

The Florida Senate
PROFESSIONAL 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: Children, Families, and Elder Affairs Committee

BILL: SB 1806

INTRODUCER: Senator Posey

SUBJECT: Court Costs for Drug Court Programs

DATE: April 17, 2007

REVISED: 4/19/07

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ray	Jameson	CF	Fav/2 amendments
2.			JU	
3.			FT	
4.			JA	
5.				
6.				

Please see last section for Summary of Amendments

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

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 six dollars 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.

The bill provides that the funds shall be administered by the county for the respective circuit under the direction of the advisory committee appointed by the chief judge pursuant to s. 397.334(7), F.S. Clerks shall retain five percent of the revenue generated as fee income for the office of the clerk of the circuit court.

The bill creates s. 938.20, F.S.

II. Present Situation:

Florida started the drug court movement by creating the first treatment-based drug court in the nation in 1989. The drug court concept was developed in Dade County, Florida stemming from a federal mandate to reduce the inmate population or suffer the loss of federal funding. The Supreme Court of Florida recognized the severity of the situation and directed Judge Herbert Klein to research the problem. Judge Klein determined that a large majority of criminal inmates had been incarcerated because of drug charges and were revolving back through the criminal justice system because of underlying problems of drug addiction. It was decided that the delivery of treatment services needed to be coupled with the criminal justice system and the need for strong judicial leadership and partnerships to bring treatment services and the criminal justice system together.¹

Drug courts are operational in each of Florida's 20 judicial circuits. There are presently over 100 drug courts operating in 46 counties in Florida.²

Drug court participants undergo long-term treatment and counseling, sanctions, incentives, and frequent court appearances. Successful completion of the treatment program results in dismissal of the charges, reduced or set aside sentences, lesser penalties, or a combination of these.³

Treatment-based, drug-court programs are directed to include therapeutic jurisprudence principles and adhere to the following key components recognized by the Drug Courts Program Office of the Office of Justice Programs of the U.S. Department of Justice and adopted by the Florida Supreme Court Treatment-Based Drug Court Steering Committee:⁴

- Drug court programs integrate alcohol and other drug treatment services with justice system case processing.
- Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.
- Eligible participants are identified early and promptly placed in the drug court program.
- Drug court programs provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
- Abstinence is monitored by frequent testing for alcohol and other drugs.
- A coordinated strategy governs drug court program responses to participants' compliance.
- Ongoing judicial interaction with each drug court program participant is essential.
- Monitoring and evaluation measure the achievement of program goals and gauge program effectiveness.
- Continuing interdisciplinary education promotes effective drug court program planning, implementation, and operations.

¹ Id.

² Drug Court Program, Court Programs and Initiatives, Florida State Courts, http://www.flcourts.org/gen_public/family/drug_court/map.shtml (last visited, April 9, 2007).

³ John S. Goldkamp, Michael D. White, & Jennifer B. Robinson, *An Honest Chance, Perspectives on Drug Courts*, U.S. Crime and Justice Research Institute, April, 2002.

⁴ s. 397.334(3), F.S.

- Forging partnerships among drug court programs, public agencies, and community-based organizations generate local support and enhances drug court program effectiveness.

Under s. 29.004, F.S., the state will pay certain case management costs including service referral, coordination, monitoring, and tracking for treatment-based drug court programs under s. 397.334, F.S., from state revenues. 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.

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 six dollars to fund operational and administrative costs within the county's drug court program. It is unclear whether the bill authorizes a single assessment by one court or two six dollar assessments to be charged by both the circuit court and the county court. It is also unclear what factors would be used to determine which county would receive the six dollar assessment if the fee was assessed by a circuit court covering multiple counties.

The six dollar assessment is to be charged in addition to any fine, civil penalty, or other cost against each person who:

- 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);
- 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 ch. 316, F.S., (state uniform traffic control laws) involving the use of alcohol or other substance use or abuse.

The bill provides that these funds shall be collected by the court, deposited into an account specifically designated for operating and administering the drug court programs within the county, and administered by the county under the direction of the advisory committee appointed by the chief judge. Clerks shall retain five 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:**

The bill permits counties to require by ordinance a six dollar fee to be assessed by circuit and county courts against persons who violate certain alcohol or other substance use or abuse laws. The bill directs that the moneys collected, less five percent for the clerk of the court, be designated for the operation and administration of the drug court program within the county. No money is generated unless the county adopts the applicable ordinance.

B. Private Sector Impact:

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

C. Government Sector Impact:

The bill will have an undetermined fiscal impact. According to the Office of the State Court Administrator, during FY 2005-2006, in counties that had at least one drug court in operation, there were 52,059 defendants disposed who either pled guilty or were convicted of a felony drug charge and 46,071 defendants who either pled guilty or were convicted of a county or municipal ordinance. However, it is unknown which counties may adopt an ordinance requiring an assessment as provided in the bill.

VI. Technical Deficiencies:

It is unclear whether the bill is authorizing a single assessment by one court or two six dollar assessments to be charged by both the circuit court and the county court.

If a six dollar assessment was charged by a circuit court covering multiple counties, it is unclear what factors would be used to determine which county would receive the six dollar assessment, e.g. where the crime occurred, where the defendant resides, or the county where the court hearing the case is located.

VII. Related Issues:

None.

VIII. Summary of Amendments:

Barcode 112040 by Children, Families, and Elder Affairs Committee:

The amendment provides that the circuit court or the county court shall assess the cost.

Barcode 085654 by Children, Families, and Elder Affairs Committee:

The amendment provides that if a circuit court covers multiple counties, the clerk of the circuit court shall divide the assessment evenly between the drug court programs within those counties and deposit the assessment accordingly.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
