

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1186

SPONSOR: Committee on Judiciary and Senator Lynn

SUBJECT: Drug Court Programs/Funding

DATE: April 21, 2003

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matthews</u>	<u>Roberts</u>	<u>JU</u>	<u>Fav/CS</u>
2.	_____	_____	<u>CP</u>	_____
3.	_____	_____	<u>FT</u>	_____
4.	_____	_____	<u>AAV</u>	_____
5.	_____	_____	<u>AP</u>	_____
6.	_____	_____	_____	_____

I. Summary:

This bill creates an optional funding source for treatment based drug court programs in those counties which have established those programs. The bill authorizes these counties to impose, by ordinance, a mandatory court cost of \$6 against persons who have violated a criminal state law, local ordinance or who have violated the traffic code, with a few exceptions.

The clerks of the court are directed to collect and remit the assessment, after deducting 8 percent as cost of administration, for deposit into a specified account to fund the operation and administration of these drug court programs.

This bill creates the following section of the Florida Statutes: 938.20.

II. Present Situation:

Section 397.334, F.S., requires the establishment of a treatment-based drug court program in each judicial circuit in Florida. Treatment-based drug court programs attempt to integrate judicial supervision, treatment, accountability, and sanctions to reduce recidivism in drug-related crimes, abuse and neglect cases, and family dysfunction by breaking the cycle of addiction. The program may be established in misdemeanor, felony, family, or other court divisions. 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.¹ Drug court programs are required to include therapeutic jurisprudence principles² and adhere to 10 key components, recognized by the Drug Courts

¹ See s. 397.334(2), F.S.

² '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

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.³

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,⁴ 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 one year in duration, with stated exceptions.⁵ 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.⁶ There are similar provisions regarding juvenile delinquency pretrial intervention.⁷

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

III. Effect of Proposed Changes:

This bill authorizes, notwithstanding s. 318.121, F.S.,⁸ a county in which a treat-based drug court program has been established pursuant to s. 397.334, to impose, by ordinance, an additional court cost against specified violators. If mandated by ordinance, a circuit or county court must assess \$6 in additional court costs against any 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.

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).

³ 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.

⁴ 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.

⁵ 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.

⁶ See s. 948.08(6)(b), F.S.

⁷ See s. 985.306, F.S.

⁸ 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.”

- Whose adjudication is withheld pursuant to s. 318.14(9) or (10) as a result of opting to attend a driver's improvement course, or a result of entering a plea of nolo contendere for violation of operating a vehicle:
 1. Without a valid license, with a suspended license or without complying with drivers ed requirements.
 2. Without a valid registration.
 3. Without proof of personal injury protection.

The bill provides exceptions to persons violating parking laws or ordinances other than those violations involving handicap parking.

If mandated by ordinance, the \$6 assessment is in addition to any other court cost, fine, or penalty. Additionally the assessment may not be deducted from any portion of a fine or civil penalty due and owing a municipality or county as authorized by law in s. 316.660 and 318.21.

The clerk of the court is directed to collect and remit the assessment, after deducting 8 percent as a cost of administration, for monthly deposit into a specifically designated account to fund the operation and administration of these drug court program in that county. The trial court administrator for the respective circuit is financially controls and operates the account, and the funds are to be administered at the direction of the advisory committee in each judicial circuit.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

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. It is indeterminate at this point what the future funding mechanisms and sources will be for these mandated drug court programs.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

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.

C. Government Sector Impact:

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. 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.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.