

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 1195  
Probation Officers

Salaries of Law Enforcement, Correctional, and Correctional

**SPONSOR(S):** Public Safety & Domestic Security Policy Committee; Robaina and others

**TIED BILLS:** **IDEN./SIM. BILLS:**

	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	Public Safety & Domestic Security Policy Committee	6 Y, 0 N, As CS	Padgett	Kramer
2)	Criminal & Civil Justice Policy Council		Padgett	Havlicak
3)	Finance & Tax Council			
4)	Full Appropriations Council on General Government & Health Care			
5)				

**SUMMARY ANALYSIS**

The bill increases fees in several sections of the Florida Statutes. The fee increases are as follows:

- driver license reinstatement fee: increases the fee by \$12.50; from \$47.50 to \$60
- late fee for failure to pay traffic fines: increases the fee by \$12; from \$12 to \$24
- driver license reinstatement following suspension: increases the fee by \$10; from \$35 to \$45
- driver license reinstatement following revocation/disqualification: increases the fee by \$15; from \$60 to \$75
- driver license reinstatement fee following a DUI suspension/revocation: increases the fee by \$15; from \$115 to \$130
- expunction: increases FDLE certificate of eligibility processing fee by \$75; from \$75 to \$150
- sealing of criminal record: increases FDLE certificate of eligibility processing fee by \$75; from \$75 to \$150.
- adds a 4% surcharge to items for sale at inmate canteens and vending machines in correctional facilities

The bill provides all funds generated from the fee increases listed above are to be deposited in the Criminal Justice Standards and Training Trust Fund to be used for retention of law enforcement, correctional, and correctional probation officers who are employed in sworn or certified public safety occupations by the state.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **CRIMINAL JUSTICE STANDARDS AND TRAINING TRUST FUND**

Section 943.25(2), F.S. creates the Criminal Justice Standards and Training Trust Fund within the Florida Department of Law Enforcement. This trust fund provides payment for necessary and proper expenses incurred by the operation of the Criminal Justice Standards and Training Commission<sup>1</sup> and the Criminal Justice Professionalism program<sup>2</sup>.

The bill amends s. 943.25(2), F.S. to provide that funds from the Criminal Justice Standards and Training Trust Fund can be used for retention of law enforcement<sup>3</sup>, correctional<sup>4</sup>, and correctional probation officers<sup>5</sup> who are employed in sworn or certified public safety occupations by the state. The bill provides that all funds appropriated for purposes of officer retention must be appropriated by the Legislature in the General Appropriations Act.

## INCREASED FEES

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<sup>1</sup> See s. 943.11, F.S. The Commission performs the following duties: certifies and revokes the certification of law enforcement officers, establishes uniform minimum employment standards, establishes uniform minimum training standards, etc. Section 943.12, F.S.

<sup>2</sup> See s. 943.09, F.S.

<sup>3</sup> "Law enforcement officer" means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency. See s. 943.10(1), F.S.

<sup>4</sup> "Correctional officer" means any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution; however, the term "correctional officer" does not include any secretarial, clerical, or professionally trained personnel. See s. 943.10(2), F.S.

<sup>5</sup> "Correctional probation officer" means a person who is employed full time by the state whose primary responsibility is the supervised custody, surveillance, and control of assigned inmates, probationers, parolees, or community controllees within institutions of the Department of Corrections or within the community. The term includes supervisory personnel whose duties include, in whole or in part, the supervision, training, and guidance of correctional probation officers, but excludes management and administrative personnel above, but not including, the probation and parole regional administrator level. See s. 943.10(3), F.S.

The bill provides all funds generated from the fee increases listed below are to be deposited in the Criminal Justice Standards and Training Trust Fund to be used for the retention of law enforcement, correctional, and correctional probation officers who are employed in sworn or certified public safety occupations by the state.

#### Suspension of License for Failure to Comply With Civil Penalty or Failure to Appear

Section 318.15, F.S. provides that a person who fails to pay a civil traffic fine, fails to attend driver improvement school, or fails to appear at a hearing is subject to a driver's license suspension.<sup>6</sup> To reinstate a suspended driver's license, a person must comply with all previously imposed penalties and pay a reinstatement fee of \$47.50.<sup>7</sup>

The bill increases the amount of the reinstatement fee to \$60.00.

#### Failure to Pay Fines

Section 318.18(8), F.S. provides that a person who fails to pay a noncriminal civil traffic fine within 30 days from the date of the citation must pay an additional late fee of \$16.00.<sup>8</sup>

The bill increases the amount of the late fee to \$24.00.

#### Suspended or Revoked Driver License Fees

Section 322.21(8), F.S. provides that any person who applies for reinstatement of a driver's license must pay a reinstatement fee of \$35.00 following a suspension<sup>9</sup> and \$60.00 following a revocation<sup>10</sup>. This section also provides that a person must pay a reinstatement fee of \$60.00 following a disqualification<sup>11</sup> for a commercial driver's license.

The bill increases the reinstatement fee for a suspended license to \$45.00. The bill increases the reinstatement fee for a revoked license or commercial disqualification to \$75.00.

#### DUI Revocation or Suspension Fee

Section 322.21(8), F.S. provides that a person must pay a reinstatement fee of \$115.00 if the suspension or revocation of a driver license was the result of a conviction for driving under the influence or for refusal to submit to a lawful breath, blood or urine test..

The bill increases the reinstatement fee to \$130.00.

#### Expunction/Sealing

Section 943.0585, F.S., and s. 943.059, F.S. provide the procedure for expunction and sealing of criminal records. To have a criminal record expunged or sealed, a person must first obtain a certificate of eligibility for expunction or sealing from the Florida Department of Law Enforcement (FDLE).<sup>12</sup> The certificate of eligibility for an expunction or sealing verifies that a person has met all statutory

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<sup>6</sup> Section 318.15(1), F.S.

<sup>7</sup> Section 318.15(2), F.S.

<sup>8</sup> Section 318.18(8)(a), F.S. See also s. 318.14(4), F.S.

<sup>9</sup> "Suspension" means the temporary withdrawal of a licensee's privilege to drive a motor vehicle. Section 322.01(40), F.S.

<sup>10</sup> "Revocation" means the termination of a licensee's privilege to drive. Section 322.01(36), F.S.

<sup>11</sup> "Disqualification" means a prohibition, other than an out-of-service order, that precludes a person from driving a commercial motor vehicle. Section 322.01(15), F.S.

<sup>12</sup> Sections 943.0585(2) and 943.059(2), F.S.

expunction or sealing eligibility requirements. FDLE requires a \$75.00 processing fee for issuing the certificate of eligibility for a sealing or expunction.

The bill increases the FDLE processing fee to \$150.00.

#### Inmate Purchases

Section 945.215(1)(e), F.S. provides that items for sale at inmate canteens and vending machines maintained at correctional facilities shall be priced comparatively with like items for retail sale at market prices. Canteens and vending machines are used by inmates and by individuals visiting an inmate.

The bill adds a 4% surcharge to items for sale at inmate canteens and vending machines in correctional facilities.

#### B. SECTION DIRECTORY:

Section 1: Amends s. 318.15, F.S., relating to failure to comply with civil penalty or to appear; penalty.

Section 2: Amends s. 318.18, F.S., relating to amount of penalties.

Section 3: Amends s. 322.21, F.S., relating to license fees; procedure for handling and collecting fees.

Section 4: Amends s. 322.29, F.S., relating to surrender and return of license.

Section 5: Amends s. 943.0585, F.S., relating to court-ordered expunction of criminal history records.

Section 6: Amends s. 943.059, F.S., relating to court-ordered sealing of criminal history records.

Section 7: Amends s. 945.215, F.S., relating to inmate welfare and employee benefit trust funds.

Section 8: Amends s. 943.25, F.S., relating to criminal justice trust funds; source of funds; use of funds.

Section 9: Provides an effective date of July 1, 2009.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

The bill increases several statutory fees.

##### 2. Expenditures:

None.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The increased fees could have a negative fiscal impact on individuals and businesses.

D. FISCAL COMMENTS:

The bill provides that the funds generated from the increased fees be deposited into the Criminal Justice Standards and Training Trust Fund generally, but restricts the use of the new revenue to be used for retention of sworn officers. Information is not yet available as to the amount of revenue that will be generated by the increased fees.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 27, 2009, the Public Safety & Domestic Security Policy Committee adopted a strike-all amendment to the bill. The amendment removes several fee increases that were included in the original bill. This analysis is drafted to the bill as amended.