle of addiction. The programs seek to integrate judicial supervision, treatment, accountability, and sanctions in order to increase the effectiveness of substance abuse treatment, with special attention being given to partnerships between the public and private sectors.

Each judicial circuit is directed by statute to establish a model of a treatment-based drug court program, under which persons in the justice system assessed with a substance abuse problem will be processed in such a manner as to appropriately address the severity of the identified substance abuse problem through treatment tailored to the individual needs of the participant.¹ A host of public and private entities are encouraged to work together to establish treatment-based drug court programs.²

Drug court programs are required to include therapeutic jurisprudence principles³ and adhere to 10 key components, recognized by the Drug Courts Program Office of the Office of Justice Programs of the United States Department of Justice and adopted by the Florida Supreme Court Treatment-Based Drug Court Steering Committee.⁴

A person who is charged with a felony of the second or third degree for purchase or possession of a controlled substance, prostitution, tampering with evidence, solicitation for purchase of a controlled substance, or obtaining a prescription by fraud, who has not been charged with a crime of violence,⁵

¹ See s. 397.334(2), F.S.

² See s. 397.334(2), F.S., which encourages the Department of Corrections, the Department of Children and Family Services, the Department of Juvenile Justice, the Department of Health, the Department of Law Enforcement, local governments, law enforcement agencies, and other interested public or private sources to support the creation and establishment of problem-solving drug court programs.

³ ‘Therapeutic jurisprudence’ has been described as the role of the law as therapeutic agent. Therapeutic jurisprudence builds on the insight that the law itself can be seen to function as a kind of therapist or therapeutic agent. Legal rules, legal procedures, and the roles of legal actors (such as lawyers and judges) constitute social forces that, whether intended or not, often produce therapeutic or antitherapeutic consequences. See “The Jurisprudence of Therapeutic Jurisprudence”, Bruce J. Winick, 3 Psychology, Public Policy, and the Law 184 (1987).

⁴ See s. 397.334(3), F.S. and Administrative Order AOSC 02-24, signed by Chief Justice Anstead on August 23, 2002, which reconstituted the Treatment-based Drug Court Steering Committee as the Task Force on Treatment-based Drug Courts, appointed members, set out duties, authorized staff of the Office of the State Courts Administrator to staff the Task Force, and provided for a term of existence until June of 2004.

⁵ See s. 948.08(6)(a), F.S., which describes a crime of violence as including, but not limited to: murder, sexual battery, robbery, carjacking, home-invasion robbery, or any other crime involving violence.

and who has not previously been convicted of a felony nor been admitted to a felony pretrial program, is eligible for admission into a pretrial substance abuse education and treatment intervention program approved by the chief judge of the circuit, for a period of not less than 1 year in duration, with stated exceptions.⁶ At the end of the pretrial intervention period, the court is required to consider the recommendation of the administrator and the state attorney as to disposition of the charges.⁷ There are similar provisions regarding juvenile delinquency pretrial intervention.⁸

Pursuant to the Office of the State Courts Administrator, Florida has 74 operational drug courts in 36 counties, which include adult drug courts, juvenile drug courts, dependency drug courts, and re-entry drug court programs. Several additional drug courts are still in the planning stages.

This bill provides funding for drug courts, by authorizing counties in which a drug court program has been established to require by ordinance the mandatory assessment of \$6 to be assessed as a court cost by both the circuit court and the county court against every person who pleads guilty or nolo contendere to, or is convicted of, regardless of adjudication, a violation of a state criminal statute, a municipal ordinance, a county ordinance, or any violation of chapter 316⁹, which results in the payment of a fine or civil penalty. Any person whose adjudication is withheld pursuant to 318.14(9) or (10), F.S.¹⁰, must also be assessed. The bill requires the \$6 cost to be assessed in addition to any other fine or civil penalty, or other court cost and may not be deducted from the proceeds of that portion of the fine received by the municipality or county in accordance with ss. 316.660 and 318.21.

The bill requires the \$6 cost to be assessed to any civil penalty paid for a violation of the traffic code, whether such penalty is paid by mail, paid in person without request for a hearing, or paid after a hearing. An exception is made for persons who violate any state statute, county ordinance, or municipal ordinance relating to parking vehicles, other than a violation of a handicapped parking law.

The bill requires the clerk of the circuit court to remit the assessment monthly to the drug court, less 8% which the clerk can retain as fee income for the office of the clerk. Assessments are required to be deposited into an account specifically for the operation and administration of the drug court programs within the county, together with other moneys as become available for establishing, operating, and administering drug court programs under state law.

The bill authorizes the assessment of the \$6 cost, notwithstanding the provisions of s. 318.121, F.S.¹¹

C. SECTION DIRECTORY:

Section 1 creates s. 938.20, F.S. which imposes a \$6 court costs on persons who violate specified laws; provides an exception for persons who violate laws regarding parking vehicles; requires the clerk to collect the cost and retain a percentage.

Section 2 provides an effective date upon becoming law.

⁶ See s. 948.08(6)(a), F.S. The exceptions include a defendant who was previously offered admission to a pretrial substance abuse education and treatment intervention program and rejected that offer on the record; and a defendant involved in the dealing or selling of controlled substances, established by a preponderance of the evidence at a preadmission hearing.

⁷ See s. 948.08(6)(b), F.S.

⁸ See s. 985.306, F.S.

⁹ Chapter 316, F.S., relates to State Uniform Traffic Control.

¹⁰ Section 318.14 (9) and (10), F.S., relate to non-criminal traffic infractions.

¹¹ Section 318.121, F.S. states that: "Notwithstanding any general or special law, or municipal or county ordinance, additional fees, fines, surcharges, or costs other than the court costs assessed under s. 318.18(11), F.S., may not be added to the civil traffic penalties assessed in this chapter."

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Office of the State Courts Administrator reports that data for fiscal year 2000-2001 indicates that in those counties with drug courts, there were 596,020 offenses (not including traffic infractions) which would be eligible for imposition of the additional court cost. This number does not include traffic penalties for the specified counties with drug courts.¹² While this data provides some insight as to the amount of revenue that might be generated, it is not possible to provide an estimate of revenue, as it is unknown which counties will adopt ordinances, and because the number of current ordinances subject to imposition of the fee varies among counties.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The Office of the State Courts Administrator reports that additional funding for drug courts may result in an increase in the number of persons receiving treatment services. As a result, private insurance companies might be affected, and treatment providers might see an increase in the number of clients.

D. FISCAL COMMENTS:

Revision 7 to Article V of the State Constitution directs state government to assume the cost of the state court system, to be fully effectuated by July 1, 2004. The Legislature is in the process of defining the state court system to determine which programs and services are part of the state court system.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require municipal or county governments to spend funds or take an action requiring the expenditure of funds.

2. Other:

B. RULE-MAKING AUTHORITY:

¹² Florida Uniform Traffic Statistics for 2001 indicate that there were 1,994,318 traffic infractions statewide where a civil penalty was paid or adjudication was withheld pursuant to s. 318.14(9) or (10).

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill requires that assessments collected by the clerk be deposited into “an account specifically for the operation and administration of the drug court program...” It may not be clear to the clerks which account is intended, nor who has control of the funds in such account.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES