

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate the House principles.

B. EFFECT OF PROPOSED CHANGES:

Payment for Department of Corrections Supervision

Current Situation

Section 948.09(1)(a)1, F.S. requires any person ordered by the court, the Department of Corrections (Department), or the parole commission to be placed on probation¹, drug offender probation², community control³, parole, control release, provisional release supervision, addiction-recovery supervision, or in a pretrial intervention program⁴ to pay the Department a total sum of money equal to the cost of supervision. In addition to the cost of supervision, each felony offender under a term of supervision described above is required to pay a \$2-per-month surcharge to the Department.⁵ The funds collected from the surcharge must be used by the Department to pay for correctional probation officers⁶ training and equipment, including radios, firearms training, firearms, and attendant equipment necessary to train and equip officers who choose to carry a concealed firearm while on duty.

Proposed Changes

The bill amends s. 948.09(1)(a)2, F.S. to provide that funds from the \$2-per-month surcharge be deposited into the Criminal Justice Standards and Training Trust Fund (see below), which is administered by the Florida Department of Law Enforcement (FDLE). The bill provides that the transferred funds may be used to provide supplemental salary increases to law enforcement, correctional, and correctional probation officers.

Criminal Justice Standards and Training Trust Fund

Current Situation

Section 943.25(2), F.S. creates the Criminal Justice Standards and Training Trust Fund (Fund) for the purpose of providing for the payment of necessary and proper expenses incurred by the operation of the Criminal Justice Standards and Training Commission⁷ (Commission) and the Criminal Justice Professionalism Program⁸ (Program).

¹ Probation is defined to mean a form a community supervision requiring specified contacts with parole and probation officers and other terms and conditions as provided in s. 948.03. Section 948.001(5), F.S.

² Drug offender probation is defined to mean a form of intensive supervision which emphasizes treatment of drug offenders in accordance with individualized treatment plans administered by officers with restricted caseloads. Section 948.001(4), F.S.

³ Community control is defined to mean a form of intensive, supervised custody in the community, including surveillance on weekends and holidays, administered by officers with restricted caseloads. Community control is an individualized program in which the freedom of an offender is restricted within the community, home, or noninstitutional residential placement and specific sanctions are imposed and enforced. Section 948.001(2), F.S.

⁴ See s. 948.08, F.S.

⁵ Section 948.09(1)(a)2, F.S.

⁶ Correctional probation officer is defined to mean a person who is employed full time by the state whose primary responsibility is the supervised custody, surveillance, and control of assigned inmates, probationers, parolees, or community controlees within institutions of the Department of Corrections or within the community. This term includes supervisory personnel whose duties include, in whole or in part, the supervision, training, and guidance of correctional probation officers, but excludes management and administrative personnel above, but not including, the probation and parole regional administrator level. Section 943.10(3), F.S.

⁷ See ss. 943.11, 943.12, F.S.

⁸ See s. 943.09, F.S.

Proposed Changes

The bill amends s. 943.25(2), F.S. to provide that the Fund may provide funds to be used for supplemental salary increases for law enforcement⁹, correctional¹⁰, and correctional probation officers who are employed in sworn or certified public safety occupations by the state.¹¹ The bill limits the funds which can be used for supplemental salary increases to that portion of the Fund which is funded by the \$2-per-month-surcharge. The bill provides that any supplemental salary increases must be additional to the salary increases for general state employees under the General Appropriations Act, and must be appropriated in the General Appropriations Act.

C. SECTION DIRECTORY:

Section 1 Amends s. 943.25, F.S., relating to criminal justice trust funds.

Section 2 Amends s. 948.09, F.S., relating to payment for cost of supervision and rehabilitation.

Section 3 Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate. See fiscal comments.

2. Expenditures:

Indeterminate. See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

⁹ Law enforcement officer is defined to mean any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers, but does not include support personnel employed by the employing agency. Section 943.10(1), F.S.

¹⁰ Correctional officer is defined to mean any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of the inmates within a correctional institution; however, the term "correctional officer" does not include and secretarial, clerical, or professionally trained personnel. Section 943.10(2), F.S.

¹¹ See s. 943.10, F.S.

D. FISCAL COMMENTS:

There is an indeterminate impact on both state revenues and expenditures associated with the \$2 surcharge identified in this bill. For example, if we assume a community supervision population of 153,692¹², this could equate to annual maximum total revenues of \$3.7 million. [153,692 * \$2 * 12 mos. = \$3,672,000]. However, the number of those on community supervision varies annually, as well as the rate of collections. This example assumes a 100% collection rate which is conceivably over-inflated, considering the statute provides that the surcharge is “deemed to be paid only after the full amount of any monthly payment required by the established written payment plan has been collected by the department.” By comparison, during the first nine months of the current fiscal year, \$338,401 has been collected.

Additionally, while the bill does not make any expenditures, it is impossible to predict the actions of a future Legislature and the appropriations they could make in the future under these new provisions.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: 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:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

None.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

¹² DOC reports 153,692 offenders on community supervision as of June 30, 2007. See Department of Corrections, 2006-2007 Annual Report, page 102.