

# 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.)

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Prepared By: Justice Appropriations Committee

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BILL: CS/SB 2680

SPONSOR: Justice Appropriations Committee, Senators Crist, Lee and Sebesta

SUBJECT: Felony Offenders/Fees Paid

DATE: April 21, 2005

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Sadberry	JA	Fav/CS
2.	_____	_____	RC	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

The bill imposes a \$5 per month fee on felony offenders assessed in Hillsborough County for the costs of supervision. Funds are to be used to offset the costs paid by the county to house state inmates. The bill takes effect October 1, 2005.

This bill creates unnumbered sections of the Florida Statutes.

## II. Present Situation:

Section 948.09(1)(a)1. requires that any person ordered by the court, the court, the Department of Corrections, or the parole commission to be placed on probation, drug offender probation, community control, parole, control release, provisional release supervision, addiction-recovery supervision, or conditional release supervision under chapter 944, chapter 945, chapter 947, chapter 948, or chapter 958, or in a pretrial intervention program, must, as a condition of any placement, pay the department a total sum of money equal to the total month or portion of a month of supervision times the court-ordered amount, but not to exceed the actual per diem cost of the supervision. Funds collected from felony offenders may be used to offset costs of the Department of Corrections associated with community supervision programs, subject to appropriation by the Legislature.

## III. Effect of Proposed Changes:

The bill authorizes a \$5 per month fee for all felony offenders in Hillsborough County for the purposes of paying for the costs of housing state inmates in county jail facilities. The Department of Corrections shall collect the fee and remit the funds quarterly to the Hillsborough Clerk of the

Circuit Court. Both the department and the clerk of court may retain up to 3% from the revenue raised for the cost of administration of the fee. The bill takes effect October 1, 2005.

#### **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:**

Section 11(a)(4), Article III of the Florida Constitution prohibits special laws pertaining to “punishment for crime.” This bill imposes a fee on felony offenders in Hillsborough County to provide funds to the county for the housing of state inmates in the county jail. This fee may be considered “punishment for crime.”

The courts however, have found that the imposition of the costs of probation without an increase in jail or prison time is permissible. *Johnson v. State*, 502 So.2d 1291 (Fla. 1<sup>st</sup> DCA 1987). In addition, monetary penalties have not been considered punishment for the purposes of the prohibition against ex post facto laws, unless the penalty for not paying such costs or fees results in additional jail or prison time. *Ridgeway v. State*, 892 So.2<sup>nd</sup> 538 (Fla. 1<sup>st</sup> DCA 2005). Finally, laws allowing the state to recover the cost of incarceration were found not to increase the penalty, but were considered civil remedies and not considered ex post facto. *State v. Goad*, 754 So.2d 95 (Fla. 1<sup>st</sup> DCA 2000).

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

##### **A. Tax/Fee Issues:**

The fee permitted under this bill would generate funding in the amount of \$11,000 to \$74,000 per year for Hillsborough County.

##### **B. Private Sector Impact:**

Felony offenders in Hillsborough County would pay an additional \$5 per month for probation, drug offender probation, community control, parole, control release, provisional release supervision, addiction-recovery supervision, or conditional release.

##### **C. Government Sector Impact:**

###### **Local Government:**

The fee permitted under this bill could generate approximately \$74,000 per year for Hillsborough County, but with current collection rates, the amount raised would likely be \$11,000 per year.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

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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## **VIII. Summary of Amendments:**

None.

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