

1 A bill to be entitled
 2 An act relating to costs of prosecution,
 3 investigation, and representation; amending s.
 4 903.286, F.S.; providing for the withholding of unpaid
 5 costs of prosecution and representation from the
 6 return of a cash bond posted on behalf of a criminal
 7 defendant; requiring a notice on bond forms of such
 8 possible withholding; amending s. 938.27, F.S.;
 9 providing liability for the cost of prosecution and
 10 investigation for persons whose cases are disposed of
 11 under specified provisions; clarifying the types of
 12 cases that are subject to the collection and
 13 dispensing of cost payments by the clerk of the court;
 14 amending s. 938.29, F.S.; providing liability for
 15 attorney's fees and costs for persons whose cases are
 16 disposed of under specified provisions; amending s.
 17 985.032, F.S.; providing for assessment of costs of
 18 prosecution against a juvenile who has been
 19 adjudicated delinquent or has adjudication of
 20 delinquency withheld; providing an effective date.

21
 22 Be It Enacted by the Legislature of the State of Florida:

23
 24 Section 1. Section 903.286, Florida Statutes, is amended
 25 to read:

26 903.286 Return of cash bond; requirement to withhold
 27 unpaid fines, fees, court costs; cash bond forms.—

28 (1) Notwithstanding s. 903.31(2), the clerk of the court

CS/HB 135

2012

29 shall withhold from the return of a cash bond posted on behalf
30 of a criminal defendant by a person other than a bail bond agent
31 licensed pursuant to chapter 648 sufficient funds to pay any
32 unpaid costs of prosecution, costs of representation as provided
33 by s. 27.52, court fees, court costs, and criminal penalties. If
34 sufficient funds are not available to pay all unpaid costs of
35 prosecution, costs of representation as provided by s. 27.52,
36 court fees, court costs, and criminal penalties, the clerk of
37 the court shall immediately obtain payment from the defendant or
38 enroll the defendant in a payment plan pursuant to s. 28.246.

39 (2) All cash bond forms used in conjunction with the
40 requirements of s. 903.09 must prominently display a notice
41 explaining that all funds are subject to forfeiture and
42 withholding by the clerk of the court for the payment of costs
43 of prosecution, costs of representation as provided by s. 27.52,
44 court fees, court costs, and criminal penalties on behalf of the
45 criminal defendant regardless of who posted the funds.

46 Section 2. Subsections (1) and (6) of section 938.27,
47 Florida Statutes, are amended to read:

48 938.27 Judgment for costs of prosecution and investigation
49 ~~on conviction.~~-

50 (1) In all criminal and violation-of-probation or
51 community-control cases, convicted persons and persons whose
52 cases are disposed of pursuant to s. 948.08(6)(c) or s.
53 948.16(2) are liable for payment of the costs of prosecution,
54 including investigative costs incurred by law enforcement
55 agencies, by fire departments for arson investigations, and by
56 investigations of the Department of Financial Services or the

57 Office of Financial Regulation of the Financial Services
58 Commission, if requested by such agencies. The court shall
59 include these costs in every judgment rendered against the
60 convicted person. For purposes of this section, "convicted"
61 means a determination of guilt, or of violation of probation or
62 community control, which is a result of a plea, trial, or
63 violation proceeding, regardless of whether adjudication is
64 withheld.

65 (6) The clerk of the court shall collect and dispense cost
66 payments in any case regardless of whether the disposition of
67 the case takes place before the judge in open court or in any
68 other manner provided by law.

69 Section 3. Paragraph (a) of subsection (1) of section
70 938.29, Florida Statutes, is amended to read:

71 938.29 Legal assistance; lien for payment of attorney's
72 fees or costs.—

73 (1)(a) A defendant who is convicted of a criminal act or a
74 violation of probation or community control or whose case is
75 disposed of pursuant to s. 948.08(6)(c) or s. 948.16(2) and who
76 has received the assistance of the public defender's office, a
77 special assistant public defender, the office of criminal
78 conflict and civil regional counsel, or a private conflict
79 attorney, or who has received due process services after being
80 found indigent for costs under s. 27.52, shall be liable for
81 payment of the assessed application fee under s. 27.52 and
82 attorney's fees and costs. Attorney's fees and costs shall be
83 set in all cases at no less than \$50 per case when a misdemeanor
84 or criminal traffic offense is charged and no less than \$100 per

CS/HB 135

2012

85 | case when a felony offense is charged, including a proceeding in
86 | which the underlying offense is a violation of probation or
87 | community control. The court may set a higher amount upon a
88 | showing of sufficient proof of higher fees or costs incurred.
89 | For purposes of this section, "convicted" means a determination
90 | of guilt, or of violation of probation or community control,
91 | which is a result of a plea, trial, or violation proceeding,
92 | regardless of whether adjudication is withheld. The court shall
93 | include these fees and costs in every judgment rendered against
94 | the convicted person.

95 | Section 4. Section 985.032, Florida Statutes, is amended
96 | to read:

97 | 985.032 Legal representation for delinquency cases.—

98 | (1) For cases arising under this chapter, the state
99 | attorney shall represent the state.

100 | (2) A juvenile who has been adjudicated delinquent or has
101 | adjudication of delinquency withheld shall be assessed costs of
102 | prosecution as provided in s. 938.27.

103 | Section 5. This act shall take effect July 1, 2012.