

# 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 350  
 SPONSOR: Senator Crist  
 SUBJECT: Legal Affairs  
 DATE: March 27, 2003      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	_____	_____	JU	Withdrawn
2.	_____	_____	ACJ	Withdrawn
3.	Sadberry	Coburn	AP	Favorable/CS
4.	_____	_____	RC	Withdrawn
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

This bill increases the court cost imposed upon conviction for driving under the influence or boating under the influence of alcohol from \$135 to \$185. The \$50 increase will be deposited into the Operating Trust Fund of the Florida Department of Law Enforcement (FDLE) for the operational expenses of the statewide criminal analysis laboratory.

In addition, the bill increases fees for criminal history background checks by FDLE. The current fee is \$15 for each records check, with the exception of background checks for the Department of Children and Family Services (DCF), Department of Elder Affairs (DEA), and Department of Juvenile Justice (DJJ), which is \$8. The new fee structure will increase the fee to \$20 for government agencies that do not collect the fee from the applicant or another private source, \$30 for government agencies that collect the fee from the applicant or another private source, whether required by law or at the agency’s discretion, \$10 for DCF, DEA and DJJ and \$30 for all other requests.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: ss. 938.07 and 943.05, F.S.

**II. Present Situation:**

Currently, a court cost fee of \$135 is added to fines pursuant to s. 316.193, F.S., related to driving under the influence and s. 327.35, F.S., related to boating under the influence. Pursuant to s. 938.07, F.S., this fee is disbursed to the following trust funds: \$25 to the Emergency Service Trust Fund, \$50 to FDLE Criminal Justice Standards and Training Trust Fund for operational expenses in conducting the statewide criminal analysis laboratory system established in s.

943.42, F.S., and \$60 to the Brain and Spinal Cord Injury Rehabilitation Trust Fund created under s. 381.79, F.S.

Under s. 943.053, F.S., FDLE is charged with maintaining Florida's criminal history database and system and making the law enforcement and public records versions of those criminal histories available to those seeking them. Under current s. 943.053(3), F.S., criminal history information is provided to "governmental agencies not qualified as criminal justice agencies" on an "approximate-cost basis." Calculating "approximate-cost" becomes difficult since s. 943.053, F.S., anticipates capturing overall costs of the entire FDLE criminal history information system, specifically the cost of creating, storing, maintaining, updating, retrieving, improving, and providing criminal history information in a centralized, automated database, including personnel, technology, and infrastructure expenses. FDLE currently establishes fees via rule.

### **III. Effect of Proposed Changes:**

Passage of the bill will increase revenues flowing into FDLE's Operating Trust Fund under s. 938.07, F.S. The 2003-2004 Senate General Appropriations Bill currently reduces GR appropriations to FDLE so no net increase in funding to FDLE is expected. The revision will increase this fee to \$185, providing an additional \$50 to FDLE for fund-shifting \$1.8 million from FDLE's General Revenue operating expenses to the FDLE Operating Trust Fund.

Any increase provided by the revised criminal history fees under s. 943.053, F.S., is intended to cover increased expenses of managing the state's criminal history information system, which is intended to be self-funded via fees. There will be no net impact on the operational expenditures in the department.

This bill proposes an increase in the fee for criminal history background checks from \$15 to \$20 per criminal history requested by government agencies, with the exception of criminal justice agencies, that do not collect the fee from the applicant or another private source, from \$15 to \$30 for government agencies that collect the fee from the applicant or another private source, whether required by law or at the agency's discretion, from \$8 to \$10 per request for DCF, DEA, and DJJ and from \$15 to \$30 for all other requests. Criminal justice agencies obtain information free under current and proposed law.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

Local government customers that currently pay \$15 for a criminal history record check would now pay \$20 under PCS/SB 350. This increased fee will cause counties and municipalities to spend funds only to the extent that they choose to submit requests to FDLE. Requests from county and municipal law enforcement agencies are exempt from any fee for such requests.

#### **B. Public Records/Open Meetings Issues:**

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

A court cost of \$185 (currently \$135) would be added to fines pursuant to ss. 316.193 or 327.35, F.S. The entire increase flows to FDLE.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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