



487206

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2012	.	
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The Committee on Criminal Justice (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete lines 54 - 164
and insert:

(1) In all criminal and violation-of-probation or community-control cases, convicted persons are liable for payment of the costs of prosecution, including investigative costs incurred by law enforcement agencies, by fire departments for arson investigations, and by investigations of the Department of Financial Services or the Office of Financial Regulation of the Financial Services Commission, if requested by such agencies. The court shall include these costs in every



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13 judgment rendered against the convicted person. For purposes of
14 this section, "convicted" means a determination of guilt, or of
15 violation of probation or community control, which is a result
16 of a plea, trial, or violation proceeding, regardless of whether
17 adjudication is withheld.

18 (2) (a) The court shall impose the costs of prosecution and
19 investigation notwithstanding the defendant's present ability to
20 pay. The court shall require the defendant to pay the costs
21 within a specified period or in specified installments.

22 (b) The end of such period or the last such installment
23 shall not be later than:

24 1. The end of the period of probation or community control,
25 if probation or community control is ordered;

26 2. Five years after the end of the term of imprisonment
27 imposed, if the court does not order probation or community
28 control; or

29 3. Five years after the date of sentencing in any other
30 case.

31
32 However, in no event shall the obligation to pay any unpaid
33 amounts expire if not paid in full within the period specified
34 in this paragraph.

35 (c) If not otherwise provided by the court under this
36 section, costs shall be paid immediately.

37 (3) If a defendant is placed on probation or community
38 control, payment of any costs under this section shall be a
39 condition of such probation or community control. The court may
40 revoke probation or community control if the defendant fails to
41 pay these costs.



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42 (4) Any dispute as to the proper amount or type of costs
43 shall be resolved by the court by the preponderance of the
44 evidence. The burden of demonstrating the amount of costs
45 incurred is on the state attorney. The burden of demonstrating
46 the financial resources of the defendant and the financial needs
47 of the defendant is on the defendant. The burden of
48 demonstrating such other matters as the court deems appropriate
49 is upon the party designated by the court as justice requires.

50 (5) Any default in payment of costs may be collected by any
51 means authorized by law for enforcement of a judgment.

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

56 (7) Investigative costs that are recovered shall be
57 returned to the appropriate investigative agency that incurred
58 the expense. Such costs include actual expenses incurred in
59 conducting the investigation and prosecution of the criminal
60 case; however, costs may also include the salaries of permanent
61 employees. Any investigative costs recovered on behalf of a
62 state agency must be remitted to the Department of Revenue for
63 deposit in the agency operating trust fund, and a report of the
64 payment must be sent to the agency, except that any
65 investigative costs recovered on behalf of the Department of Law
66 Enforcement shall be deposited in the department's Forfeiture
67 and Investigative Support Trust Fund under s. 943.362.

68 (8) Costs for the state attorney shall be set in all cases
69 at no less than \$50 per case when a misdemeanor or criminal
70 traffic offense is charged and no less than \$100 per case when a



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71 felony offense is charged, including a proceeding in which the
72 underlying offense is a violation of probation or community
73 control. The court may set a higher amount upon a showing of
74 sufficient proof of higher costs incurred. Costs recovered on
75 behalf of the state attorney under this section shall be
76 deposited into the State Attorneys Revenue Trust Fund to be used
77 during the fiscal year in which the funds are collected, or in
78 any subsequent fiscal year, for actual expenses incurred in
79 investigating and prosecuting criminal cases, which may include
80 the salaries of permanent employees, or for any other purpose
81 authorized by the Legislature.

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83 ===== T I T L E A M E N D M E N T =====

84 And the title is amended as follows:

85 Delete lines 9 - 20

86 and insert:

87 clarifying the types of cases that are subject to the
88 collection and dispensing of cost payments by the
89 clerk of the court; amending s. 985.032, F.S.;