

By Senator Bradley

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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 clarifying the types of cases that are subject to the
10 collection and dispensing of cost payments by the
11 clerk of the court; amending s. 985.032, F.S.;
12 providing for assessment of costs of prosecution
13 against a juvenile who has been adjudicated delinquent
14 or has adjudication of delinquency withheld; providing
15 an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Section 903.286, Florida Statutes, is amended to
20 read:

21 903.286 Return of cash bond; requirement to withhold unpaid
22 fines, fees, court costs; cash bond forms.-

23 (1) Notwithstanding s. 903.31(2), the clerk of the court
24 shall withhold from the return of a cash bond posted on behalf
25 of a criminal defendant by a person other than a bail bond agent
26 licensed pursuant to chapter 648 sufficient funds to pay any
27 unpaid costs of prosecution, costs of representation as provided
28 by s. 27.52, court fees, court costs, and criminal penalties. If
29 sufficient funds are not available to pay all unpaid costs of

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30 prosecution, costs of representation as provided by s. 27.52,
31 court fees, court costs, and criminal penalties, the clerk of
32 the court shall immediately obtain payment from the defendant or
33 enroll the defendant in a payment plan pursuant to s. 28.246.

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

41 Section 2. Section 938.27, Florida Statutes, is amended to
42 read:

43 938.27 Judgment for costs of prosecution and investigation
44 ~~on conviction.~~

45 (1) In all criminal and violation-of-probation or
46 community-control cases, convicted persons are liable for
47 payment of the costs of prosecution, including investigative
48 costs incurred by law enforcement agencies, by fire departments
49 for arson investigations, and by investigations of the
50 Department of Financial Services or the Office of Financial
51 Regulation of the Financial Services Commission, if requested by
52 such agencies. The court shall include these costs in every
53 judgment rendered against the convicted person. For purposes of
54 this section, "convicted" means a determination of guilt, or of
55 violation of probation or community control, which is a result
56 of a plea, trial, or violation proceeding, regardless of whether
57 adjudication is withheld.

58 (2) (a) The court shall impose the costs of prosecution and

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59 investigation notwithstanding the defendant's present ability to
60 pay. The court shall require the defendant to pay the costs
61 within a specified period or pursuant to a payment plan under s.
62 28.246(4).

63 (b) The end of such period or the last such installment
64 must not be later than:

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

67 2. Five years after the end of the term of imprisonment
68 imposed, if the court does not order probation or community
69 control; or

70 3. Five years after the date of sentencing in any other
71 case.

72
73 However, the obligation to pay any unpaid amounts does not
74 expire if not paid in full within the period specified in this
75 paragraph.

76 (c) If not otherwise provided by the court under this
77 section, costs must ~~shall~~ be paid immediately.

78 (3) If a defendant is placed on probation or community
79 control, payment of any costs under this section shall be a
80 condition of such probation or community control. The court may
81 revoke probation or community control if the defendant fails to
82 pay these costs.

83 (4) Any dispute as to the proper amount or type of costs
84 shall be resolved by the court by the preponderance of the
85 evidence. The burden of demonstrating the amount of costs
86 incurred is on the state attorney. The burden of demonstrating
87 the financial resources of the defendant and the financial needs

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88 of the defendant is on the defendant. The burden of
89 demonstrating such other matters as the court deems appropriate
90 is upon the party designated by the court as justice requires.

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

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

97 (7) Investigative costs that are recovered must ~~shall~~ be
98 returned to the appropriate investigative agency that incurred
99 the expense. Such costs include actual expenses incurred in
100 conducting the investigation and prosecution of the criminal
101 case; however, costs may also include the salaries of permanent
102 employees. Any investigative costs recovered on behalf of a
103 state agency must be remitted to the Department of Revenue for
104 deposit in the agency operating trust fund, and a report of the
105 payment must be sent to the agency, except that any
106 investigative costs recovered on behalf of the Department of Law
107 Enforcement must ~~shall~~ be deposited in the department's
108 Forfeiture and Investigative Support Trust Fund under s.
109 943.362.

110 (8) Costs for the state attorney must ~~shall~~ be set in all
111 cases at no less than \$50 per case when a misdemeanor or
112 criminal traffic offense is charged and no less than \$100 per
113 case when a felony offense is charged, including a proceeding in
114 which the underlying offense is a violation of probation or
115 community control. The court may set a higher amount upon a
116 showing of sufficient proof of higher costs incurred. Costs

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117 recovered on behalf of the state attorney under this section
118 must ~~shall~~ be deposited into the State Attorneys Revenue Trust
119 Fund to be used during the fiscal year in which the funds are
120 collected, or in any subsequent fiscal year, for actual expenses
121 incurred in investigating and prosecuting criminal cases, which
122 may include the salaries of permanent employees, or for any
123 other purpose authorized by the Legislature.

124 Section 3. Section 985.032, Florida Statutes, is amended to
125 read:

126 985.032 Legal representation for delinquency cases.—

127 (1) For cases arising under this chapter, the state
128 attorney shall represent the state.

129 (2) A juvenile who has been adjudicated delinquent or has
130 adjudication of delinquency withheld shall be assessed costs of
131 prosecution as provided in s. 938.27.

132 Section 4. This act shall take effect July 1, 2013.