

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

* TO BE HEARD IMMEDIATELY FOLLOWING RELATED 3:00 P.M. PUBLIC HEARING *

Meeting Date: December 19, 2007 - MAR

Division: Sheriff's Department

Bulk Item: Yes No

Contact Person: Janine Gedmin, MCSO

**BOCC CONSIDERATION PENDING
APPROVAL OF RELATED PROPOSED
ORDINANCE – PUBLIC HEARING 12/19/07**

Phone #: 292-7042

AGENDA ITEM WORDING:

Approval of a resolution authorizing the 25% of the court costs and surcharges assess/collected pursuant to Sec. 2-632(b)(4), Monroe County Code and F. S. 989.185(1)(a)4, which used to fund Teen Court, to be disbursed by the Clerk to the Sheriff of Monroe County on a quarterly basis solely to fund the Intensive Delinquency Diversion Services administered by the Monroe county Sheriff's Office.

ITEM BACKGROUND:

This resolution correlates with the proposed ordinance being considered by the Board today at a public hearing which, if approved, will create a new funding source solely for Teen Court in Monroe County to (a) better fund the program by the overall amount of money collected as a mandatory cost for certain defendants and (b) ultimately reduce the amount of general funds necessary to maintain the Teen Court program in Monroe County. Florida Statutes 938.19(7) specifically prohibits Teen Courts from receiving funding under both F. S. 939.19 and F. S. 939.185 (1)(a) 4; subsequently Teen Court will no longer be able to receive the 25% previously received pursuant to Sec. 2-632(b)(4), Monroe County Code.

If the Board approves the proposed ordinance, this Resolution will authorize the Clerk to disburse the 25% of the court costs and surcharges collected pursuant to Sec. 2-632(b)(4), which used to fund Teen Court, to be disbursed to the Sheriff solely to fund the Intensive Delinquency Diversion Services as allowable under Sec. 2-632(b)(4) Monroe County Code and Florida Statutes 938.185(1)(a)4.

PREVIOUS RELEVANT BOCC ACTION:

In 2000, Teen Court of Monroe County was funded by a \$3.00 mandatory cost that was authorized by the BOCC in *Ordinance 028-2000* pursuant to F.S. 938.19. In 2004, the Florida Legislature amended F.S. 938.19 and voided the County's authority to enact *Ordinance 028-2000*. In 2004, the BOCC enacted *Ordinance 016-2004*, pursuant to F.S. 939.185, to assess a \$65.00 mandatory cost in specific cases to be split equally between supplemental funding for the State Court system in Monroe County, to fund legal aid programs in Monroe County, personnel and legal materials for the public as part of the law libraries, and teen court and other juvenile alternative programs in Monroe County as determined by the BOCC. In 2006, the Florida Legislature re-enacted F.S. 938.19 again authorizing the BOCC to assess a mandatory \$3.00 cost on certain defendants to fund local Teen Courts.

12/19/07 BOCC Public Hearing to consider Ordinance adding Section 2-633 to impose a \$3 additional court cost solely to operate and maintain Teen Court in Monroe County and to delete "Teen Court Costs" from Sec. 2-632(b)(4), Monroe County Code.

CONTRACT/AGREEMENT CHANGES: Not applicable.

STAFF RECOMMENDATIONS:

Approval.

TOTAL COST: N/A

BUDGETED: Yes ___ No X

COST TO COUNTY: N/A

SOURCE OF FUNDS: Fines assessed pursuant to
Section 938.185(1)(a)4, Florida
Statutes

REVENUE PRODUCING: Yes X No ___ AMOUNT PER MONTH TBD Year ___

APPROVED BY: County Atty  OMB/Purchasing ___ Risk Management ___

DOCUMENTATION: Included X Not Required ___

DISPOSITION: _____

AGENDA ITEM # _____

RESOLUTION NO. _____ - 2007

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA AUTHORIZING THE TWENTY-FIVE PERCENT OF THE COURT COSTS AND SURCHARGES ASSESSED/COLLECTED PURSUANT TO SEC. 2-632(b)(4) MONROE COUNTY CODE AND F. S. 989.185(1)(a)4 BE DISBURSED BY THE CLERK TO THE SHERIFF OF MONROE COUNTY ON A QUARTERLY BASIS SOLELY TO FUND THE INTENSIVE DELINQUENCY DIVERSION SERVICES ADMINISTERED BY THE MONROE COUNTY SHERIFF'S OFFICE.

WHEREAS, the Monroe County Board of County Commissioners recognize that juvenile delinquency is a problem in Monroe County; and

WHEREAS, the Monroe County Board of County Commissioners recognize that alternative intervention programs are a necessary component of the continuum of care when addressing the problem of juvenile delinquency; and

WHEREAS, the Sheriff of Monroe County operates two alternative juvenile delinquency programs, Teen Court and the Intensive Delinquency Diversion Services, and has done so since 2001; and

WHEREAS, the Monroe County Teen Court and Intensive Delinquency Diversion Services have served 1372 delinquent youth since 2001 with a 88 % combined success rate; and

WHEREAS, the Monroe County Board of County Commissioners recognize that funding is scarce for these alternative intervention programs, and their continued existence has required supplemental funding from the Monroe County general fund; and

WHEREAS, the State of Florida has authorized counties to enact local ordinances to assess additional court costs to fund teen courts and other alternative juvenile alternative programs; and

WHEREAS, Sec. 2-632 (a), Monroe County Code provides for an additional court cost of \$65.00 to be imposed when a person pleads guilty or nolo contendere to, or is found guilty of, or adjudicated delinquent for, and felony, misdemeanor, delinquent act, or criminal traffic offense under the laws of the state of Florida to be divided among four entities; and

WHEREAS, pursuant to Sec. 2-632(b)4 Monroe County Code, the Monroe County Board of County Commissioners has previously directed twenty-five percent of the amount collected to support the Teen Court program in Monroe County; and

WHEREAS, the State of Florida, pursuant to F. S. 938.19, has now authorized an additional \$3.00 court cost against each person who pleads guilty or nolo contendere to, or is convicted of, regardless of adjudication, a violation of criminal law or a municipal or county ordinance, or who pays a fine or civil penalty for any violation of Florida Statutes Chapter 316; and

WHEREAS, the two state authorizations for funding teen courts are exclusive of each other; and

WHEREAS, the Monroe County Board of County Commissioners has enacted an ordinance amending Section 2, Article XXVII, Monroe County Code, creating Sec. 2-633 assessing the \$3.00 court cost as authorized to fund solely Teen Court in Monroe County; and

WHEREAS, F. S. 938.19(7) prohibits Teen Courts receiving funding under F. S. 939.19 to also receive fund court costs collected under F. S. 939.185(1)(a)4; and

WHEREAS, the Monroe County Board of County Commissioners has determined that the Intensive Delinquency Diversion Services is a proven valuable program in need of additional funding; and

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA that:

1. The Monroe County Board of County Commissioners hereby authorizes the twenty-five percent (25%) of the court costs and surcharges assessed/collected pursuant to Sec. 2-632(b)(4) and F. S. 989.185(1)(a)4 be used solely to fund the Intensive Delinquency Diversion Services in Monroe County.
2. The Clerk of the Court of Monroe County, Florida is hereby directed to disburse the twenty-five percent (25%) of the court costs and surcharges assessed/collected pursuant to Sec. 2-632(b)(4) and F. S. 989.185(1)(a)4 to the Sheriff of Monroe County on a quarterly basis to be used solely for the operation and maintenance of the Intensive Delinquency Diversion Services in Monroe County administered by the Monroe County Sheriff's Office.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting of the Board held on the _____ day of December, 2007.

Mayor Mario DiGennaro _____
Commissioner Dixie Spehar _____
Commissioner Sonny McCoy _____
Commissioner George Neugent _____
Commissioner Sylvia Murphy _____

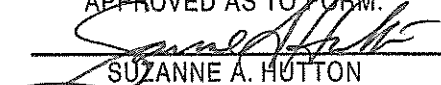
(SEAL)

Attest:
DANNY L. KOHLAGE, Clerk

**BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA**

By _____
Deputy Clerk

By _____
Mayor Mario Di Gennaro

MONROE COUNTY ATTORNEY
 APPROVED AS TO FORM:

 SUZANNE A. HUTTON
 COUNTY ATTORNEY
 Date 10/30/07

ORDINANCE NO. - 2007

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, AMENDING THE MONROE COUNTY CODE BY ADDING A NEW SECTION TO CHAPTER 2, ART. XXVII. TO BE NUMBERED SECTION 2-633. TEEN COURT COSTS; PROVIDING FOR MANDATORY ASSESSMENT OF COURT COSTS IN SPECIFIC CASES AND QUARTERLY DISBURSEMENT BY THE CLERK TO THE MONROE COUNTY SHERIFF'S OFFICE SPECIFICALLY FOR THE OPERATION AND MAINTENANCE OF TEEN COURT AS ALLOWED PURSUANT TO FLORIDA STATUTE 938.19; REMOVING TEEN COURT COSTS FROM SECTION 2-632(b)4.; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES INCONSISTENT HEREWITH; PROVIDING FOR INCORPORATION INTO THE MONROE COUNTY CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the levy of a mandatory cost on specific cases is an appropriate method of funding Teen Court; and

WHEREAS, Monroe County has a Teen Court Program administered by the Sheriff of Monroe County; and

WHEREAS, the purpose of Teen Court is to provide Monroe County's youth with an alternative to a conviction record by diverting them into a system where they are sentenced by their peer group and to expose teen volunteers to community service work, positive role models, and the judicial system; and

WHEREAS, in 2000, the Monroe County Board of County enacted Ordinance No. 028-2000 as authorized at the time by Florida Statutes 938.19, which assessed a mandatory \$3.00 cost in specific cases to fund the operation and administration of Teen Court; and

WHEREAS, in 2003, the Florida Legislature passed Ch. 2003-402, Laws of Florida, which amended Section 938.19, Florida Statutes, and voided the County's authorization for the \$3.00 assessment to fund the operation and administration of Teen Court; and

WHEREAS, in May 2004, the Florida Legislature passed Ch. 2004-265, Laws of Florida, creating Section 939.185, Florida Statutes, allowing each Board of County Commissioners to enact an ordinance allowing the imposition of \$65.00 in additional costs to be imposed in certain cases, of which twenty-five per cent (25%) could be used for teen court, juvenile assessment centers, and other juvenile programs; and

WHEREAS, in 2004, the Monroe County Board of County Commissioners enacted Ordinance No. 016-2004, as authorized at the time by Florida Statutes 939.185, which assessed a mandatory \$65.00 cost in specific cases to be split equally between supplemental funding for the State Courts system in Monroe County, legal aid programs in Monroe County, personnel and legal materials for the public as part of the law libraries, and teen court programs and other juvenile alternative programs in Monroe County as determined by the Board of County Commissioners; and

WHEREAS, in 2005, the Florida Legislature passed Ch. 2005-236, Laws of Florida, which reinstated the authority for counties to enact an ordinance adopting a mandatory \$3 court costs assessment in specific cases in order to fund the operation and administration of Teen Courts only; and

WHEREAS, Section 938.19, Florida Statutes, as amended in 2006 and 2007, specifically excludes a Teen Court funded under an ordinance pursuant to that statute from receiving court costs collected under Section 939.185, Florida Statutes; and

WHEREAS, Ordinance 016-2004 provided that the ordinance should be incorporated in the Monroe County Code of Ordinances as Section 2-605, however, Ordinance 004-2004, passed and adopted by the Monroe County Board of County Commissioners on February 18, 2004, had previously provided that Ordinance 004-2004 should be incorporated in the Monroe County Code as Section 2-605, and this conflict can now be addressed and resolved;

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA that:

[PROPOSED TEXT CHANGES are presented in ~~strike through~~ to indicate deletions and underline to indication additions.]

Section 1. A new section is hereby created and added to Section 2, Article XXVII. COURT COSTS, Monroe County Code, to be numbered “Section 2-633. Teen Court Costs.” and shall read as follows:

Section 2-633. Teen Court Costs.

(a) Pursuant to the authority granted to the County by Section 938.19, Florida Statutes, the sum of \$3.00 shall be assessed as a court cost in the circuit and the county court in the county against each person who pleads guilty or nolo contendere to, or is convicted of, regardless of adjudication, or adjudicated delinquent for a violation of a criminal law, a delinquent act, or a municipal or county ordinance, or who pays a fine or civil penalty for any violation of Chapter 316, Florida Statutes.

(b) Any person whose adjudication is withheld pursuant to the provisions of Section 318.14(9) or (10), Florida Statutes, shall also be assessed such cost.

(c) This \$3.00 court cost shall be assessed in addition to any fine, civil penalty, or other court cost and shall not be deducted from the proceeds from that portion of any fine or civil penalty that is received by a municipality in the county or by the county in accordance with Sections 316.660 and 318.21, Florida Statutes.

(d) This \$3.00 court cost shall be specifically added to any civil penalty paid for a violation of Chapter 316, Florida Statutes, whether such penalty is paid by mail, paid in person without request for a hearing, or paid after hearing and determination by the court.

(e) This \$3.00 court cost shall not be made against a person for a violation of any state law, county ordinance, or municipal ordinance relating to the parking of vehicles, with the exception of a violation of the handicapped parking laws.

(f) The Clerk of the Court shall collect the \$3.00 assessments for court costs pursuant to Florida Statute 938.19. Said funds shall be deposited in the Office of the Clerk of Court and shall be placed in an interest bearing account. The funds shall be distributed by the Clerk to the Monroe County Sheriff's Office specifically for the operation and maintenance of teen court on a quarterly basis, less 5 percent of the assessments collected, which shall be retained as fee income of the Office of the Clerk.

Section 2. Section 2-632(b)4., Article XXVII. COURT COSTS, Monroe County Code shall be amended to read:

“4. Twenty-five (25) percent shall be allocated to fund teen court ~~programs and other~~ juvenile alternative programs in Monroe County as determined by the board of county commissioners.”

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Section 5. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Section 6. This ordinance shall take effect immediately upon receipt of official notice from the Office of the Secretary of State of the State of Florida that this ordinance has been filed with said Office.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting of said Board held on the _____ day of December, 2007.

Mayor Mario Di Gennaro
Mayor Pro Tem Dixie Spehar
Commissioner Charles McCoy
Commissioner Sylvia Murphy
Commissioner George Neugent

(SEAL)
Attest: DANNY L. KOHLAGE, Clerk

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Mayor Mario Di Gennaro