

CHAPTER 97-271

Senate Bill No. 388

An act relating to court costs; providing legislative intent; creating chapter 938, F.S.; providing for certain mandatory costs in all cases; providing for certain mandatory costs in specific types of cases; providing for mandatory costs as authorized by local governmental entities; providing discretionary costs in specific types of cases; providing miscellaneous provisions; amending and renumbering s. 943.25(3), F.S., relating to certain additional costs deposited in Additional Court Cost Clearing Trust Fund; conforming terminology and references; amending and renumbering s. 960.20, F.S., relating to assessment of certain additional costs deposited in Crimes Compensation Trust Fund; conforming terminology; amending and renumbering s. 960.25, F.S., relating to surcharge on fines and bail bonds; conforming terminology; amending s. 775.0835, F.S.; removing provisions relating to deposit of certain surcharges in the Crimes Compensation Trust Fund; conforming a reference; amending and renumbering s. 27.3455(1), (2), (3), F.S., relating to certain additional court costs in special local government trust fund for criminal justice purposes; conforming terminology and references; providing for certain costs with respect to fines imposed under s. 316.193, F.S., relating to fines and other penalties for driving under the influence, and amending s. 316.193, F.S., to conform; renumbering and amending s. 939.015, F.S., relating to certain additional costs in cases in which victim is handicapped or elderly; conforming terminology; amending and renumbering s. 775.0836, F.S., relating to certain surcharges in cases in which victim is handicapped or elderly; conforming terminology; renumbering s. 939.017, F.S., relating to certain additional costs for misdemeanor convictions involving drugs or alcohol; amending and renumbering s. 943.25(13), F.S., relating to certain assessments for criminal justice education for local government; conforming terminology; amending and renumbering s. 775.0833, F.S., relating to certain costs for county delinquency prevention; conforming terminology; amending and renumbering s. 39.019, F.S., relating to certain costs for teen court operation and maintenance; conforming terminology; amending and renumbering s. 893.16, F.S., relating to certain additional assessments for alcohol and other drug abuse programs; conforming terminology and references; renumbering s. 939.01, F.S., relating to judgment for costs on conviction; amending and renumbering s. 27.56, F.S., relating to lien for payment of attorney's fees and costs in connection with certain legal assistance; conforming a reference; providing for incorporation of references to the new chapter or subdivisions thereof; amending ss. 11.45, 27.3455, 27.52, 27.562, 39.041, 142.01, 142.03, 318.21, 397.321, 401.113, 426.003, 893.165, 921.187, 943.08, 943.17, 943.25, 943.361, 947.18, 948.03, 948.0345, and 960.14, F.S., to conform; repealing s. 893.13(8), F.S., relating to additional assessments against certain violators for alcohol and other drug abuse programs; providing for construction; amending s. 327.35, F.S.; assessing an addi-

tional fine for boating while under the influence, to be deposited in the Brain and Spinal Cord Rehabilitation Trust Fund; providing an effective date.

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

Section 1. The Legislature declares its intent to provide for the creation of a new chapter of the Florida Statutes consolidating and categorizing the provisions relating to court costs, in order to accomplish the purposes of assisting the judiciary and other court participants to identify and locate applicable law relating to court costs and thereby facilitating the uniform imposition and collection of court costs.

Section 2. Sections 938.01, 938.03, 938.04, and 938.05, Florida Statutes, are designated as part I of chapter 938, Florida Statutes, and entitled "Mandatory Costs in All Cases."

Section 3. Subsection (3) of section 943.25, Florida Statutes, is renumbered as subsection (1) of section 938.01, Florida Statutes, and amended, and subsection (2) is created to read:

938.01 Additional Court Cost Clearing Trust Fund.—

~~(1)~~⁽³⁾ All courts created by Art. V of the State Constitution shall, in addition to any fine or other penalty, assess \$3 as a court cost against every person convicted for violation of a state penal or criminal statute or convicted for violation of a municipal or county ordinance. However, such assessment shall not be imposed in addition to civil penalties provided in s. 318.18. Any person whose adjudication is withheld pursuant to the provisions of s. 318.14(9) or (10) shall also be assessed such cost. In addition, \$3 from every bond estreature or forfeited bail bond related to such penal statutes or penal ordinances shall be forwarded to the Treasurer as described in this subsection. However, no such assessment may be made against any person convicted for violation of any state statute, municipal ordinance, or county ordinance relating to the parking of vehicles.

(a) All such costs collected by the courts shall be remitted to the Department of Revenue, in accordance with administrative rules adopted by the executive director of the Department of Revenue, for deposit in the Additional Court Cost Clearing Trust Fund and shall be earmarked to the Department of Law Enforcement and the Department of Community Affairs for distribution as follows:

1. Two dollars and seventy-five cents of each \$3 assessment shall be deposited in the Criminal Justice Standards and Training Trust Fund, and the remaining 25 cents of each such assessment shall be deposited into the Operating Trust Fund and shall be disbursed to the Bureau of Public Safety Management of the Department of Community Affairs.

2. Ninety-two percent of the money distributed to the Additional Court Cost Clearing Trust Fund pursuant to s. 318.21 shall be earmarked to the Department of Law Enforcement for deposit in the Criminal Justice Standards and Training Trust Fund, and 8 percent of such money shall be depos-

ited into the Operating Trust Fund and shall be disbursed to the Bureau of Public Safety Management of the Department of Community Affairs.

(b) The funds deposited in the Criminal Justice Standards and Training Trust Fund and the Operating Trust Fund may be invested. Any interest earned from investing such funds and any unencumbered funds remaining at the end of the budget cycle shall be deposited, for redistribution, in the Additional Court Cost Clearing Trust Fund. However, revenues generated from officer certification examination fees shall not revert to the Additional Court Cost Clearing Trust Fund and shall remain in the Criminal Justice Standards and Training Trust Fund.

(c) All funds in the Criminal Justice Standards and Training Trust Fund earmarked to the Department of Law Enforcement shall be disbursed only in compliance with s. 943.25(9) subsection (10).

(2) Except as provided by s. 938.15 and notwithstanding any other provision of law, no funds collected and deposited pursuant to this section or s. 943.25 shall be expended unless specifically appropriated by the Legislature.

Section 4. Section 960.20, Florida Statutes, is renumbered as section 938.03, Florida Statutes, and amended to read:

938.03 960.20 Crimes Compensation Trust Fund Additional costs.—

(1) When any person pleads guilty or nolo contendere to, or is convicted of or adjudicated delinquent for, any felony, misdemeanor, delinquent act, or criminal traffic offense under the laws of this state or the violation of any municipal or county ordinance which adopts by reference any misdemeanor under state law, there shall be imposed as an additional cost in the case, in addition and prior to any other cost required to be imposed by law, the sum of \$50. Any person whose adjudication is withheld shall also be assessed such cost.

(2) These costs are considered assessed unless specifically waived by the court. If the court does not order these costs, it shall state on the record, in detail, the reasons therefor.

(3) In the event that the individual has been ordered to pay restitution in accordance with s. 775.089, costs referenced in this section shall be included in a judgment.

(4) The clerk of the court shall collect and forward \$49 of each \$50 collected to the Treasurer, to be deposited in the Crimes Compensation Trust Fund. The clerk shall retain the remaining \$1 of each \$50 collected as a service charge of the clerk's office. Under no condition shall a political subdivision be held liable for the payment of this sum of \$50.

Section 5. Section 960.25, Florida Statutes, is renumbered as section 938.04, Florida Statutes, and amended to read:

938.04 960.25 Additional cost with respect to criminal Surcharge on fines and bail bonds.—In addition to any fine for any criminal offense prescribed

by law, including a criminal traffic offense, and in addition to the cost imposed pursuant to the provisions of s. 318.14(10), there is hereby established and created as a court cost an additional 5-percent surcharge thereon which shall be imposed, levied, and collected together with such fine or cost imposed pursuant to s. 318.14(10). The additional court cost created under this section shall be deposited in the Crimes Compensation Trust Fund created by s. 960.21.

Section 6. Subsections (2) and (3) of section 775.0835, Florida Statutes, are amended to read:

775.0835 Fines; surcharges; Crimes Compensation Trust Fund.—

~~(2) In addition to any fine, civil penalty, or other penalty provided by statute, ordinance, or other law, there shall be imposed, levied, and collected by the courts of this state the 5-percent surcharge on all fines, civil penalties, and forfeitures, as established and created in s. 960.25, which surcharge shall be deposited in the Crimes Compensation Trust Fund created by s. 960.21.~~

~~(2)(3)~~ The additional \$50 obligation created by s. ~~938.03~~ 960.20 shall be collected, and \$49 of each \$50 collected shall be credited to the Crimes Compensation Trust Fund, prior to any fine or surcharge authorized by this chapter. These costs are considered assessed unless specifically waived by the court. If the court does not order these costs, it shall state on the record, in detail, the reasons therefor.

Section 7. Subsections (1), (2), and (3) of section 27.3455, Florida Statutes, 1996 Supplement, are renumbered as section 938.05, Florida Statutes, and amended to read:

938.05 Local Government Criminal Justice Trust Fund.—

(1) When any person pleads nolo contendere to a misdemeanor or criminal traffic offense under s. 318.14(10)(a) or pleads guilty or nolo contendere to, or is found guilty of, any felony, misdemeanor, or criminal traffic offense under the laws of this state or the violation of any municipal or county ordinance which adopts by reference any misdemeanor under state law, there shall be imposed as a cost in the case, in addition to any other cost required to be imposed by law, a sum in accordance with the following schedule:

- (a) Felonies \$200
- (b) Misdemeanors \$50
- (c) Criminal traffic offenses \$50

(2) Payment of the additional court costs provided for in subsection (1) shall be made part of any plea agreement reached by the prosecuting attorney and defense counsel or the criminal defendant where the plea agreement provides for the defendant to plead guilty or nolo contendere to any felony, misdemeanor, or criminal traffic offense under the laws of this state or any

municipal or county ordinance which adopts by reference any misdemeanor under state law.

(3) The clerk of the court shall collect such additional costs and shall notify the agency supervising a person upon whom costs have been imposed upon full payment of fees. The clerk shall deposit all but \$3 for each misdemeanor or criminal traffic case and all but \$5 for each felony case in a special trust fund of the county. Such funds shall be used exclusively for those purposes set forth in s. 27.3455(3) subsection (6). The clerk shall retain \$3 for each misdemeanor or criminal traffic case and \$5 for each felony case of each scheduled amount collected as a service charge of the clerk's office. A political subdivision shall not be held liable for the payment of the additional costs imposed by this section.

Section 8. Sections 938.07, 938.09, 938.11, and 938.13, Florida Statutes, are designated as part II of chapter 938, Florida Statutes, and entitled "Mandatory Costs in Specific Types of Cases."

Section 9. Section 938.07, Florida Statutes, is created to read:

938.07 Driving under the influence.—Notwithstanding any other provision of s. 316.193, a court cost of \$135 shall be added to any fine imposed pursuant to s. 316.193, of which \$25 shall be deposited in the Emergency Medical Services Trust Fund, \$50 shall be deposited in the Criminal Justice Standards and Training Trust Fund of the Department of Law Enforcement to be used for operational expenses of the Division of Local Law Enforcement Assistance in conducting the statewide criminal analysis laboratory system established in s. 943.32, and \$60 shall be deposited in the Brain and Spinal Cord Injury Rehabilitation Trust Fund created in s. 413.613.

Section 10. Section 939.015, Florida Statutes, is renumbered as section 938.09, Florida Statutes, and amended to read:

938.09 939.015 Cases in which victim is handicapped or elderly;—additional costs.—

(1) When any person pleads guilty or nolo contendere to, or is convicted of, any felony or misdemeanor under the laws of this state or any county or municipal ordinance violation in which any victim is handicapped or elderly, as defined in s. 426.002, there shall be imposed an additional cost in the case, in addition to any other cost required to be imposed by law, in the sum of \$20. Under no condition shall a political subdivision be held liable for the payment of such sum of \$20.

(2) The clerk of the court shall collect the \$20 and forward \$19 thereof to the Treasurer, to be deposited in the General Revenue Fund. The clerk shall retain the remaining \$1 of each \$20 collected as a service charge of the clerk's office.

(3) The costs imposed by this section apply only in counties containing housing projects ~~as defined in this chapter~~.

Section 11. Section 775.0836, Florida Statutes, is renumbered as section 938.11, Florida Statutes, and amended to read:

~~938.11 775.0836~~—~~Surcharges in Cases in which victim is handicapped or elderly.—~~

(1) In addition to any fine prescribed by law for any criminal offense or any county or municipal ordinance, when any victim of such criminal offense or any county or municipal ordinance violation is handicapped or elderly, as defined in s. 426.002, there is hereby assessed as a court cost an additional 10-percent surcharge on such fine, which ~~cost surcharge~~ shall be imposed by all county and circuit courts, and collected by the clerk of the court together with such fine. The ~~cost surcharge~~ shall be deposited in the General Revenue Fund.

(2) The ~~costs surcharges~~ imposed by this section apply only in counties containing housing projects as ~~defined in this chapter.~~

Section 12. Section 939.017, Florida Statutes, is renumbered as section 938.13, Florida Statutes, and amended to read:

938.13 939.017 Misdemeanor convictions involving drugs or alcohol; ~~ad-~~
~~ditional costs.—~~

(1)(a) When any person, on or after October 1, 1988, is found guilty of any misdemeanor under the laws of this state in which the unlawful use of drugs or alcohol is involved, there shall be imposed an additional cost in the case, in addition to any other cost required to be imposed by law, in the sum of \$15. Under no condition shall a political subdivision be held liable for the payment of such sum.

(b) The clerk of the court shall collect the \$15 and forward \$14 thereof to the Treasurer to be deposited to the credit of the Department of Health and Rehabilitative Services for allocation to local substance abuse treatment programs under s. 397.321. The clerk shall retain the remaining \$1 of each \$15 collected as a service charge of the clerk's office.

(2) The costs imposed by this section apply only in each county in which the board of county commissioners has adopted an ordinance which requires the collection of such costs.

Section 13. Sections 938.15, 938.17, and 938.19, Florida Statutes, are designated as part III of chapter 938, Florida Statutes, and entitled "Mandatory Court Costs Authorized by Local Governmental Entities."

Section 14. Subsection (13) of section 943.25, Florida Statutes, is renumbered as section 938.15, Florida Statutes, and amended to read:

938.15 Criminal justice education for local government.—

(13) ~~In addition to the costs provided for in s. 938.01, municipalities and counties may assess an additional \$2 for expenditures for criminal justice education degree programs and training courses, including basic recruit training, for their respective officers and employing agency support personnel, provided such education degree programs and training courses are approved by the employing agency administrator, on a form provided by the commission, for local funding.~~

(1)(a) Workshops, meetings, conferences, and conventions shall, on a form approved by the commission for use by the employing agency, be individually approved by the employing agency administrator prior to attendance. The form shall include, but not be limited to, a demonstration by the employing agency of the purpose of the workshop, meeting, conference, or convention; the direct relationship of the training to the officer's job; the direct benefits the officer and agency will receive; and all anticipated costs.

(2)(b) The commission may inspect and copy the documentation of independent audits conducted of the municipalities and counties which make such assessments to ensure that such assessments have been made and that expenditures are in conformance with the requirements of this subsection and with other applicable procedures.

Section 15. Section 775.0833, Florida Statutes, 1996 Supplement, is renumbered as section 938.17, Florida Statutes, and amended to read:

938.17 ~~775.0833~~ County delinquency prevention ~~fin~~es.—

(1) A county may adopt a mandatory cost to be assessed in specific cases by incorporating by reference the provisions of this section in a county ordinance. Prior to the adoption of the county ordinance, the sheriff's office of the county must be a partner in a written agreement with the Department of Juvenile Justice to participate in a juvenile assessment center or with the district school board to participate in a suspension program.

(2) In counties in which the sheriff's office is a partner in a juvenile justice assessment center pursuant to s. 39.0471, or a partner in a suspension program developed in conjunction with the district school board in the county of the sheriff's jurisdiction, the court shall assess court costs of \$3 per case, in addition to any other authorized cost or fine, on every person who, with respect to a charge, indictment, prosecution commenced, or petition of delinquency filed in that county or circuit, pleads guilty, nolo contendere to, or is convicted of, or adjudicated delinquent for, or has an adjudication withheld for, a felony or misdemeanor, or a criminal traffic offense or handicapped parking violation under state law, or a violation of any municipal or county ordinance, if the violation constitutes a misdemeanor under state law.

(3)(a) The clerks of the county and circuit court, in a county where the sheriff's office is a partner in an assessment center or suspension program as specified in subsection (1), shall collect and deposit the assessments collected pursuant to this section in an appropriate, designated account established by the clerk of the court, for disbursement to the sheriff as needed for the implementation and operation of an assessment center or suspension program.

(b) The clerk of the circuit and county court shall withhold 5 percent of the assessments each court collects pursuant to this section, for the costs of administering the collection of assessments under this section.

(c) Assessments collected by clerks of the circuit courts comprised of more than one county shall remit the funds collected pursuant to this section to

the county in which the offense at issue was committed for deposit and disbursement according to this section.

(d) Any other funds the sheriff's office obtains for the implementation or operation of an assessment center or suspension program may be deposited into the designated account for disbursement to the sheriff as needed.

(4) A sheriff's office that receives the cost assessments established in subsection (1) shall account for all funds that have been deposited into the designated account by August 1 annually in a written report to the county juvenile justice council if funds are used for assessment centers, and to the district school board if funds are used for suspension programs.

Section 16. Section 39.019, Florida Statutes, 1996 Supplement, is renumbered as section 938.19, Florida Statutes, and amended to read:

~~938.19~~ ~~39.019~~ Teen courts; operation and administration.—In each county in which a teen court has been created, a county may adopt a mandatory cost to be assessed in specific cases as provided for in subsection (1) by incorporating by reference the provisions of this section in a county ordinance. Assessments collected by the clerk of the circuit court pursuant to this section shall be deposited into an account specifically for the operation and administration of the teen court:

(1) A sum of \$3, which shall be assessed as a court cost by both the circuit court and the county court in the county against every person who pleads guilty or nolo contendere to, or is convicted of, regardless of adjudication, a violation of a state criminal statute or a municipal ordinance or county ordinance or who pays a fine or civil penalty for any violation of chapter 316. Any person whose adjudication is withheld pursuant to the provisions of s. 318.14(9) or (10) shall also be assessed such cost. The \$3 assessment for court costs shall be assessed in addition to any fine, civil penalty, or other court cost and shall not be deducted from the proceeds of that portion of any fine or civil penalty which is received by a municipality in the county or by the county in accordance with ss. 316.660 and 318.21. The \$3 assessment shall specifically be added to any civil penalty paid for a violation of chapter 316, whether such penalty is paid by mail, paid in person without request for a hearing, or paid after hearing and determination by the court. However, the \$3 assessment shall not be made against a person for a violation of any state statutes, county ordinance, or municipal ordinance relating to the parking of vehicles, with the exception of a violation of the handicapped parking laws. The clerk of the circuit court shall collect the respective \$3 assessments for court costs established in this subsection and shall remit the same to the teen court monthly, less 5 percent, which is to be retained as fee income of the office of the clerk of the circuit court.

(2) Such other moneys as become available for establishing and operating teen courts under the provisions of Florida law.

Section 17. Sections 938.21, 938.23, 938.25, 938.27, and 938.29, Florida Statutes, are designated as part IV of chapter 938, Florida Statutes, and entitled "Discretionary Costs in Specific Types of Cases."

Section 18. Section 938.21, Florida Statutes, is created to read:

938.21 Alcohol and drug abuse programs.—Notwithstanding any provision to the contrary of the laws of this state, the court may assess for alcohol and other drug abuse programs as provided in s. 893.165 any defendant who pleads guilty or nolo contendere to, or is convicted of, a violation of any provision of chapter 893 or which involves a criminal violation of s. 316.193, s. 856.011, s. 856.015, or chapter 562, chapter 567, or chapter 568, in addition to any fine and other penalty provided by law, a court cost in an amount up to the amount of the fine authorized for the violation. The court is authorized to order a defendant to pay an additional assessment if it finds that the defendant has the ability to pay the fine and the additional assessment and will not be prevented thereby from being rehabilitated or from making restitution.

Section 19. Section 893.16, Florida Statutes, is renumbered as section 938.23, Florida Statutes, and amended to read:

938.23 893.16 Assistance grants for Assessment for alcohol and other drug abuse programs.—

(1) In addition to any fine imposed by law for any criminal offense under ~~this~~ chapter 893 or for any criminal violation of s. 316.193, s. 856.011, s. 856.015, or chapter 562, chapter 567, or chapter 568, the court shall be authorized, pursuant to the requirements of s. ~~938.21~~ 893.13(8)(a), to impose an additional assessment in an amount up to the amount of the fine authorized for the offense. Such additional assessments shall be deposited for the purpose of providing assistance grants to drug abuse treatment or alcohol treatment or education programs as provided in s. 893.165.

(2) All assessments authorized by this section shall be collected by the clerk of court and remitted to the jurisdictional county as described in s. 893.165(2) for deposit into the County Alcohol and Other Drug Abuse Trust Fund or to the Department of Health and Rehabilitative Services for deposit into the department's Community Alcohol and Other Drug Abuse Services Grants and Donations Trust Fund pursuant to guidelines and priorities developed by the department. If a County Alcohol and Other Drug Abuse Trust Fund has not been established for any jurisdictional county, assessments collected by the clerk of court shall be remitted to the Department of Health and Rehabilitative Services for deposit into the department's Community Alcohol and Other Drug Abuse Services Grants and Donations Trust Fund.

Section 20. Section 938.25, Florida Statutes, is created to read:

938.25 Operating Trust Fund of the Department of Law Enforcement.—Notwithstanding any provision to the contrary of the laws of this state, the court may assess any defendant who pleads guilty or nolo contendere to, or is convicted of, a violation of any provision of s. 893.13, without regard to whether adjudication was withheld, in addition to any fine and other penalty provided or authorized by law, an amount of \$100, to be paid to the clerk of the court, who shall forward it to the Operating Trust Fund of the Department of Law Enforcement to be used by the statewide criminal analysis

laboratory system for the purposes specified in s. 943.361. The court is authorized to order a defendant to pay an additional assessment if it finds that the defendant has the ability to pay the fine and the additional assessment and will not be prevented thereby from being rehabilitated or from making restitution.

Section 21. Section 939.01, Florida Statutes, is renumbered as section 938.27, Florida Statutes, and amended to read:

938.27 ~~939.01~~ Judgment for costs on conviction.—

(1) In all criminal cases the costs of prosecution, including investigative costs incurred by law enforcement agencies, and by fire departments for arson investigations, if requested and documented by such agencies, shall be included and entered in the judgment rendered against the convicted person.

(2) If the court does not enter costs, or orders only partial costs under this section, it shall state on the record the reasons therefor.

(3)(a) The court may require that the defendant pay the costs within a specified period or in specified installments.

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

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

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

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

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

(4) If a defendant is placed on probation or community control, any costs ordered under this section shall be a condition of such probation or community control. The court may revoke probation or community control if the defendant fails to comply with such order.

(5) The court, in determining whether to order costs and the amount of such costs, shall consider the amount of the costs incurred, the financial resources of the defendant, the financial needs and earning ability of the defendant, and such other factors which it deems appropriate.

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

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

(8) The court may order the clerk of the court to collect and dispense cost payments in any case.

(9) Investigative costs which are recovered shall be returned to the appropriate investigative agency which incurred the expense. Costs shall include actual expenses incurred in conducting the investigation and prosecution of the criminal case; however, costs may also include the salaries of permanent employees.

(10) Costs that are collected by the state attorney under this section shall be deposited into the state attorney's grants and donations trust fund to be used during the fiscal year in which the funds are collected, or in any subsequent fiscal year, for actual expenses incurred in investigating and prosecuting criminal cases, which may include the salaries of permanent employees.

Section 22. Section 27.56, Florida Statutes, 1996 Supplement, is renumbered as section 938.29, Florida Statutes, and amended to read:

938.29 ~~27.56~~ Legal assistance; lien for payment of attorney's fees or costs.—

(1)(a) The court having jurisdiction over any defendant who has been determined to be guilty of a criminal act by a court or jury or through a plea of guilty or nolo contendere and who has received the assistance of the public defender's office or a special assistant public defender, or the services of a private attorney appointed pursuant to the Florida Statutes or the Florida Rules of Criminal Procedure, but is not indigent under s. 27.52(2), or has been determined indigent but able to contribute, may assess attorney's fees and costs against the defendant. At the sentencing hearing, the court shall assess attorney's fees and costs against the defendant and shall determine the appropriate amount and method of payment. Such costs may include the cost of depositions; cost of transcripts of depositions, including the cost of defendant's copy, which transcripts are certified by the defendant's attorney as having served a useful purpose in the disposition of the case; investigative costs; witness fees; the cost of psychiatric examinations; or other reasonable costs specially incurred by the county for the defense of the defendant in criminal prosecutions within the county. Costs shall not include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law. Any cost assessed pursuant to this paragraph shall be reduced by any amount assessed against a defendant pursuant to s. 938.05 ~~27.3455~~.

(b) Upon entering a judgment of conviction, the trial court may order the defendant to pay the costs assessed by the court in full, or within a time certain as set by the court, after the judgment of conviction becomes final.

(c) After assessment of the attorney's fees and costs, the court may order the defendant to pay the attorney's fees in full or in installments, at the time

or times specified. The court may order payment of the assessed attorney's fees as a condition of probation, of suspension of sentence, or of withholding the imposition of sentence.

(2)(a) When payment of attorney's fees or costs has been ordered by the court, there is hereby created in the name of the county in which such assistance was rendered a lien, enforceable as hereinafter provided, upon all the property, both real and personal, of any person who:

1. Has received any assistance from any public defender of the state, from any special assistant public defender, or from any appointed private legal counsel; or

2. Is a parent of an accused minor or an accused adult tax-dependent person who is being, or has been, represented by any public defender of the state, by any special assistant public defender, or by any appointed private legal counsel.

Such lien shall constitute a claim against the defendant-recipient or parent and his or her estate, enforceable according to law, in an amount to be determined by the court in which such assistance was rendered.

(b) Immediately after the issuance of an order for the payment of attorney's fees or costs, a judgment showing the name and residence of the defendant-recipient or parent shall be filed for record in the office of the clerk of the circuit court in the county where the defendant-recipient or parent resides and in each county in which such defendant-recipient or parent then owns or later acquires any property. Such judgments shall be enforced on behalf of the county by the board of county commissioners of the county in which assistance was rendered.

(3) In lieu of the procedure above described, the court is authorized to require that the defendant-recipient of the services of the public defender, special assistant public defender, or appointed private legal counsel, or that the parent of an accused minor or an accused adult tax-dependent person who has received such services, execute a lien upon his or her real or personal property, presently owned or after-acquired, as security for the debt created hereby. Such lien shall be recorded in the public records of the county at no charge by the clerk of the circuit court and shall be enforceable in the same manner as a mortgage.

(4) The board of county commissioners of the county wherein the defendant-recipient was tried or received the services of a public defender, special assistant public defender, or appointed private legal counsel shall enforce, satisfy, compromise, settle, subordinate, release, or otherwise dispose of any debt or lien imposed under this section. A defendant-recipient or parent, who has been ordered to pay attorney's fees or costs and who is not in willful default in the payment thereof, may, at any time, petition the court which entered the order for remission of the payment of attorney's fees or costs or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on such person or his or her immediate family, the court may remit all or part of the amount due in attorney's fees or costs or may modify the method of payment.

(5) The board of county commissioners of the county claiming such lien is authorized to contract with a collection agency for collection of such debts or liens, provided the fee for such collection shall be on a contingent basis not to exceed 50 percent of the recovery. However, no fee shall be paid to any collection agency by reason of foreclosure proceedings against real property or from the proceeds from the sale or other disposition of real property.

(6) No lien thus created shall be foreclosed upon the homestead of such defendant-recipient or parent, nor shall any defendant-recipient or parent who is ordered to pay attorney's fees or costs be denied any of the protections afforded any other civil judgment debtor.

(7) The court having jurisdiction of the defendant-recipient may, at such stage of the proceedings as the court may deem appropriate, determine the value of the services of the public defender, special assistant public defender, or appointed private legal counsel and costs, at which time the defendant-recipient or parent, after adequate notice thereof, shall have opportunity to be heard and offer objection to the determination, and to be represented by counsel, with due opportunity to exercise and be accorded the procedures and rights provided in the laws and court rules pertaining to civil cases at law.

Section 23. Section 938.31, Florida Statutes, is designated as part V of chapter 938, Florida Statutes, and entitled "Miscellaneous Provisions."

Section 24. Section 938.31, Florida Statutes, is created to read:

938.31 Incorporation by reference.—The purpose of this chapter is to facilitate uniform imposition and collection of court costs throughout the state and, to this end, a reference to this chapter, or to any section or subdivision within this chapter, constitutes a general reference under the doctrine of incorporation by reference.

Section 25. Subsection (6) of section 316.193, Florida Statutes, 1996 Supplement, is amended to read:

316.193 Driving under the influence; penalties.—

(6) With respect to any person convicted of a violation of subsection (1), regardless of any penalty imposed pursuant to subsection (2), subsection (3), or subsection (4):

(a) For the first conviction, the court shall place the defendant on probation for a period not to exceed 1 year and, as a condition of such probation, shall order the defendant to participate in public service or a community work project for a minimum of 50 hours; or the court may order instead, that any defendant pay an additional fine of \$10 for each hour of public service or community work otherwise required, if, after consideration of the residence or location of the defendant at the time public service or community work is required, payment of the fine is in the best interests of the state. However, the total period of probation and incarceration may not exceed 1 year.

(b) For the second conviction for an offense that occurs within a period of 5 years after the date of a prior conviction for violation of this section, the court shall order imprisonment for not less than 10 days. At least 48 hours of confinement must be consecutive.

(c) For the third or subsequent conviction for an offense that occurs within a period of 10 years after the date of a prior conviction for violation of this section, the court shall order imprisonment for not less than 30 days. At least 48 hours of confinement must be consecutive.

(d) In addition to the penalty imposed under paragraph (a), paragraph (b), or paragraph (c), the court shall also order the impoundment or immobilization of the vehicle that was driven by, or in the actual physical control of, the offender, unless the court finds that the family of the owner of the vehicle has no other public or private means of transportation. The period of impoundment or immobilization is 10 days, or, for the second conviction within 3 years, 30 days, or, for the third conviction within 5 years, 90 days and may not be concurrent with probation or imprisonment. If the vehicle is leased or rented, the period of impoundment or immobilization may not extend beyond the expiration of the lease or rental agreement. Within 7 business days after the date that the court issues the order of impoundment or immobilization, the clerk of the court shall send notice by certified mail, return receipt requested, to the registered owner of the vehicle if the registered owner is a person other than the offender and to each person of record claiming a lien against the vehicle. All costs and fees for the impoundment or immobilization, including the cost of notification, must be paid by the owner of the vehicle or, if the vehicle is leased or rented, by the person leasing or renting the vehicle. The person who owns a vehicle that is impounded or immobilized under this paragraph, or a person who has a lien of record against such a vehicle, may, within 10 days after the date that person has knowledge of the location of the vehicle, file a complaint in the county in which the owner resides to determine whether the vehicle was wrongfully taken or withheld from the owner or lienholder. Upon the filing of a complaint, the owner or lienholder may have the vehicle released by posting with the court a bond or other adequate security equal to the amount of the costs and fees for impoundment or immobilization, including towing or storage, to ensure the payment of such costs and fees if the owner or lienholder does not prevail. When the bond is posted and the fee is paid as set forth in s. 28.24, the clerk of the court shall issue a certificate releasing the vehicle. At the time of release, after reasonable inspection, the owner or lienholder must give a receipt to the towing or storage company indicating any loss or damage to the vehicle or to the contents of the vehicle.

(e) A defendant, in the court's discretion, may be required to serve all or any portion of a term of imprisonment to which the defendant has been sentenced pursuant to this section in a residential alcoholism treatment program or a residential drug abuse treatment program. Any time spent in such a program must be credited by the court toward the term of imprisonment.

For the purposes of this section, any conviction for a violation of s. 327.35; a previous conviction for the violation of former s. 316.1931, former s. 860.01,

or former s. 316.028; or a previous conviction outside this state for driving under the influence, driving while intoxicated, driving with an unlawful blood-alcohol level, driving with an unlawful breath-alcohol level, or any other similar alcohol-related or drug-related traffic offense, is also considered a previous conviction for violation of this section. ~~Notwithstanding any other provision of this section, \$100 shall be added to any fine imposed pursuant to this section, of which one quarter shall be deposited in the Emergency Medical Services Trust Fund, one half shall be deposited in the Criminal Justice Standards and Training Trust Fund of the Department of Law Enforcement to be used for operational expenses of the Division of Local Law Enforcement Assistance in conducting the statewide criminal analysis laboratory system established in s. 943.32, and one quarter shall be deposited in the Brain and Spinal Cord Injury Rehabilitation Trust Fund created in s. 413.613.~~ However, in satisfaction of the fine imposed pursuant to this section, the court may, upon a finding that the defendant is financially unable to pay either all or part of the fine, order that the defendant participate for a specified additional period of time in public service or a community work project in lieu of payment of that portion of the fine which the court determines the defendant is unable to pay. In determining such additional sentence, the court shall consider the amount of the unpaid portion of the fine and the reasonable value of the services to be ordered; however, the court may not compute the reasonable value of services at a rate less than the federal minimum wage at the time of sentencing.

Section 26. Paragraph (c) of subsection (3) of section 11.45, Florida Statutes, 1996 Supplement, is amended to read:

11.45 Definitions; duties; audits; reports.—

(3)

(c) The Auditor General shall at least every 2 years make a performance audit of the local government financial reporting system, which, for the purpose of this chapter, means the reporting provisions of this subsection and subsection (4); s. 27.3455(1) and (2) ~~27.3455(4) and (5)~~; part VII of chapter 112; s. 163.05; s. 166.241; chapter 189; parts III and V of chapter 218; and s. 925.037(5). The performance audit shall analyze each component of the reporting system separately and analyze the reporting system as a whole. The purpose of such an audit is to determine the accuracy, efficiency, and effectiveness of the reporting system in achieving its goals and objectives and to make recommendations to the local governments, the Governor, and the Legislature as to how the reporting system can be improved and how program costs can be reduced. Such goals and objectives must include, but need not be limited to, the timely, accurate, uniform, and cost-effective accumulation of financial and other information that can be used by the members of the Legislature and other appropriate officials in order to:

1. Compare and contrast revenue sources and expenditures of local governmental entities;

2. Assess the fiscal impact of the formation, dissolution, and activity of special districts;

3. Evaluate the fiscal impact of state mandates on local governmental entities;
4. Assess financial or economic conditions of local governmental entities; and
5. Improve communication and coordination among state agencies and local governmental entities.

Section 27. Subsections (4) through (8) of section 27.3455, Florida Statutes, 1996 Supplement, are renumbered as subsections (1) through (5), respectively, and are amended to read:

27.3455 Additional court costs; collection, use, and distribution of funds.—

(1)(4) Each county shall submit annually to the Comptroller and the Auditor General a statement of revenues and expenditures as set forth in this section in the form and manner prescribed by the Comptroller in consultation with the Legislative Committee on Intergovernmental Relations, provided that such statement identify total county expenditures on:

- (a) Medical examiner services.
- (b) County victim witness programs.
- (c) Each of the services outlined in ss. 27.34(2) and 27.54(3).
- (d) Appellate filing fees in criminal cases in which an indigent defendant appeals a judgment of a county or circuit court to a district court of appeal or the Florida Supreme Court.
- (e) Other court-related costs of the state attorney and public defender that were paid by the county where such costs were included in a judgment or order rendered by the trial court against the county.

Such statement also shall identify the revenues provided by s. 938.05(1) ~~subsection (1)~~ that were used to meet or reimburse the county for such expenditures.

(2)(5)(a) Within 6 months of the close of the local government fiscal year, each county shall submit to the Comptroller a statement of compliance from its independent certified public accountant, engaged pursuant to chapter 11, that the certified statement of expenditures was in accordance with ss. 27.34(2), 27.54(3), and this section. All discrepancies noted by the independent certified public accountant shall be included in the statement furnished by the county to the Comptroller.

(b) Should the Comptroller determine that additional auditing procedures are appropriate because:

1. The county failed to submit timely its annual statement;

2. Discrepancies were noted by the independent certified public accountant; or

3. The county failed to file before March 31 of each year the certified public accountant statement of compliance, the Comptroller is hereby authorized to send his or her personnel or to contract for services to bring the county into compliance. The costs incurred by the Comptroller shall be paid promptly by the county upon certification by the Comptroller.

(c) Where the Comptroller elects to utilize the services of an independent contractor, such certification by the Comptroller may require the county to make direct payment to a contractor. Any funds owed by a county in such matters shall be recovered pursuant to s. 17.04 or s. 17.041.

(3)(6) The priority for the allocation of funds collected pursuant to s. 938.05(1) ~~subsection (1)~~ shall be as follows:

(a) Reimbursement to the county for actual county expenditures incurred in providing the state attorney and public defender the services outlined in ss. 27.34(2) and 27.54(3), with the exception of office space, utilities, and custodial services.

(b) At the close of the local government fiscal year, funds remaining on deposit in the special trust fund of the county after reimbursements have been made pursuant to paragraph (a) shall be reimbursed to the county for actual county expenditures made in support of the operations and services of medical examiners, including the costs associated with the investigation of state prison inmate deaths. Special county trust fund revenues used to reimburse the county for medical examiner expenditures in any year shall not exceed \$1 per county resident.

(c) At the close of the local government fiscal year, counties establishing or having in existence a comprehensive victim-witness program which meets the standards set by the Crime Victims' Services Office shall be eligible to receive 50 percent matching moneys from the balance remaining in the special trust fund after reimbursements have been made pursuant to paragraphs (a) and (b). Special trust fund moneys used in any year to supplement such programs shall not exceed 25 cents per county resident.

(d) At the close of the local government fiscal year, funds remaining in the special trust fund after reimbursements have been made pursuant to paragraphs (a), (b), and (c) shall be used to reimburse the county for county costs incurred in the provision of office space, utilities, and custodial services to the state attorney and public defender, for county expenditures on appellate filing fees in criminal cases in which an indigent defendant appeals a judgment of a county or circuit court to a district court of appeal or the Florida Supreme Court, and for county expenditures on court-related costs of the state attorney and public defender that were paid by the county, provided that such court-related costs were included in a judgment or order rendered by the trial court against the county. Where a state attorney or a public defender is provided space in a county-owned facility, responsibility for calculating county costs associated with the provision of such office space, utilities, and custodial services is hereby vested in the Comptroller

in consultation with the Legislative Committee on Intergovernmental Relations.

(4)(7) At the end of the local government fiscal year, all funds remaining on deposit in the special trust fund after all reimbursements have been made as provided for in subsection (3)(6) shall be forwarded to the Treasurer for deposit in the General Revenue Fund of the state.

(5)(8) The Comptroller shall adopt any rules necessary to implement his or her responsibilities pursuant to this section.

Section 28. Paragraph (d) of subsection (1) and paragraph (e) of subsection (2) of section 27.52, Florida Statutes, 1996 Supplement, are amended to read:

27.52 Determination of indigency.—

(1)

(d) If the court finds that the accused person applying for representation appears to be indigent based on the factual information provided, the court shall appoint the public defender to provide representation. If the fee is not paid prior to the disposition of the case, the sentencing judge shall be advised of this fact and may:

1. Assess the fee as part of the sentence or as a condition of probation; or
2. Assess the fee pursuant to s. 938.29 ~~27.56~~.

Notwithstanding any provision of law or local order to the contrary, the collecting entity shall assign the first \$40 to the Indigent Criminal Defense Trust Fund, if created by law; otherwise it shall be deposited in the General Revenue Fund. In no event should a person who is found to be indigent be refused counsel for failure to pay the fee.

(2)

(e) A nonindigent parent or legal guardian of an accused minor or an accused adult tax-dependent person shall furnish the minor or dependent person with the necessary legal services and costs incident to a delinquency proceeding or, upon transfer of such person for criminal prosecution as an adult pursuant to s. 39.052, a criminal prosecution, in which the person has a right to legal counsel under the Constitution of the United States or the Constitution of the State of Florida. The failure of a parent or legal guardian to furnish legal services and costs under this section shall not bar the appointment of legal counsel pursuant to s. 27.53. When the public defender, a special assistant public defender appointed pursuant to s. 27.53(2), or appointed private legal counsel is appointed to represent an accused minor or an accused adult tax-dependent person in any proceeding in circuit court or in a criminal proceeding in any other court, the parents or the legal guardian shall be liable for the fees and costs of such representation even if the person is a minor being tried as an adult. Liability for the costs of such

representation may be imposed in the form of a lien against the property of the nonindigent or indigent but able to contribute parents or legal guardian of the accused minor or accused adult tax-dependent person, which lien shall be enforceable as provided in ~~s. 27.56~~ or s. 27.561 or s. 938.29. The court shall determine the amount of the obligation; and, in determining the amount of the obligation, the court shall follow the procedure outlined by this section.

Section 29. Section 27.562, Florida Statutes, 1996 Supplement, is amended to read:

27.562 Disposition of funds.—All funds collected pursuant to s. 938.29 ~~27.56~~ shall be remitted to the board of county commissioners of the county wherein the defendant-recipient was tried. Such funds shall be placed in the fine and forfeiture fund of that county to be used to defray the expenses incurred by the county in defense of criminal prosecutions. All judgments entered pursuant to the provisions of this act shall be in the name of the county in which the judgment was rendered.

Section 30. Section 39.041, Florida Statutes, 1996 Supplement, is amended to read:

39.041 Right to counsel.—

(1) A child is entitled to representation by legal counsel at all stages of any proceedings under this part. If the child and the parents or other legal guardian are indigent and unable to employ counsel for the child, the court shall appoint counsel pursuant to s. 27.52. Determination of indigency and costs of representation shall be as provided by ss. 27.52 and 938.29 ~~27.56~~. Legal counsel representing a child who exercises the right to counsel shall be allowed to provide advice and counsel to the child at any time subsequent to the child's arrest, including prior to a detention hearing while in secure detention care. A child shall be represented by legal counsel at all stages of all court proceedings unless the right to counsel is freely, knowingly, and intelligently waived by the child. If the child appears without counsel, the court shall advise the child of his or her rights with respect to representation of court-appointed counsel.

(2) If the parents or legal guardian of an indigent child are not indigent but refuse to employ counsel, the court shall appoint counsel pursuant to s. 27.52(2)(d) to represent the child at the detention hearing and until counsel is provided. Costs of representation shall be assessed as provided by ss. 27.52(2)(d) and 938.29 ~~27.56~~. Thereafter, the court shall not appoint counsel for an indigent child with nonindigent parents or legal guardian but shall order the parents or legal guardian to obtain private counsel. A parent or legal guardian of an indigent child who has been ordered to obtain private counsel for the child and who willfully fails to follow the court order shall be punished by the court in civil contempt proceedings.

(3) An indigent child with nonindigent parents or legal guardian may have counsel appointed pursuant to s. 27.52(2)(d) if the parents or legal guardian have willfully refused to obey the court order to obtain counsel for the child and have been punished by civil contempt and then still have

willfully refused to obey the court order. Costs of representation shall be assessed as provided by ss. 27.52(2)(d) and 938.29 ~~27-56~~.

Section 31. Section 142.01, Florida Statutes, is amended to read:

142.01 Fine and forfeiture fund contents.—There shall be in every county of this state a separate fund to be known as the fine and forfeiture fund. Said fund shall consist of all fines and forfeitures collected in the county under the penal laws of the state, except those fines imposed under s. 775.0835(1) and assessments imposed under ss. 938.21, 938.23, and 938.25 ~~893.13(8) and 893.16~~; all costs refunded to the county; all funds arising from the hire or other disposition of convicts; and the proceeds of any special tax that may be levied by the county commissioners for expenses of criminal prosecutions. Said funds shall be paid out only for criminal expenses, fees, and costs, where the crime was committed in the county and the fees and costs are a legal claim against the county, in accordance with the provisions of this chapter. Any surplus funds remaining in the fine and forfeiture fund at the end of a fiscal year may be transferred to the county general fund.

Section 32. Section 142.03, Florida Statutes, is amended to read:

142.03 Disposition of fines, forfeitures, and civil penalties.—Except as to fines, forfeitures, and civil penalties collected in cases involving violations of municipal ordinances, violations of chapter 316 committed within a municipality, or infractions under the provisions of chapter 318 committed within a municipality, in which cases such fines, forfeitures, and civil penalties shall be fully paid monthly to the appropriate municipality as provided in ss. 34.191, 316.660, and 318.21, and except as to fines imposed under s. 775.0835(1), and assessments imposed under ss. 938.21, 938.23, and 938.25 ~~893.13(8) and 893.16~~, all fines imposed under the penal laws of this state in all other cases, and the proceeds of all forfeited bail bonds or recognizances in all other cases, shall be paid into the fine and forfeiture fund of the county in which the indictment was found or the prosecution commenced, and judgment must be entered therefor in favor of the state for the use of the particular county.

Section 33. Paragraph (c) of subsection (2) and subsections (3) and (11) of section 318.21, Florida Statutes, 1996 Supplement, are amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(1) One dollar from every civil penalty shall be paid to the Department of Health and Rehabilitative Services for deposit into the Child Welfare Training Trust Fund for child welfare training purposes pursuant to s. 404.40. One dollar from every civil penalty shall be paid to the Department of Juvenile Justice for deposit into the Juvenile Justice Training Trust Fund for juvenile justice purposes pursuant to s. 39.024.

(2) Of the remainder:

(c) Five and one-tenth percent shall be deposited in the Additional Court Cost Clearing Trust Fund established pursuant to s. 938.01 ~~943.25~~ for criminal justice purposes.

(3)(a) Moneys paid to a municipality or special improvement district under subparagraph (2)(g)1. must be used to fund local criminal justice training as provided in s. 938.15 ~~943.25(13)~~ when such a program is established by ordinance; to fund a municipal school crossing guard training program; and for any other lawful purpose.

(b) Moneys paid to a county under subparagraph (2)(g)2. shall be used to fund local criminal justice training as provided in s. 938.15 ~~943.25(13)~~ when such a program is established by ordinance, to fund a county school crossing guard training program, and for any other lawful purpose.

(11) The additional costs and surcharges on criminal traffic offenses provided for under ss. 938.03 and 938.04 ~~960.20~~ and ~~960.25~~ of the Florida Crimes Compensation Act must be collected and distributed by the clerk of the court as provided in those sections. The additional costs and surcharges must also be collected for the violation of any ordinances adopting the criminal traffic offenses enumerated in s. 318.17.

Section 34. Subsection (20) of section 397.321, Florida Statutes, is amended to read:

397.321 Duties of the department.—The department shall:

(20) Establish a program to disseminate funds collected pursuant to s. 938.13 ~~939.017~~ to the counties of origin for use in substance abuse programs, whereby the boards of county commissioners determine allocations to specific programs pursuant to department criteria and guidelines.

Section 35. Subsection (1) of section 401.113, Florida Statutes, is amended to read:

401.113 Department; powers and duties.—

(1) Funds deposited into the Emergency Medical Services Trust Fund as provided by ss. 316.061, 316.192, ~~316.193~~, and 318.21, and 938.07 must be used solely to improve and expand prehospital emergency medical services in the state.

Section 36. Subsection (2) of section 426.003, Florida Statutes, is amended to read:

426.003 Handicapped and elderly assistance program; administration; rules.—

(2) To the extent that the department receives completed applications from a county which collects surcharges and costs pursuant to ss. 938.09 and 938.11 ~~775.0836~~ and ~~939.015~~, and as consistent with the priorities for award of security assistance grants contained in s. 426.004, the department shall approve grants to a county in an amount equal to that county's contribution

to the Handicapped and Elderly Security Assistance Program, less a pro rata portion of the department's administrative costs.

Section 37. Subsections (1) and (2) and paragraph (a) of subsection (3) of section 893.165, Florida Statutes, are amended to read:

893.165 County alcohol and other drug abuse treatment or education trust funds.—

(1) Counties in which there is established or in existence a comprehensive alcohol and other drug abuse treatment or education program which meets the standards for qualification of such programs by the Department of Health and Rehabilitative Services are authorized to establish a County Alcohol and Other Drug Abuse Trust Fund for the purpose of receiving the assessments collected pursuant to s. ~~938.23~~ 893.16 and disbursing assistance grants on an annual basis to such alcohol and other drug abuse treatment or education program.

(2) Assessments collected by the clerks of court pursuant to s. ~~938.23~~ 893.16 shall be remitted to the board of county commissioners of the county in which the indictment was found or the prosecution commenced for payment into the County Alcohol and Other Drug Abuse Trust Fund. The county commissioners shall require a full report from all clerks of county courts and clerks of circuit courts once each month of the amount of assessments imposed by their courts.

(3)(a) No county shall receive assessments collected pursuant to s. ~~938.23~~ 893.16 in an amount exceeding that county's jurisdictional share as described in subsection (2).

Section 38. Subsection (1) of section 921.187, Florida Statutes, 1996 Supplement, is amended to read:

921.187 Disposition and sentencing; alternatives; restitution.—

(1) The alternatives provided in this section for the disposition of criminal cases shall be used in a manner that will best serve the needs of society, punish criminal offenders, and provide the opportunity for rehabilitation.

(a) If the offender does not receive a state prison sentence, the court may:

1. Impose a split sentence whereby the offender is to be placed on probation upon completion of any specified period of such sentence, which period may include a term of years or less.

2. Make any other disposition that is authorized by law.

3. Place the offender on probation with or without an adjudication of guilt pursuant to s. 948.01.

4. Impose a fine and probation pursuant to s. 948.011 when the offense is punishable by both a fine and imprisonment and probation is authorized.

5. Place the offender into community control requiring intensive supervision and surveillance pursuant to chapter 948.

6. Impose, as a condition of probation or community control, a period of treatment which shall be restricted to a county facility, a Department of Corrections probation and restitution center, a probation program drug punishment treatment community, or a community residential or nonresidential facility, excluding a community correctional center as defined in s. 944.026, which is owned and operated by any qualified public or private entity providing such services. Before admission to such a facility, the court shall obtain an individual assessment and recommendations on the appropriate treatment needs, which shall be considered by the court in ordering such placements. Placement in such a facility, except for a county residential probation facility, may not exceed 364 days. Placement in a county residential probation facility may not exceed 3 years. Early termination of placement may be recommended to the court, when appropriate, by the center supervisor, the supervising probation officer, or the probation program manager.

7. Sentence the offender pursuant to s. 922.051 to imprisonment in a county jail when a statute directs imprisonment in a state prison, if the offender's cumulative sentence, whether from the same circuit or from separate circuits, is not more than 364 days.

8. Sentence the offender who is to be punished by imprisonment in a county jail to a jail in another county if there is no jail within the county suitable for such prisoner pursuant to s. 950.01.

9. Require the offender to participate in a work-release or educational or vocational training program pursuant to s. 951.24 while serving a sentence in a county jail, if such a program is available.

10. Require the offender to perform a specified public service pursuant to s. 775.091.

11. Require the offender who violates chapter 893 or violates any law while under the influence of a controlled substance or alcohol to participate in a substance abuse program.

12.a. Require the offender who violates any criminal provision of chapter 893 to pay an additional assessment in an amount up to the amount of any fine imposed, pursuant to ss. 938.21 and 938.23 ~~893.13(8)(a) and 893.16~~.

b. Require the offender who violates any provision of s. 893.13 to pay an additional assessment in an amount of \$100, pursuant to ss. 938.25 ~~893.13(8)(b)~~ and 943.361.

13. Impose a split sentence whereby the offender is to be placed in a county jail or county work camp upon the completion of any specified term of community supervision.

14. Impose split probation whereby upon satisfactory completion of half the term of probation, the Department of Corrections may place the offender on administrative probation pursuant to s. 948.01 for the remainder of the term of supervision.

15. Require residence in a state probation and restitution center or private drug treatment program for offenders on community control or offenders who have violated conditions of probation.

16. Impose any other sanction which is provided within the community and approved as an intermediate sanction by the county public safety coordinating council as described in s. 951.26.

17. Impose, as a condition of community control, probation, or probation following incarceration, a requirement that an offender who has not obtained a high school diploma or high school equivalency diploma or who lacks basic or functional literacy skills, upon acceptance by an adult education program, make a good faith effort toward completion of such basic or functional literacy skills or high school equivalency diploma, as defined in s. 229.814, in accordance with the assessed adult general education needs of the individual offender.

(b)1. Notwithstanding any provision of s. 921.001 to the contrary, on or after October 1, 1993, the court may require any defendant who violates s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a), and meets the criteria described in s. ~~893.13(9)~~ 893.13(10), to successfully complete a term of probation pursuant to the terms and conditions set forth in s. 948.034(1), in lieu of serving a term of imprisonment.

2. Notwithstanding any provision of s. 921.001 to the contrary, on or after October 1, 1993, the court may require any defendant who violates s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a), and meets the criteria described in s. ~~893.13(10)~~ 893.13(11), to successfully complete a term of probation pursuant to the terms and conditions set forth in s. 948.034(2), in lieu of serving a term of imprisonment.

Section 39. Paragraph (j) of subsection (2) of section 943.08, Florida Statutes, 1996 Supplement, is amended to read:

943.08 Duties; Criminal and Juvenile Justice Information Systems Council.—

(2) The council shall review proposed rules and operating policies and procedures, and amendments thereto, of the Division of Criminal Justice Information Systems and make recommendations to the executive director which shall be represented in the meeting minutes of the council. In addition, the council shall review proposed policies, rules, and procedures relating to the information system of the Department of Juvenile Justice and make recommendations to the Secretary of Juvenile Justice or designated assistant who shall attend council meetings. Those recommendations shall relate to the following areas:

(j) The training, which may be provided pursuant to s. 938.01, s. 938.15, or s. 943.25, of employees of the department and other state and local criminal justice agencies in the proper use and control of criminal justice information.

Section 40. Paragraph (c) of subsection (1) of section 943.17, Florida Statutes, is amended to read:

943.17 Basic recruit, advanced, and career development training programs; participation; cost; evaluation.—The commission shall, by rule, design, implement, maintain, evaluate, and revise job-related curricula and performance standards for basic recruit, advanced, and career development training programs and courses. The rules shall include, but are not limited to, a methodology to assess relevance of the subject matter to the job, student performance, and instructor competency.

(1) The commission shall:

(c) Design, implement, maintain, evaluate, and revise a career development training program which is limited to those courses related to promotion to a higher rank or position. Career development courses will not be eligible for funding as provided in s. 943.25(9) ~~943.25(10)~~.

Section 41. Subsections (4) through (12) and subsection (14) of section 943.25, Florida Statutes, are renumbered as subsections (3) through (12), respectively, and amended to read:

943.25 Criminal justice trust funds; source of funds; use of funds.—

~~(3)~~(4) The Auditor General is directed in his financial audit of courts to ascertain that such assessments have been collected and remitted and shall report to the Legislature annually. All such records of the courts shall be open for his inspection. The Auditor General is further directed to conduct financial audits of the expenditures of the trust funds and to report to the Legislature annually.

~~(4)~~(5) The commission shall, by rule, establish, implement, supervise, and evaluate the expenditures of the Criminal Justice Standards and Training Trust Fund for approved advanced and specialized training program courses. Criminal justice training school enhancements may be authorized by the commission subject to the provisions of subsection ~~(7)~~(8). The commission may approve the training of appropriate support personnel when it can be demonstrated that these personnel directly support the criminal justice function.

~~(5)~~(6) The commission shall authorize the establishment of regional training councils to advise and assist the commission in developing and maintaining a plan assessing regional criminal justice training needs and to act as an extension of the commission in the planning, programming, and budgeting for expenditures of the moneys in the Criminal Justice Standards and Training Trust Fund.

(a) The commission shall annually forward to each regional training council a list of its specific recommended priority issues or items to be funded. Each regional training council shall consider the recommendations of the commission in relation to the needs of the region and either include the recommendations in the region's budget plan or satisfactorily justify their exclusion.

(b) Criminal Justice Standards and Training Trust Fund moneys allocated to the regions shall be distributed to each region based upon a formula

approved by the commission. The distribution shall be used by each region to implement the regional plan approved by the commission.

(c) By rule, the commission may establish criteria and procedures for use by the division and regions to amend the approved plan when an emergency exists. The division shall, with the consent of the chairman of the commission, initially grant, modify, or deny the requested amendment pending final approval by the commission. The commission's plan and amendments thereto must comply with the provisions of chapter 216.

(d) A public criminal justice training school must be designated by the commission to receive and distribute the disbursements authorized under subsection (9) ~~(40)~~.

(e) Commission members, regional training council members, division staff personnel, and other authorized persons who are performing duties directly related to the trust fund may be reimbursed for reasonable per diem and travel expenses as provided in s. 112.061.

~~(6)(7)~~ No training, room, or board cost may be assessed against any officer or employing agency for any advanced and specialized training course funded from the Criminal Justice Standards and Training Trust Fund. Such expenses shall be paid from the trust fund and are not reimbursable by the officer. Travel costs to and from the training site are the responsibility of the trainee or employing agency. Any compensation, including, but not limited to, salaries and benefits, paid to any person during the period of training shall be fixed and determined by the employing agency; and such compensation shall be paid directly to the person.

(a) The commission shall develop a policy of reciprocal payment for training officers from regions other than the region providing the training.

(b) An officer who is not employed or appointed by an employing agency of this state may attend a course funded by the trust fund, provided he is required to pay to the criminal justice training school all training costs incurred for his attendance.

~~(7)(8)~~ No trust fund money may be expended for the planning or construction of any new school or expansion of any existing school without the specific prior approval of the Legislature, designating the location and the amount to be expended for the training school.

~~(8)(9)~~ All funds deposited in the Criminal Justice Standards and Training Trust Fund shall be made available to the department for implementation of training programs approved by the commission and the head of the department.

~~(9)(40)~~ The Executive Office of the Governor may approve, for disbursement from funds appropriated to the Department of Law Enforcement, Criminal Justice Standards and Training Trust Fund, those sums necessary and required for the administration of the division and implementation of the training programs approved by the commission.

~~(10)~~(11) Up to \$250,000 per annum from the Criminal Justice Standards and Training Trust Fund may be used to develop, validate, update, and maintain test or assessment instruments relating to selection, employment, training, or evaluation of officers, instructors, or courses. Pursuant to s. 943.12(4), (5), and (8), the commission shall adopt those test or assessment instruments which are appropriate and job-related as minimum requirements.

~~(11)~~(12) The commission, with the approval of the head of the department, either by contract or agreement, may authorize any university or community college in the state, or any other organization, to provide training for or facilities for training officers in the area of crime reduction, crime control, inmate control, or professional development.

~~(12)~~(13) Except as provided by s. 938.15 ~~subsection (13)~~ and notwithstanding any other provision of law, no funds collected and deposited pursuant to this section shall be expended unless specifically appropriated by the Legislature.

Section 42. Section 943.361, Florida Statutes, is amended to read:

943.361 Statewide criminal analysis laboratory system; funding through fine surcharges.—

(1) Funds deposited pursuant to ss. 938.07 and 938.25 ~~316.193(6) and 893.13(8)(b)~~ for the statewide criminal analysis laboratory system shall be used for state reimbursements to local county-operated crime laboratories enumerated in s. 943.35(1), and for the equipment, health, safety, and training of member crime laboratories of the statewide criminal analysis laboratory system.

(2) Moneys deposited pursuant to ss. 938.07 and 938.25 ~~316.193(6) and 893.13(8)(b)~~ for the statewide criminal analysis laboratory system shall be appropriated by the Legislature in accordance with the provisions of chapter 216 and with the purposes stated in subsection (1).

Section 43. Section 947.18, Florida Statutes, 1996 Supplement, is amended to read:

947.18 Conditions of parole.—No person shall be placed on parole merely as a reward for good conduct or efficient performance of duties assigned in prison. No person shall be placed on parole until and unless the commission finds that there is reasonable probability that, if he is placed on parole, he will live and conduct himself as a respectable and law-abiding person and that his release will be compatible with his own welfare and the welfare of society. No person shall be placed on parole unless and until the commission is satisfied that he will be suitably employed in self-sustaining employment or that he will not become a public charge. The commission shall determine the terms upon which such person shall be granted parole. If the person's conviction was for a controlled substance violation, one of the conditions must be that the person submit to random substance abuse testing intermittently throughout the term of supervision, upon the direction of the correctional probation officer as defined in s. 943.10(3). In addition to any other

lawful condition of parole, the commission may make the payment of the debt due and owing to the state under s. 960.17 or the payment of the attorney's fees and costs due and owing to a county under s. 938.29 ~~27.56~~ a condition of parole subject to modification based on change of circumstances.

Section 44. Paragraph (i) of subsection (1) of section 948.03, Florida Statutes, 1996 Supplement, is amended to read:

948.03 Terms and conditions of probation or community control.—

(1) The court shall determine the terms and conditions of probation or community control. Conditions specified in paragraphs (a) through and including (n) do not require oral pronouncement at the time of sentencing and may be considered standard conditions of probation. Conditions specified in paragraphs (a) through and including (n) and (2)(a) do not require oral pronouncement at sentencing and may be considered standard conditions of community control. These conditions may include among them the following, that the probationer or offender in community control shall:

(i) Pay any attorney's fees and costs assessed under s. 938.29 ~~27.56~~, subject to modification based on change of circumstances.

Section 45. Section 948.0345, Florida Statutes, is amended to read:

948.0345 Community service alternative to fine; fine disposal.—Fines imposed pursuant to s. 948.034(1) and (2) shall be disposed of pursuant to s. 938.23(2) ~~893.16(2)~~. If the court finds that an offender is financially unable to pay all or part of the fine, the court may order the offender to perform community service for a specified additional period of time in lieu of payment of that portion of the fine which the court determines the offender is unable to pay. The court shall take into consideration the amount of the unpaid portion of the fine and the reasonable value of the services; however, the court shall not compute the reasonable value of services at a rate less than the federal minimum wage at the time of placing the offender on probation.

Section 46. Subsection (2) of section 960.14, Florida Statutes, is amended to read:

960.14 Manner of payment; execution or attachment.—

(2) If a claimant owes money to the Crimes Compensation Trust Fund in connection with any other claim as provided for in ss. 938.03, 960.16, and 960.17, ~~and 960.20~~, the amount owed shall be reduced from any award.

Section 47. Subsection (8) of section 893.13, Florida Statutes, is repealed.

Section 48. This act shall be liberally construed so as to facilitate the permanent statutory revision plan of this state created in section 11.241, Florida Statutes.

Section 49. Subsection (9) is added to section 327.35, Florida Statutes, 1996 Supplement, to read:

327.35 Boating under the influence; penalties.—

(9) Notwithstanding any other provision of this section, for any person convicted of a violation of subsection (1), in addition to the fines set forth in subsections (2) and (4), an additional fine of \$60 shall be assessed and collected in the same manner as the fines set forth in subsections (2) and (4). All fines collected under this subsection shall be paid monthly into the Brain and Spinal Cord Injury Rehabilitation Trust Fund and used for the purposes set forth in s. 413.613, after 5 percent is deducted therefrom by the clerk of the court for administrative costs.

Section 50. This act shall take effect July 1, 1997.

Approved by the Governor May 30, 1997.

Filed in Office Secretary of State May 30, 1997.