

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.)

Prepared By: Judiciary Committee

BILL: CS/SB 940

INTRODUCER: Judiciary Committee and Senator Posey

SUBJECT: Court Costs for Drug Court Programs

DATE: March 10, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Luczynski</u>	<u>Maclure</u>	<u>JU</u>	Fav/CS
2.	_____	_____	<u>GE</u>	_____
3.	_____	_____	<u>JA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill authorizes each county in which a drug court program has been established to require by ordinance the assessment of a mandatory cost in the sum of \$6 to fund the operational and administrative costs of the drug court program. The mandatory cost is to be assessed by circuit and county courts against each person who:

- Pleads guilty or nolo contendere to, or is convicted of, regardless of adjudication, a violation of the Florida Comprehensive Drug Abuse Prevention and Control Act;
- Pleads guilty or nolo contendere to, or is convicted of, regardless of adjudication, a violation of a municipal ordinance or a county ordinance involving the use of alcohol or other substance use or abuse; or
- Pays a fine or civil penalty for any violation of the Florida Uniform Disposition of Traffic Infractions Act involving the use of alcohol or other substance use or abuse.

These funds shall be administered by the trial court administrator for the respective circuit under the direction of the advisory committee appointed by the chief judge pursuant to existing law. Clerks shall retain 8 percent of the revenue generated as fee income for the office of the clerk of the circuit court.

This bill creates section 938.20, Florida Statutes.

II. Present Situation:

Drug Court System

The original drug court concept was developed in Dade County as a response to a federal mandate to reduce the inmate population or lose federal funding.¹ The Florida Supreme Court reported that a majority of the offenders being incarcerated due to drug-related crimes were revolving back through the criminal justice system because of underlying problems of drug addiction.² The Court felt that the delivery of treatment services needed to be coupled with the criminal justice system, strong judicial leadership, and partnerships to bring treatment services and the criminal justice system together.

Drug courts are operational in each of Florida's 20 judicial circuits. There are presently over 90 drug courts operating in 45 counties in Florida.³ They are categorized as follows:

- Adult drug courts
- Juvenile (delinquency) drug courts
- Dependency drug courts
- Reentry drug courts

Drug court programs typically provide services and monitoring in the pretrial stage. The programs can do this by extending the pretrial stage, and using the threat of a criminal prosecution and conviction as a means to encourage compliance. Drug courts operate on a reward and punishment system. The reward for successful completion of the program is not only a better life, but also lowering of a criminal charge to a lesser offense, or even dismissal of the criminal charge. The punishment is typically jail time for failing to comply with the program, plus continuation of the criminal process and possible additional jail time upon conviction. Recently, a district court ruled that a drug court participant cannot be separately jailed for violating the terms of the drug court program, and then tried and convicted for the underlying criminal offense.⁴

Under the recent implementation of Revision 7 to Article V of Florida's Constitution, the state has agreed to pay from state revenues certain case management costs which include service referral, coordination, monitoring, and tracking for treatment-based drug court programs under s. 397.334, F.S. However, costs associated with the application of therapeutic jurisprudence principles by the courts are excluded from the mandated portion of these costs to be borne by the state.

Section 397.334, F.S., authorizes the use of county funding to share resources and the responsibilities associated with the treatment-based drug court programs. Each of the 20 judicial circuits has a drug court program in place. The program may be established in misdemeanor,

¹ Drug Court Program, Court Programs and Initiatives, Florida State Courts, at http://www.flcourts.org/gen_public/family/drug_court/index.shtml (last visited Feb. 11, 2006).

² *Id.*

³ *Id.* at http://www.flcourts.org/gen_public/family/drug_court/map.shtml (last visited Feb. 11, 2006).

⁴ *Diaz v. State*, 884 So. 2d 299, 300 (Fla. 2d DCA 2004).

felony, family, or other court divisions. Treatment-based drug court programs may include pre-trial intervention programs as provided for in ss. 48.08, 948.16, and 985.306, F.S.⁵

III. Effect of Proposed Changes:

The bill authorizes each county in which a drug court program has been established to require both circuit and county courts to assess a mandatory cost of \$6 to fund program operational and administrative costs within the county. The \$6 is to be assessed against each person who (i) pleads guilty or nolo contendere to, or is convicted of, regardless of adjudication, a violation of ch. 893, F.S. (substance abuse and controlled substances); (ii) pleads guilty or nolo contendere to, or is convicted of, regardless of adjudication, a violation of a municipal ordinance or a county ordinance involving the use of alcohol or other substance use or abuse; or (iii) pays a fine or civil penalty for any violation of ch. 316, F.S. (state uniform traffic control laws), involving the use of alcohol or other substance use or abuse.

These funds shall be administered by the trial court administrator for the respective circuit under the direction of the advisory committee appointed by the chief judge. Clerks shall retain 8 percent of the revenue generated as fee income.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons who fall under the ambit of the provisions of the bill may be assessed a \$6 cost by circuit and county courts.

⁵ Section 397.334(3), F.S.

C. Government Sector Impact:

The bill permits counties to require by ordinance a mandatory \$6 cost to be assessed by circuit and county courts in certain instances. The bill directs that the monies collected, less 8 percent for the clerk of the court, be designated for the operation and administration of the drug court program within the county and under the authority of the trial court administrator for the circuit. The amount raised by the cost depends on the number of cases that arise to which the cost would apply. No money is generated unless the county adopts the applicable ordinance. The drug court program would receive \$5.52 of each \$6 cost with the clerk of the court receiving the remaining \$0.48.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

None.

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