

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1511 CS
SPONSOR(S): Taylor and others
TIED BILLS:

Teen Courts
IDEN./SIM. BILLS: SB 1702

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Juvenile Justice Committee	6 Y, 1 N, w/CS	Whittier	White
2) Local Government Council		Dominguez	Hamby
3) Justice Appropriations Committee			
4) Justice Council			
5) _____			

SUMMARY ANALYSIS

Section 939.185, F.S., which was adopted during the 2004 session, authorizes counties to enact ordinances that permit the assessment of up to \$65 for felonies, misdemeanors, or criminal traffic offenses. These funds must be allocated as follows: (1) 25 percent for innovations to supplement state funding for specified elements of the state courts system; (2) 25 percent for legal aid programs; (3) 25 percent for law libraries; and (4) 25 percent, as determined by the board of county commissioners, for teen court programs, juvenile assessment centers, and other juvenile alternative programs.

Prior to 2003, s. 938.19, F.S., authorized boards of county commissioners for the purpose of funding teen courts to adopt an ordinance that required a \$3 assessment for a violation of a criminal law, municipal or county ordinance, or ch. 316, F.S., relating to traffic control. This section provided that the \$3 cost was assessed in addition to any other fine and required the clerks of court to collect the assessments and remit them on a monthly basis to the teen courts, less a five percent fee. This section was repealed in 2003, however, as part of the statutory revisions necessitated by the adoption of Revision 7 to Article V of the State Constitution.

This bill authorizes a board of county commissioners, in a county where a teen court has been established, to adopt an ordinance that requires up to a \$3 assessment for a violation of a criminal law, municipal or county ordinance, or ch. 316, F.S., relating to traffic control. If adopted, the assessment must be used for the operation and administration of the county's teen court. The clerk of the court must collect the assessment and must remit it on a monthly basis to the teen court, less a five percent fee. A teen court that receives an assessment must file a yearly accounting with the board of county commissioners.

The bill retains the potential for teen courts to receive a portion of the court cost under s. 939.185, F.S.; however, the bill stipulates that the teen court may only receive funding via the \$65 court cost **OR** the teen court assessment. A teen court may not receive both.

It is unknown how many counties will choose to enact ordinances pursuant to this law; therefore, the impact on local revenue is indeterminate.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government - The bill authorizes the clerks of court to perform new duties and to receive additional revenue. The bill also requires teen courts to submit an annual accounting report to the board of county commissioners for assessments received.

Ensure lower taxes – The bill authorizes counties to enact ordinances that require a new teen court assessment for violations of criminal laws, municipal or county ordinances.

Promote personal responsibility – The bill addresses funding for teen courts which are diversion programs that allow first-time juvenile offenders to be diverted from juvenile court, and instead allow them to appear before a jury of their peers.

B. EFFECT OF PROPOSED CHANGES:

Background

Teen Courts

When a juvenile is alleged to have committed a delinquent act, the juvenile probation officer (JPO), in accordance with section 985.21(1), F.S., must provide an assessment that addresses the juvenile's needs and threat to public safety. The JPO may submit a written recommendation to the state attorney for judicial or non-judicial processing of the youth. Non-judicial alternatives are called "diversion programs." The purpose of diversion programs is to divert juveniles - who have committed a delinquent act - from the judicial system to structured non-judicial alternative programs, which are designed to decrease subsequent offenses during and after participation in the programs. Diversion programs are developed in conjunction with community and juvenile justice partners.¹

Teen courts are diversion programs that allow first-time juvenile offenders to be diverted from juvenile court, and instead allow them to appear before a jury of their peers. Teens act as the prosecuting attorneys, defense attorneys, jurors, bailiffs, and clerks. Although supervised by adults, the only adult participating in the trial is the judge. If, after being found guilty and sentenced by the teen court, the offender successfully completes his or her sentence, the offender's juvenile record is cleared. Teen courts are based on the philosophy that youthful offenders are less likely to re-offend if sentenced by a jury of their peers.² Sanctions administered or services assigned by teen court juries include one or more of the following:

- Community Service hours;
- Jury duty service for other teen court trials;
- Jail tour;
- Participation by the juvenile's parent(s) or guardian(s);
- Continuing education;
- Drug assessment and/or urinalysis monitoring;
- Program administration fees;
- Restitution;
- Written apology;
- Establishment of a curfew;
- Written essay;
- Law-related education class;

¹ Section 985.3065, F.S., authorizes pre- and post-arrest juvenile diversion programs.

² See www.flteencourt.org

- Contact with the program for a certain period of time;
- Post-completion evaluation; or
- Counseling.³

Teen courts may accept referrals from the Department of Juvenile Justice (DJJ or department), the state attorney, juvenile court, law enforcement, CINS/FINS providers, public defenders, traffic court, or school officials. Teen courts may be managed by various local entities, such as boards of county commissioners, sheriffs, county schools, the judiciary, court administrators, private entities, and clerks. Because they are locally-run programs, admission criteria for teen courts may vary throughout the counties in Florida; however, the juvenile must be seventeen or under and must admit that they committed the violation.⁴

A survey conducted by the Florida Association of Court Clerks & Comptroller in 2003, indicated that 51 of 66 counties responding had an established teen court. Currently, there are an estimated 55 teen courts in Florida. According to the National Youth Court Center, youth courts grew from 78 programs in the nation in 1994 to 1,035 in March 2005.⁵

Teen Court Funding

Statute authorizes counties to fund teen courts.⁶ Further, s. 939.185, F.S., which was adopted during the 2004 session,⁷ authorizes counties to enact ordinances that permit the assessment of up to \$65 for felonies, misdemeanors, or criminal traffic offenses. These funds must be allocated as follows: (1) 25 percent for innovations to supplement state funding for specified elements of the state courts system; (2) 25 percent for legal aid programs; (3) 25 percent for law libraries; and (4) 25 percent, as determined by the board of county commissioners, for teen court programs, juvenile assessment centers, and other juvenile alternative programs. Data provided by the Department of Financial Services indicates that during the first quarter of implementation of s. 939.185, F.S., i.e., July through September 2004, counties collected a total of \$400,974 in assessments for teen court programs, juvenile assessment centers, and other juvenile alternative programs.

Prior to 2003, s. 938.19, F.S., authorized boards of county commissioners for the purpose of funding teen courts to adopt an ordinance that required a \$3 assessment for a violation of a criminal law, municipal or county ordinance, or ch. 316, F.S., relating to traffic control. This section provided that the \$3 cost was assessed in addition to any other fine and required the clerks of court to collect the assessments and remit them on a monthly basis to the teen courts, less a five percent fee. This section was repealed in 2003, however, as part of the statutory revisions necessitated by the adoption of Revision 7 to Article V of the State Constitution.^{8 9}

Effect of Proposed Changes

This bill amends s. 938.19, F.S., to again authorize a board of county commissioners in a county where a teen court has been established to adopt an ordinance that requires up to a \$3 assessment for a violation of criminal law, municipal or county ordinance, or ch. 316, F.S., relating to traffic control. If adopted, the assessment must be used for the operation and administration of the county's teen court. The clerk of the court must collect the assessment and must remit it on a monthly basis to the teen court, less a five percent fee. A teen court that receives an assessment must file a yearly accounting with the board of county commissioners.

³ Probation & Community Corrections Handbook, 2004, Section 5, pp. 15-17.

⁴ Ibid, p. 14.

⁵ Memorandum from Tracy Godwin Mullins, National Youth Court Center, to Youth Courts, March 29, 2005.

⁶ Section 938.19, F.S.

⁷ Ch. 2004-265, L.O.F.

⁸ See HB 113A; ch. 2003-402, s. 126, L.O.F.

⁹ In November 1998, voters approved Revision 7 to Article V of the Florida Constitution. Generally, the revision allocated state court system funding among the state, counties, and users of courts, and was fully effectuated by July 1, 2004.

The bill retains the potential for teen courts to receive up to 25 percent of a \$65 court cost, i.e., \$16.25, under s. 939.185, F.S.; however, the bill stipulates that the teen court may only receive funding via the \$65 court cost **OR** the bill's teen court assessment. A teen court may not receive both.

The bill also specifies that the \$3 assessment: (a) is authorized notwithstanding s. 318.121, F.S., which prohibits the assessment of court costs for civil traffic penalties other than those permitted by s. 318.18(11), F.S.; (b) is in addition to any fine, civil penalty, or court cost; and (c) may not be assessed against violations relating to parking of motor vehicles.

Finally, the bill authorizes teen courts to be administered by a non-profit organization, a law enforcement agency, the court administrator, the clerk of the court, or similar agency by agreement with the board of county commissioners.

C. SECTION DIRECTORY:

Section 1: Amends s. 938.19, F.S.; provides for funding, operation, and administration of teen courts.

Section 2: Amends s. 939.185, F.S.; provides an exception to when teen courts may receive specified court costs.

Section 3: Provides an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

In 2003, the Florida Association of Court Clerks & Comptroller (association) stated that 44 counties, as authorized by s. 938.19(1), F.S., had enacted ordinances to collect the \$3 assessment for teen courts. The association estimated that \$7.9 million was annually collected by counties from the assessment.

Section 939.185, F.S., currently authorizes counties to enact ordinances that permit the assessment of up to \$65 for felonies, misdemeanors, or criminal traffic offenses. Under the section, 25 percent of the \$65 assessment, i.e., \$16.25, must be allocated, as determined by the board of county commissioners, for teen court programs, juvenile assessment centers, and other juvenile alternative programs. Data provided by the Department of Financial Services indicates that during the first quarter of implementation of s. 939.185, F.S., i.e., July through September 2004, counties collected a total of \$400,974 in assessments for teen court programs, juvenile assessment centers, and other juvenile alternative programs.

Representatives of Florida teen courts have indicated that the new funding mechanism in s. 939.185, F.S., has proven insufficient and that resulting teen court budget deficits will cause the closure of numerous teen court programs statewide. According to data provided by the

representatives, funding for teen courts in seven of Florida's counties,¹⁰ under the new statutory mechanism, is approximately 64 percent less than that received when the \$3 assessment was in effect. Fiscal data for other Florida county teen court programs has been requested.

It is unknown how many counties will choose to enact ordinances under the bill; thus, revenues under the bill are indeterminate.

2. Expenditures:

The revenue generated by this bill will be used to fund the costs of county teen court programs.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

In counties that adopt the ordinance authorized by the bill, persons who violate criminal law, municipal or county ordinances, or ch. 316, F.S., relating to traffic control, will be assessed up to \$3 in addition to any other applicable fine, civil penalty, or court cost.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 6, 2005, the Juvenile Justice Committee adopted a committee substitute that: (1) places the substance of Section 1. of the bill in s. 938.19, F.S., as this section of law is more topically related to the bill; (2) provides that the teen court assessment may be **up to \$3**, rather than must be \$3; and (3) stipulates that teen courts may only receive either the teen court assessment under the bill or a portion of court costs collected under current s. 939.185, F.S.

¹⁰ The seven counties are: Clay, Columbia, Leon, Manatee, Nassau, Sarasota, and Washington.