

**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 Criminal Justice Committee

BILL: SB 2440

INTRODUCER: Senators Posey and Crist

SUBJECT: Drug Court Assessment

DATE: April 10, 2008

REVISED: 04/16/08

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Fav/1 amendment
2.			JU	
3.			FT	
4.			JA	
5.				
6.				

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

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

**I. Summary:**

Senate Bill 2440 allows for a \$6 per case assessment to be imposed in certain cases, by county ordinance, to offset the cost of local drug court programs.

This bill substantially amends section 938.20 of the Florida Statutes.

**II. Present Situation:**

**Local Drug Court Programs**

Treatment based drug courts are provided for in s. 397.334, F.S. Each county may elect whether or not to create a drug court.

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.<sup>1</sup> 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

<sup>1</sup> Publication by the Florida Supreme Court, *The Florida Drug Court System*, revised January 2004, p.1

addiction.”<sup>2</sup> 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 and the criminal justice system together.<sup>3</sup>

As of July 2004, 88 drug courts operated in 43 counties.<sup>4</sup> There are 1,183 drug courts nationwide, either operational or in the planning stages, and drug courts are operational in all fifty states.<sup>5</sup>

In Florida, in 2002, approximately 10,200 offenders were referred to drug court. Studies show that drug court graduates experience a significantly reduced rate of recidivism and that drug courts are a cost-effective alternative to incarceration of drug offenders.<sup>6</sup>

Drug courts operate on a reward and punishment system. The reward for successful completion of the program is not only, hopefully, the beginning of a healthier life but also lowering of a criminal charge to a lesser offense or even dismissal of the criminal charge. Punishments for failing to comply with the program typically include work assignment, increased treatment modalities, increased court appearances, increased urinalysis testing, community service, house arrest, and incarceration. Failure to comply with the program can also result in the continuation of the criminal process and possible additional jail time upon conviction.

The chief judge of each judicial circuit may appoint an advisory committee for the treatment-based drug court program. The committee shall be composed of the chief judge, or his or her designee, who shall serve as chair; the judge of the treatment-based drug court program, if not otherwise designated by the chief judge as his or her designee; the state attorney, or his or her designee; the public defender, or his or her designee; the treatment-based drug court program coordinators; community representatives; treatment representatives; and any other persons the chair finds are appropriate.<sup>7</sup>

### **Drug Court Funding**

Section 397.334(7), F.S., related to funding of drug courts, provides:

(7) If a county chooses to fund a treatment-based drug court program, the county must secure funding from sources other than the state for those costs not otherwise assumed by the state pursuant to s. 29.004. However, this does not preclude counties from using treatment and other service dollars provided through state executive branch agencies. Counties may provide, by interlocal agreement, for the collective funding of these programs.

Section 29.004, F.S., sets forth the elements of the court system that are provided for by state revenue. Subsection (10) of that section speaks directly to the non-funding of drug courts:

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<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Report on Florida's Drug Courts*, by the Supreme Court Task Force on Treatment-Based Drug Courts, July 2004, p.5

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Section 397.334(8), F.S.

For purposes of implementing s. 14, Art. V of the State Constitution, the elements of the state courts system to be provided from state revenues appropriated by general law are as follows:

(10) Case management. Case management includes:

- (a) Initial review and evaluation of cases, including assignment of cases to court divisions or dockets.
- (b) Case monitoring, tracking, and coordination.
- (c) Scheduling of judicial events.
- (d) Service referral, coordination, monitoring, and tracking for treatment-based drug court programs under s. 397.334.

Case management *may not include costs associated with the application of therapeutic jurisprudence principles by the courts*. Case management also may not include case intake and records management conducted by the clerk of court. (emphasis added)

### III. Effect of Proposed Changes:

This bill creates s. 938.20, F.S., to provide that in any county in which a drug court program has been established under s. 397.334, F.S., the county may require by ordinance an additional court cost of \$6. The additional cost may be imposed on any individual who:

- Pleads guilty or nolo contendere to, or is convicted of, regardless of adjudication, a violation of ch. 893, F.S.<sup>8</sup>
- 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.
- Pays a fine or civil penalty for any violation of ch. 316, F.S.,<sup>9</sup> involving the use of alcohol or other substance use or abuse.

The clerk of the circuit court may retain 5 percent of all collections for administrative costs. The county must appropriate the remaining 95 percent for use by the drug court program, after consultation with the advisory committee.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

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<sup>8</sup> Chapter 893, F.S., contains drug-related offenses.

<sup>9</sup> Chapter 316, F.S., contains, in relevant part, driving offenses, including DUI.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons who are convicted of or enter pleas of guilty or nolo contendere to offenses involving the use of alcohol or drug offenses will be assessed an additional \$6 fee to offset the cost of drug court.

C. Government Sector Impact:

There does not appear to be any negative fiscal effect to this bill where government is concerned.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

**Barcode 860638 by Criminal Justice on April 16, 2008:**

This technical amendment corrects a cross-reference to the statute under which the local chief judge appoints the drug court advisory committee.