

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 581 Court Costs for Drug Court Programs
SPONSOR(S): Kreegel; Homan
TIED BILLS: None **IDEN./SIM. BILLS:** SB 2440

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Courts		Webb	Bond
2) Safety & Security Council			
3) Policy & Budget Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

Current law allows each county to elect whether to create treatment based drug courts. Currently, at least 43 of the 67 counties have such courts. A county that elects to create a drug court must fund the drug court program.

This bill allows a county that has elected to create a drug court program to assess an additional \$6 court cost on every person who pleads guilty or no contest to a criminal or traffic drug offense.

This bill does not appear to have a fiscal impact on state government. This bill appears to have a positive fiscal impact on counties that have elected to create a drug court and that then elect to impose the cost; and will have a corresponding negative fiscal impact on individuals required to pay the additional court cost.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote Personal Responsibility -- This bill requires persons committing drug related offenses to pay some of the cost of the operation of a treatment based drug court program that the person may be referred to.

B. EFFECT OF PROPOSED CHANGES:

Background

Treatment based drug courts are provided for in s. 397.334, F.S. Each county may elect whether or not to create a drug court. Section 397.334(7), F.S., related to funding of drug courts, provides:

(7) If a county chooses to fund a treatment-based drug court program, the county must secure funding from sources other than the state for those costs not otherwise assumed by the state pursuant to s. 29.004.¹ However, this does not preclude counties from using treatment and other service dollars provided through state executive branch agencies. Counties may provide, by interlocal agreement, for the collective funding of these programs.

The original drug court concept was developed in Dade County as a response to a federal mandate to reduce the inmate population or lose federal funding.² The Florida Supreme Court reported that a majority of the offenders being incarcerated due to drug-related crimes were "revolving back through the criminal justice system because of underlying problems of drug addiction."³ The Court felt that the delivery of treatment services needed to be coupled with the criminal justice system, strong judicial leadership, and partnerships to bring treatment and the criminal justice system together.⁴

As of July 2004, 88 drug courts operated in 43 counties.⁵ There are 1,183 drug courts nationwide, either operational or in the planning stages, and drug courts are operational in all fifty states.⁶

In Florida, in 2002, approximately 10,200 offenders were referred to drug court. Studies show that drug court graduates experience a significantly reduced rate of recidivism and that drug courts are a cost-effective alternative to incarceration of drug offenders.⁷

Drug courts operate on a reward and punishment system. The reward for successful completion of the program is not only a better life but also lowering of a criminal charge to a lesser offense or even dismissal of the criminal charge. Punishments for failing to comply with the program typically include work assignment, increased treatment modalities, increased court appearances, increased urinalysis testing, community service, house arrest, and incarceration. Failure to comply with the program can also result in the continuation of the criminal process and possible additional jail time upon conviction.

The chief judge of each judicial circuit may appoint an advisory committee for the treatment-based drug court program. The committee shall be composed of the chief judge, or his or her designee, who shall

¹ Section 29.004, F.S., sets for the minimum elements or programs that the state is required to fund in the court system.

² Publication by the Florida Supreme Court, *The Florida Drug Court System*, revised January 2004, p.1

³ *Id.*

⁴ *Id.*

⁵ *Report on Florida's Drug Courts*, by the Supreme Court Task Force on Treatment-Based Drug Courts, July 2004, p.5

⁶ *Id.*

⁷ *Id.*

serve as chair; the judge of the treatment-based drug court program, if not otherwise designated by the chief judge as his or her designee; the state attorney, or his or her designee; the public defender, or his or her designee; the treatment-based drug court program coordinators; community representatives; treatment representatives; and any other persons the chair finds are appropriate.⁸

Effect of Bill

This bill creates s. 938.20, F.S., to provide that in any county in which a drug court program has been established under s. 397.334 may require by ordinance an additional court cost of \$6. The additional cost may be imposed on any individual who:

- Pleads guilty or nolo contendere to, or is convicted of, regardless of adjudication, a violation of ch. 893, F.S.⁹
- Pleads guilty or nolo contendere to, or is convicted of, regardless of adjudication, a violation of a municipal ordinance or a county ordinance involving the use of alcohol or other substance use or abuse.
- Pays a fine or civil penalty for any violation of ch. 316, F.S.,¹⁰ involving the use of alcohol or other substance use or abuse.

The clerk of the circuit court may retain 5 percent of all collections for administrative costs. The county must appropriate the remaining 95 percent for use by the drug court program, after consultation with the advisory committee.

C. SECTION DIRECTORY:

Section 1 creates s. 938.20, F.S., creating funding for drug court programs.

Section 2 provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

A county that elects to enact this additional court cost will see increased income for use by such county's drug court.

2. Expenditures:

⁸ Section 397.334(8), F.S.

⁹ Chapter 893, F.S., contains drug-related offenses.

¹⁰ Chapter 316, F.S, contains in relevant part driving offenses, including DUI.

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill will increase the cost to individuals involved in drug offenses by \$6.

D. FISCAL COMMENTS:

It is unknown how many counties would elect to enact this additional court cost.

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:

Section 2 of this bill provides an effective date of upon becoming law. This effective date does not give the court system time to educate judges of the additional required fee and does not give clerks of court sufficient time within which to update their systems to account for the new fee. Criminal law enactments are typically given an October 1 effective date.

It is unclear why this bill imposes the assessment on traffic offenses, including DUI, but does not correspondingly include the similar boating offenses in ch. 327, F.S.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

n/a