

**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:** CS/SB 526

**INTRODUCER:** Criminal Justice Committee and Senator Lynn

**SUBJECT:** Court Costs/Crimes Against Minors

**DATE:** March 11, 2009      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Fav/CS
2.			CF	
3.			JA	
4.				
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:**

Currently, s. 938.10, F.S., provides that if a person pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, any offense against a minor in violation of a specified list of criminal statutes, the court must impose a court cost of \$101 against the offender in addition to any other cost or penalty required by law. The section provides that \$100 of the court cost must be deposited into the Department of Children and Family Services' Grants and Donations Trust Fund for disbursement to the Florida Network of Children's Advocacy Centers, Inc., for the purpose of funding children's advocacy centers that are members of the network. The clerk of the court retains \$1 of the \$100 as a service charge.

The bill increases the court cost to \$151 and expands the list of criminal statutes referenced to require that the \$151 court cost be imposed against offenders convicted of one of these additional offenses. The additional \$50 will be distributed as follows:

- \$40 will be deposited in the State Courts Revenue Trust Fund;
- \$5 will be deposited in the State Attorney Revenue Trust Fund; and
- \$5 will be deposited in the Public Defenders Revenue Trust Fund.

This bill substantially amends section 938.10 and reenacts section 39.3035(3)(a) to incorporate the amendment of the Florida Statutes.

## II. Present Situation:

Chapter 938, F.S., sets forth several court costs which must be imposed in criminal cases. Sections 938.01 – 938.06, F.S., relate to mandatory court costs which must be applied in all criminal cases. Sections 938.07 – 938.13, F.S., relate to mandatory court costs which must be assessed in specific types of cases. Section 938.10, F.S., provides that if a person pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, any offense against a minor in violation of a specified list of criminal statutes, the court must impose a court cost of \$101 against the offender in addition to any other cost or penalty required by law.

The listed offenses are as follows:

1. Section 784.085, F.S. – relating to battery of a child by throwing, tossing, projecting, or expelling certain fluids or materials.
2. Chapter 787, F.S. – relating to kidnapping, false imprisonment, luring or enticing a child.
3. Chapter 794, F.S. – relating to sexual battery.
4. Section 796.03, F.S. – relating to procuring person under age of 18 for prostitution.
5. Section 800.04, F.S. – relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.
6. Chapter 827, F.S. – relating to abuse of children.
7. Section 847.0135(5), F.S. – relating to computer pornography.
8. Section 847.0145, F.S. – relating to buying or selling of minors.
9. Section 985.701, F.S. – relating to sexual misconduct.

The section provides that \$100 of the court cost must be deposited into the Department of Children and Family Services' Grants and Donations Trust Fund for disbursement to the Florida Network of Children's Advocacy Centers, Inc., for the purpose of funding children's advocacy centers that are members of the network. One dollar from the \$101 is retained by the clerk of the court as a service charge. *s. 938.10(2), F.S.*

Section 39.3035, F.S., provides that in order to be eligible for membership in the Florida Network of Children's Advocacy Centers, Inc., a child advocacy center in the state shall:

- (a) Be a private, nonprofit incorporated agency or a governmental entity.
- (b) Be a child protection team, or by written agreement incorporate the participation and services of a child protection team, with established community protocols which meet all of the requirements of the National Network of Children's Advocacy Centers, Inc.
- (c) Have a neutral, child-focused facility where joint department [Department of Children and Family Services] and law enforcement interviews take place with children in appropriate cases of suspected child sexual abuse or physical abuse. All multidisciplinary agencies shall have a place to interact with the child as investigative or treatment needs require.
- (d) Have a minimum designated staff that is supervised and approved by the local board of directors or governmental entity.

(e) Have a multidisciplinary case review team that meets on a regularly scheduled basis or as the caseload of the community requires. The team shall consist of representatives from the Office of the State Attorney, the department, the child protection team, mental health services, law enforcement, and the child advocacy center staff. Medical personnel and a victim's advocate may be part of the team.

(f) Provide case tracking of child abuse cases seen through the center. A center shall also collect data on the number of child abuse cases seen at the center, by sex, race, age, and other relevant data; the number of cases referred for prosecution; and the number of cases referred for mental health therapy. Case records shall be subject to the confidentiality provisions of s. 39.202.

(g) Provide referrals for medical exams and mental health therapy. The center shall provide followup on cases referred for mental health therapy.

(h) Provide training for various disciplines in the community that deal with child abuse.

(i) Have an interagency commitment, in writing, covering those aspects of agency participation in a multidisciplinary approach to the handling of child sexual abuse and serious physical abuse cases.

The section provides that a child advocacy center within this state may not receive the funds generated pursuant to s. 938.10, F.S., unless all of the standards set forth in the section are met. The Florida Network of Children's Advocacy Centers, Inc. has the responsibility for tracking and documenting compliance with the section for any of the funds it administers to member child advocacy centers.

### **III. Effect of Proposed Changes:**

The bill increases the court cost which must be imposed from \$101 to \$151. The bill adds several sections of statute to the list of offenses for which the court cost must be imposed including the following offenses committed against a minor:

1. Section 796.035, F.S. – relating to selling or buying of minors into sex trafficking or prostitution.
2. Section 847.012, F.S. – relating to sale of harmful materials to minors or use of minors in production in harmful materials.
3. Section 847.0133, F.S. – relating to the prohibition of certain acts in connection with obscenity.
4. Section 847.0138, F.S. – relating to transmission of material harmful to minors to a minor by electronic device or equipment.
5. Section 893.147(3), F.S. – relating to use, possession, manufacture, delivery, transportation, or advertisement of drug paraphernalia.

The court cost must also be imposed for a violation of any of the following sections:

1. Section 775.21, F.S. – relating to the Florida Sexual Predators Act.
2. Section 823.07, F.S. – relating to abandonment of iceboxes, refrigerators, deep-freeze lockers, clothes washers, clothes dryers, or airtight units.
3. Section 847.0125, F.S. – relating to the retail display of materials harmful to minors.

4. Section 847.0134, F.S. - relating to the prohibition of an adult entertainment establishment that displays, sells, or distributes materials harmful to minors within 2,500 feet of a school.
5. Section 943.0435, F.S. – relating to sexual offenders.

The court cost will be distributed as follows:

- \$100 will be deposited in the Department of Children and Family Services' Grants and Donations Trust Fund for disbursement to the Florida Network of Children's Advocacy Centers, Inc. for the purpose of funding children's advocacy centers that are members of the network as required by current law;
- \$40 will be deposited in the State Courts Revenue Trust Fund;
- \$5 will be deposited into the State Attorney Revenue Trust Fund;
- \$5 will be deposited in the Public Defenders Revenue Trust Fund; and
- \$1 will be retained by the clerk of court as a service charge.

#### **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:**

None.

##### **B. Private Sector Impact:**

According to the Florida Network of Children's Advocacy Centers, since 2004, \$196,698 has been deposited in total into the trust fund for disbursement to the children's advocacy centers.

##### **C. Government Sector Impact:**

At the time of the writing of this analysis, information was not yet available as to the amount of revenue that this bill is expected to generate for the designated trust funds.

**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.)

**CS by Criminal Justice on March 11, 2009:**

- The bill expands the list of violations for which the additional court costs may be imposed to include violations of s. 943.0435, F.S., relating to the registration of sexual offenders.
- The bill increases the additional court costs imposed in the enumerated offenses and violations by \$50, forty of which will be deposited in the State Courts Revenue Trust Fund with the remaining \$10 divided equally between the State Attorneys Revenue Trust Fund and the Public Defenders Revenue Trust Fund.

**B. Amendments:**

None.