

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1267 w/CS Trauma Centers/Funding/DUI-BUI Surcharge  
**SPONSOR(S):** Kottkamp and others  
**TIED BILLS:** None. **IDEN./SIM. BILLS:** None.

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| REFERENCE                        | ACTION        | ANALYST  | STAFF DIRECTOR |
|----------------------------------|---------------|----------|----------------|
| 1) Judiciary                     | 17Y, 0 N w/CS | Birtman  | Havlicak       |
| 2) Health Care                   |               | Mitchell | Collins        |
| 3) Judicial Appropriations (Sub) |               |          |                |
| 4) Appropriations                |               |          |                |
| 5)                               |               |          |                |

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### SUMMARY ANALYSIS

HB 1267 amends s. 938.07, F.S., to increase the court cost that is added to any fines imposed for driving or boating under the influence, from the current \$135 to \$200. The proceeds from the additional \$65 court costs imposed are to be deposited into the Trauma Services Trust Fund, to be used solely for the purpose of funding Level II trauma centers. The bill provides for equal monthly distribution of funds to all state-approved or provisional state-approved Level II trauma centers operating in the state.

A Level II trauma center is a trauma center that has been determined by the Department of Health to be in compliance with Level II trauma center standards, serves as a resource facility to general hospitals through shared outreach, education, and quality improvement activities, and participates in an inclusive system of trauma care. Level II trauma center standards include acute hemodialysis capability, radiological services, organized burn care, and acute spinal cord and brain injury management capability, in addition to a host of other standards. There are currently 12 Level II trauma centers in Florida.

According to the Department of Highway Safety and Motor Vehicles, there were 42,909 DUI convictions in Florida in 2001; this would generate \$2,789,085 for Level II trauma centers. The Florida Wildlife Conservation Commission reports 296 citations for BUI. It is unknown how many of those cited were ultimately convicted.

The effective date of the bill is July 1, 2003.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h1267.hc.doc  
**DATE:** March 28, 2003

# 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 checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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:

**Penalties for driving or boating under the influence:** A person is guilty of the offense of driving (or boating) under the influence if the person is driving or in actual physical control of a vehicle (or operating a vessel) within this state and:

- the person is under the influence of alcoholic beverages, specified chemical substances, or specified controlled substances when affected to the extent that the person's normal faculties are impaired;
- the person has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood; or
- the person has a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.<sup>1</sup>

In addition to specified sentences of imprisonment, the following fines must be imposed<sup>2</sup>:

|                               | DUI/BUI-Fine        | DUI/BUI-Fine – over .20 blood alcohol level or child in car (vessel) |
|-------------------------------|---------------------|--|
| <b>1<sup>st</sup> Offense</b> | \$250 - \$500       | \$500 - \$1000   |
| <b>2<sup>nd</sup> Offense</b> | \$500 - \$1000      | \$1000 - \$2000  |
| <b>3<sup>rd</sup> Offense</b> | \$1000 - \$2500     | No less than \$2000  |
| <b>4<sup>th</sup> Offense</b> | No less than \$1000 | No less than \$2000  |

In order to satisfy a fine imposed for driving under the influence pursuant to s. 316.193, F.S., the court may, upon a finding that the defendant is financially unable to pay either all or part of the fine, order that the defendant participate for a specified additional period of time in public service or a community work project in lieu of payment of that portion of the fine which the court determines the defendant is unable to pay.<sup>3</sup>

**Additional court costs:** In addition to the penalty as stated above, costs are imposed by several different statutes:

- \$3 is assessed as a court cost against every person convicted of a criminal statute;<sup>4</sup>
- \$50 is assessed as a court cost against every person convicted of a criminal traffic offense (among other specified offenses);<sup>5</sup>

<sup>1</sup> See ss. 316.193(1) and 327.35, F.S.

<sup>2</sup> See s. 316.193(2) and (4), F.S.

<sup>3</sup> See s. 316.193(6), F.S. In determining such additional sentence, the court shall consider the amount of the unpaid portion of the fine and the reasonable value of the services to be ordered.

<sup>4</sup> See s. 938.01, F.S. These funds are deposited into the Additional Court Cost Clearing Trust Fund and distributed to the Department of Law Enforcement Criminal Justice Standards and Training Trust Fund; the Department of Law Enforcement Operating Trust Fund or the Criminal Justice Grant Program; and the Department of Children and Family Services Domestic Violence Trust Fund.

<sup>5</sup> See s. 938.03, F.S., \$49 of the \$50 collected is to be deposited into the Crimes Compensation Trust Fund. The remaining \$1 is collected as a service charge for the clerk's office.

- An additional 5% is imposed on any fine for any criminal offense;<sup>6</sup>
- \$50 is assessed as a court cost against every person who pleads nolo contendere or is found guilty of a criminal traffic offense;<sup>7</sup>
- \$20 is assessed as a court cost imposed in addition to any fine prescribed for any criminal offense;<sup>8</sup>
- \$135 is assessed as a court cost imposed in addition to any fine imposed for driving or boating under the influence;<sup>9</sup>
- \$4 may be assessed by a county or municipality (\$2 by the county and \$2 by the municipality) in addition to the court costs imposed by the state against persons convicted of a criminal statute;<sup>10</sup>
- \$3 is assessed on every person who pleads guilty, nolo contendere, or is convicted of a criminal traffic offense (among other specified offenses), in counties in which the sheriff's office is a partner in a juvenile assessment center or a suspension program developed in conjunction with the district school board;<sup>11</sup> and
- \$3 is assessed as a court cost imposed against every person who pleads guilty or nolo contendere to, or is convicted of a violation of a state criminal statute, in counties which have teen courts.<sup>12</sup>

In addition to the mandatory court costs as cited above, the court may also impose a discretionary court cost in an amount up to the amount of the fine authorized for violation of s. 316.193, F.S., relating to driving under the influence.<sup>13</sup>

**Effect of Proposed Changes:** This bill imposes a court cost of \$65 to be added to any fine imposed by s. 316.193 or s. 327.35, F.S. (driving or boating under the influence), for total court costs under s. 938.07, F.S., of \$200. The proceeds are to be remitted to the Department of Revenue for deposit into the Trauma Services Trust Fund, to be used solely for the purpose of providing funding for Level II trauma centers.

**Funding for Level II trauma centers:** A Level II trauma center is a trauma center that has been determined by the Department of Health to be in compliance with Level II trauma center standards, serves as a resource facility to general hospitals through shared outreach, education, and quality improvement activities, and participates in an inclusive system of trauma care.<sup>14</sup> Level II trauma center standards include acute hemodialysis capability, radiological services, organized burn care, and acute spinal cord and brain injury management capability, in addition to a host of other standards.<sup>15</sup> There are currently twelve Level II trauma centers in Florida.<sup>16</sup>

<sup>6</sup> See s. 938.04, F.S. These funds are deposited into the Crimes Compensation Trust Fund.

<sup>7</sup> See s. 938.05, F.S. The clerk is required to deposit all but \$3 into a special trust fund of the county to reimburse the county for actual county expenditures incurred in providing the state attorney and public defender specified services; to reimburse the county for actual county expenditures made in support of medical examiners; to provide matching funds for victim-witness programs; to reimburse counties for costs incurred in provision of office space, utilities, and custodial services for the offices of the state attorney and public defender. Any funds remaining are to be deposited in the General Revenue Fund of the State.

<sup>8</sup> See s. 938.06, F.S. These funds are deposited in the Crime Stoppers Trust Fund.

<sup>9</sup> See s. 938.07, F.S. Of the \$135, \$25 is deposited into the Emergency Medical Services Trust Fund; \$50 is deposited in the Criminal Justice Standards and Training Trust Fund to be used for operational expenses for the statewide criminal analysis laboratory system; and \$60 is deposited in the Brain and Spinal Cord Injury Rehabilitation Trust Fund.

<sup>10</sup> See s. 938.15, F.S., these costs are used for expenditures for criminal justice education degree programs and training courses.

<sup>11</sup> See s. 938.17, F.S. These costs are deposited by the clerk in a designated account for disbursement to the sheriff as needed for the implementation and operation of an assessment or suspension program.

<sup>12</sup> See s. 938.19, F.S. These costs are collected by the clerk and remitted to the teen court monthly, less 5%, which is to be retained as fee income of the office of the clerk of the circuit court.

<sup>13</sup> See ss. 938.21 and 938.23, F.S. These costs are assessed for county alcohol and other drug abuse treatment programs, and shall be deposited into the Community Alcohol and Other Drug Abuse Services Grants and Donations Trust Fund of the Department of Children and Family Services.

<sup>14</sup> See s. 395.4001(6), F.S.

<sup>15</sup> See Department of Health pamphlet 150-9 and chapter 64E-2, Florida Administrative Code.

<sup>16</sup> The Department of Health's website lists 12 state-approved Level II trauma centers as follows: Pensacola: Baptist Hospital, Sacred Heart Hospital, West Florida Regional Medical Center; Daytona Beach: Halifax Medical Center; Melbourne: Holmes Regional Medical Center; Lakeland: Lakeland Regional Medical Center; St. Petersburg: Bayfront Medical Center; Tampa: St. Joseph's Hospital; Ft. Myers: Lee Memorial Hospital; West Palm Beach: St. Mary's Hospital; Delray Beach: Delray Medical Center; and Pompano Beach: North Broward Medical Center. See [www.doh.state.fl.us/workforce/ems/1/Trauma/traumacenters.htm](http://www.doh.state.fl.us/workforce/ems/1/Trauma/traumacenters.htm), last updated December 5, 2002.

State-sponsored trauma centers are reimbursed by state funds appropriated by the General Appropriations Act. The Legislature has specifically found that many hospitals which provide services to trauma victims are not adequately compensated for such treatment and that trauma centers are providing services without adequate reimbursement. Thus a system of state-sponsored trauma centers are to be assisted financially based on the volume and acuity of uncompensated trauma care provided.<sup>17</sup> The Trauma Services Trust Fund has been exclusively created to fund the development and support of a system of state-sponsored trauma centers.<sup>18</sup>

**Effect of Proposed Changes:** This bill requires proceeds be remitted to the Department of Revenue for deposit in the Trauma Services Trust Fund, to be used solely for the purpose of providing funding for Level II trauma centers. Funds are required to be distributed equally on a monthly basis to all state-approved or provisional state-approved Level II trauma centers operating in the state.

C. SECTION DIRECTORY:

**Section 1.** Amends s. 938.07, F.S., to impose \$65 in court costs to be added to any fine imposed pursuant to s. 316.193 or s. 327.35, F.S., proceeds to fund Level II trauma centers.

**Section 2.** Provides an effective date of July 1, 2003.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Department of Revenue reports that the annualized remittances for DUI court costs (not penalties/fines) amounts to \$34,583,926.04. This amount is then distributed to various trust funds as prescribed by statute.

According to the Department of Highway Safety and Motor Vehicles, there were 42,909 DUI convictions in Florida in 2001; this would generate \$2,789,085 for Level II trauma centers.<sup>19</sup> Additionally, the Florida Wildlife Conservation Commission reports 296 citations for boating under the influence. It is unknown how many of those cited were ultimately convicted.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

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<sup>17</sup> See s. 395.403, F.S., which sets forth the criteria for reimbursement, including that the trauma patient meet the definition of charity care, that the patient is not covered under Medicaid, and that the trauma center agree to accept all trauma patients, regardless of ability to pay.

<sup>18</sup> See s. 395.4035, F.S.

<sup>19</sup> The New-Press, "State Rep. Jeff Kottkamp, R-Cape Coral, filed a bill March 4 to provide trauma center funding", March 15, 2003.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons convicted of driving or boating under the influence must pay a \$65 in court costs.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or cities to spend funds or take action requiring the expenditure of funds.

3. Other:

The Florida Supreme Court has held that the enactment of statutes providing additional costs imposed in any criminal prosecution resulting in a plea of guilty or nolo contendere, or in conviction, is a valid exercise of the legislature's police power.<sup>20</sup>

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The Judiciary Committee adopted an amendment on March 18, 2003. The amendment provided for an increase in the court costs imposed by s. 938.07, F.S., to \$200, added to any fine imposed for driving or boating under the influence. This analysis is drafted to the amendment.

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<sup>20</sup> See State v. Champe, 373 So.2d 874 (Fla. 1978).