

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 459 County Delinquency Prevention (Teen Courts)

SPONSOR(S): Bean and Slosberg

TIED BILLS: **IDEN./SIM. BILLS:** SB 252

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Judiciary	_____	Birtman	Havlicak
2) State Administration	_____	_____	_____
3) Judicial Appropriations (sub)	_____	_____	_____
4) Appropriations	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill authorizes boards of county commissioners to adopt a mandatory cost to be assessed by county ordinance, for the operation and administration of teen courts. The bill also requires a \$3 assessment as a court cost for specified violations of the criminal laws. The clerk of court is required to collect the assessment and remit such assessments monthly to the teen court, and is required to withhold 5% of the assessments collected for fee income. The bill requires teen courts that receive such cost assessments to file a yearly accounting with the board of county commissioners, and specifies which agencies may administer teen courts.

This bill reinstates language that was repealed as a part of the Article V legislation passed in Special Session A, 2004. (See s. 126, ch. 2003-402, Laws of Florida, effective July 1, 2004).

It appears that this bill will have an indeterminate impact on local revenue.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

To the extent that teen courts are funded and administered by government entities, the size of government is not reduced.

B. EFFECT OF PROPOSED CHANGES:

Generally, Teen Courts are programs that divert first-time juvenile offenders from juvenile court, and instead allow them the opportunity to go before a jury of their peers. Teens act as the prosecuting attorneys, defense attorneys, jurors, bailiffs, and clerks. The only adult is the judge. If the offender is found guilty and successfully completes his or her ‘sentence’, then their juvenile record is cleared. Teen courts are based on the philosophy that youthful offenders are less likely to re-offend if sentenced by a jury of their peers.¹

A survey conducted by the Florida Association of Court Clerks & Comptroller in 2003, revealed that 51 of 66 counties responding had an established teen court, which are managed by various local entities, including: the Board of County Commissioners, Sheriffs, county schools, the judiciary, court administrators, private entities, and Clerks.

Florida Statutes currently allow teen courts to be funded by a \$3 court cost assessed against every person who pleads guilty or nolo contendere to, or is convicted of, a violation of a state criminal statute, municipal ordinance, or county ordinance, or who pays a fine or penalty for violation of the traffic laws.² The \$3 cost is assessed in addition to any other fine. The clerk of the circuit court collects the assessments and remits them monthly to the teen court, less 5% which the clerk retains as fee income.

In November 1998, voters approved Revision 7 to Article V of the Florida Constitution. Generally, the revision allocates state court system funding among the state, counties, and users of courts, and must be fully effectuated by July 1, 2004. As part of the statutory revisions necessitated by the adoption of Revision 7 to Article V of the State Constitution, the Legislature in 2003 passed HB 113A,³ which among other things, removed the ability for courts to assess the \$3 cost to fund teen courts.⁴ Effective July 1, 2004, section 938.19 of the Florida Statutes will read:

938.19 Teen Courts.—Counties are hereby authorized to fund teen courts.

This bill reinstates the repealed language, and again authorizes the \$3 assessment to fund teen courts, as well as requires the clerks to collect the assessments, remit the assessments, and retain 5% as fee income.

¹ See www.flteencourt.org

² See s. 938.19, F.S.

³ Ch. 2003-402, LOF.

⁴ Section 126, ch. 2003-402, LOF.

C. SECTION DIRECTORY:

Section 1 divides s. 938.17, F.S. into two subsections. The first is the existing language of s. 938.17, F.S., relating to county funding of juvenile assessment centers and school board suspension programs. The second subsection provides for the funding, operation, and administration of teen courts.

Section 2 provides an effective date of July 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Florida Association of Court Clerks & Comptroller report that the Clerks collect an estimated \$7.9 million annually from the \$3 court fee authorized by s. 938.19(1), Florida Statutes. It is unknown how many counties will choose to enact ordinances, should this bill become law.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The survey conducted by the Florida Association of Court Clerks and Comptroller, found that the clerks collected \$7.9 million annually. Assuming that this figure represents the 5% that the clerks are allowed to keep pursuant to statute, then the total amount of collections is \$158 million annually.

2. Expenditures:

To the extent that teen court programs are funded by sources other than county funding, this bill appears to defray the costs that counties incur to administer teen court programs.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Specified criminal defendants who plead guilty or nolo contendere, or who are convicted of specified crimes, or who pay a fine or civil penalty for any violation of the traffic laws, will have to pay \$3 in addition to any other fine or penalty.

D. FISCAL COMMENTS:

In November 1998, voters approved Revision 7 to Article V of the Florida Constitution. Generally, the revision allocates state court system funding among the state, counties, and users of courts, and must be fully effectuated by July 1, 2004. Specific to this bill, Revision 7 requires that all funding for the offices of the clerks of the circuit and county courts performing court-related functions shall be provided by users of courts through adequate and appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions as required by general law.⁵ Notably, Revision 7 requires the state to provide supplemental funding for the clerks where the requirements of either the United States or Florida Constitution preclude the imposition of filing fees, and service charges and costs are insufficient to fund the court-related functions of the offices of the clerks. Counties are required to pay for the reasonable and necessary salaries, costs, and expenses of the

⁵ Revision 7 to Article V, section 14 of the State Constitution.

state courts system to meet local requirements as determined by general law.⁶ Effective July 1, 2004, 'local requirements' are provided for in s. 29.008, F.S., and in general are specialized programs, nonjudicial staff, and other expenses associated with specialized court programs, specialized prosecution or defense needs, or resources required of a local jurisdiction as a result of special factors or circumstances. Local requirements exist when imposed pursuant to an express statutory directive; or when the county has enacted an ordinance, adopted a local program, or funded activities with a financial or operational impact on the locality or circumstances in a given circuit or county result in or necessitate specialized programs.⁷ Teen courts are not included in the statutory definition of 'state court system' which must be funded from state revenues.⁸

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

The Florida Constitution requires that no trust fund of the state or other public body may be created by law without a 3/5 vote of the membership of each house of the legislature in a separate bill for that purpose only.⁹ This bill requires that the fee proceeds "be deposited into an account specifically for the operation and administration of the teen court." Consequently, this legislation may require a separate trust fund bill to be approved by a 3/5 vote of each house of the Legislature.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Lines 120 – 123 provides for the administration of a teen court by various entities, including the court administrator and the clerk of the court, as authorized by the board of county commissioners. Because it would appear that boards of county commissioners don't have the power to authorize duties undertaken by court administrators or clerks of court, consider changing that sentence to, by agreement with the board of county commissioners.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

⁶ Id. at section 14(c).

⁷ See the amendment to s. 29.008(2), F.S., by section 45, ch.2003-402, LOF. The amendment is effective July 1, 2004.

⁸ See the amendment to s. 29.004, F.S. by section 40, ch. 2003-402, LOF. The amendment is effective July 1, 2004.

⁹ Fla. Const. Article III, section 19(f).