

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Finance and Tax Committee

BILL: CS/SB 1110

INTRODUCER: Criminal Justice Committee and Senator Dean

SUBJECT: Court Costs

DATE: April 10, 2008                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	<b>Fav/CS</b>
2.	<u>Sumner</u>	<u>Maclure</u>	<u>JU</u>	<b>Favorable</b>
3.	<u>ODonnell</u>	<u>Johansen</u>	<u>FT</u>	<b>Favorable</b>
4.	_____	_____	<u>JA</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

The bill increases court costs in the amount of two dollars (from \$3 to \$5) assessed against a person who is found to have violated a criminal law or local ordinance. The bill also increases, by the same amount, the assessment to be remitted to the Department of Revenue from every bond estreatment or forfeited bail bond. Any criminal violations listed in s. 318.17, F.S., are also subject to a \$5 court cost. These violations are criminal traffic violations found in Chapter 316, F.S.

The bill also requires a person seeking to seal or expunge his or her criminal history records to pay all outstanding fines and court costs unless the court enters a written finding.

The revenue is earmarked for the Florida Department of Law Enforcement’s (FDLE's) Criminal Justice Standards and Training Trust Fund.

This bill substantially amends the following sections of the Florida Statutes: 318.18, 938.01, and 938.30.

## II. Present Situation:

According to the FDLE, funds collected under ss. 938.01(1)(a), 318.18(11)(d), and 327.73.11(b), F.S., provide for approximately 52 percent of the Criminal Justice Standards and Training Trust Fund.

- Section 938.01(1), F.S., provides that courts shall assess a \$3 court cost to be paid by citizens who have been convicted for violation of a criminal law, or convicted for violation of a municipal or county ordinance. It also requires a payment of \$3 from every bond estreature or forfeited bail bond related to a penal statute or penal ordinance.
- Section 318.18(11)(d), F.S., provides that a \$3 court cost shall be paid for each non-criminal traffic infraction.
- Section 327.73(11)(b), F.S., provides that courts shall assess a \$3 court cost for each non-criminal swimming, diving, or boating infraction.

Section 938.01, F.S., provides that the above costs shall be collected and remitted to the Department of Revenue for deposit into the Additional Court Cost Clearing Trust Fund. These costs and the funds deposited in the Additional Court Cost Clearing Trust Fund pursuant to s. 318.21(2)(c), F.S.,<sup>1</sup> are allocated as follows:

- Ninety-two percent to the FDLE Criminal Justice Standards and Training Trust Fund;
- Six and three-tenths percent to the FDLE Operating Trust Fund for the Criminal Justice Grant Program; and
- One and seven-tenths percent to the Department of Children and Family Services Domestic Violence Trust Fund for the domestic violence program pursuant to s. 39.903(3), F.S.

The FDLE reports that the Criminal Justice Standards and Training Trust Fund provides funding for:

- The payment of expenses incurred by the Criminal Justice Standards and Training Commission (commission) and the FDLE Professionalism Program;
- Criminal justice training programs and training school enhancements;
- The establishment of basic recruit, advanced, and career development training programs; and
- The development of psychological, selection, and performance evaluation tests.

According to FDLE, over the last 20 years, the number of criminal justice officers in the State of Florida has almost doubled. During this time, per-officer funding disbursed to the training schools has steadily declined to \$74.56 per officer for the current year.

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<sup>1</sup> Section 318.21, F.S., provides that, after the first \$2 of a civil penalty received by a county court pursuant to the provisions of ch. 318, F.S., the Florida Uniform Disposition of Traffic Infractions Act, is distributed as specified, 5.1 percent of the remainder shall be remitted to the Department of Revenue for deposit in the Additional Court Cost Clearing Trust Fund established pursuant to s. 938.01, F.S., for criminal justice purposes.

FISCAL YEAR	REVENUE	OFFICER COUNT	% INCR IN OFFICER COUNT OVER 96-97	PER OFFICER FUNDING	REGIONAL TRAINING SCHOOL ALLOCATION	TRAINING BUDGET % of TOTAL REVENUE
96-97	7,166,148	63,051		\$65	\$4,098,315	57.2%
97-98	9,549,544	65,826	4.4%	\$65	\$4,278,690	44.8%
98-99	11,985,941	67,586	7.2%	\$110	\$7,434,460	62.0%
99-00	12,699,971	68,584	8.8%	\$80	\$5,486,720	43.2%
00-01	13,900,922	70,268	11.4%	\$95	\$6,675,460	48.0%
01-02	13,163,409	70,855	12.4%	\$95	\$6,731,225	51.1%
02-03	16,112,656	71,579	13.5%	\$80	\$5,726,320	35.5%
03-04	15,961,554	71,586	13.5%	\$80	\$5,726,880	35.9%
04-05	15,087,323	73,031	15.8%	\$80	\$5,842,480	38.7%
05-06	16,693,799	74,925	18.8%	\$76	\$5,713,031	34.2%
06-07	17,095,936	75,822	20.3%	\$80	\$6,065,760	35.5%
07-08 Estimated	17,557,439	77,268	22.5%	\$74.56	\$5,761,102	32.8%

The table above shows the increases in officers over the last 10 years and the changes in revenue and the training budget as reported by FDLE.<sup>2</sup>

As mentioned above, one and seven-tenths percent of the funds from the Additional Court Cost Clearing Trust Fund Section is allocated to the Department of Children and Family Services Domestic Violence Trust Fund for the domestic violence program pursuant to s. 39.903(3), F.S. Section 39.903(3), F.S., requires the Department of Children and Family Services to operate the domestic violence program, which provides supervision, direction, coordination, and administration of statewide activities related to domestic violence prevention. The program is responsible for certifying the leading providers of domestic violence services in Florida.

Florida law provides that if a person meets statutory criteria set forth in s. 943.0585, F.S., or s. 943.059, F.S., he or she may request that a court expunge or seal his or her criminal history record. The statutory requirements do not include the payment of any outstanding costs or fines, although the petitioner must not be under the supervision of the court for the offense for which the expunction<sup>3</sup> or sealing<sup>4</sup> is sought at the time of the petition.

**III. Effect of Proposed Changes:**

The bill increases the court costs to be paid from \$3 to \$5 in the following statutory provisions:

- In s. 938.01(1), F.S., by citizens who have been convicted for violation of a criminal law, or convicted for violation of a municipal or county ordinance.
- Also, in s. 938.01(1), F.S., a deduction is made from every bond estreature or forfeited bail bond related to a penal statute or penal ordinance.

<sup>2</sup> Data received from the FDLE, January 2008.

<sup>3</sup> Section 943.0585(2)(g), F.S.

<sup>4</sup> Section 943.059(2)(f), F.S.

Pursuant to s. 318.11(d), F.S., an assessment of \$5 must be paid in relation to criminal traffic offenses found in Section 318.17, F.S.

As with the current law, these costs are to be collected by the courts for deposit by the Department of Revenue into the Additional Court Cost Clearing Trust Fund, pursuant to s. 938.01, F.S. The percentages distributed to the Standards and Training Trust Fund, the Criminal Justice Grant Trust Fund and the Domestic Violence Trust Fund are adjusted by the bill so that most of the additional revenue produced by the 60 percent increase in the fee is distributed to the Standards and Training Trust Fund without negatively impacting the amount that would otherwise have been distributed to the other funds.

The bill further requires, by amending s. 938.30, F.S., that a person seeking an expunction or sealing of his or her criminal history from a court must first pay all outstanding fines and court costs, unless the court makes written findings about the appropriateness of expunging or sealing despite the outstanding costs and fines.

The bill provides that it takes effect on July 1, 2008.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

The bill increases the court fees paid by the public from \$3 to \$5 to be deposited in the Additional Court Cost Clearing Trust Fund as follows: pursuant to s. 318.11(d), F.S., for criminal infractions listed in s. 318.17, F.S.; pursuant to s. 938.01(1), F.S., by citizens who have been convicted of a violation of the criminal law, or convicted for a violation of a municipal or county ordinance; and also, pursuant to s. 938.01(1), F.S., \$5 is deducted from the amount of every bond estreature, or forfeited bail bond, related to a penal statute or penal ordinance.

The effective date of the bill is July 1, 2008. A fiscal analysis prepared by the Florida Department of Law Enforcement estimates the annual recurring fiscal impact of the bill at positive \$1.2 million.

**B. Private Sector Impact:**

The bill will require citizens who are found by the courts to have committed criminal law violations and local ordinance violations to remit \$2 additional court costs.

**C. Government Sector Impact:**

The increase in court costs should, according to FDLE's projections, provide an additional \$1.2 million in revenue to the FDLE Standards and Training Trust Fund.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

A similar bill addressing an increase in fees (CS/CS/SB 1030) was vetoed by the Governor in 2007. A provision in that bill, that is not in the current bill, also raised fees for non-criminal infractions relating to swimming and diving.<sup>5</sup> The veto message stated:

While imposing increases on criminal is fair punishment, placing an additional financial burden on someone who may have only violated a swimming or diving regulation is unreasonable. Increased costs imposed on our citizens for non-criminal acts place a significant burden on many who are struggling financially.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Criminal Justice on March 25, 2008:**

- i. The committee substitute only assesses additional court costs in criminal cases, deleting any reference to non-criminal infractions.
- ii. The amount of the increase is \$2.00 – to \$5.00 from \$3.00. The \$5.00 is also assessed in all criminal traffic offenses listed in Chapter 316, F.S.
- iii. The funds are allocated so that the additional revenue will be distributed to the Department of Law Enforcement Criminal Justice Standards and Training Trust Fund with no effect on other entities mentioned in the bill.

**B. Amendments:**

None.

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

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<sup>5</sup> Veto message for SB 1030, 2007 [http://www.flgov.com/leg\\_actions/2007](http://www.flgov.com/leg_actions/2007)