



Office of

Public Hearing 02/20/2024

# INDIAN RIVER COUNTY ATTORNEY

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William K. DeBraul, County Attorney  
Susan J. Prado, Deputy County Attorney  
K. Keith Jackman, Assistant County Attorney

## MEMORANDUM

TO: Board of County Commissioners

THROUGH: John A. Titkanich, Jr., County Administrator

FROM: William K. DeBraul, County Attorney

DATE: February 8, 2024

SUBJECT: Charging Criminal Defendants Additional Fees and Eliminating Costs for Indigent Defendants

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Florida Statute §939.185 allows a County to impose court costs of \$65 when a person is found guilty of a felony, misdemeanor or delinquent act. The statute provides that those funds collected must be allocated as follows:

- 25% for local court funding
- 25% for legal aid programs
- 25% for law library funding
- 25% to juvenile assessment centers and alternative programs

In the past, counties have assessed a single \$65 charge even though a criminal defendant pleads guilty to a number of charges. For example, if a defendant pleads guilty to driving with a suspended license, driving under the influence and leaving the scene of an accident, the defendant will be charged a single \$65 fee for court costs. Recently, a Florida District Court of Appeals upheld a county's practice of charging \$65 in court costs for each crime where a guilty plea is entered. So, in the example were a defendant pleads guilty to three crimes, that defendant may now be charged \$195 in court costs.

In Indian River County during Fiscal Year 2022-23, the \$65 fee was assessed on 1,530 cases resulting in \$99,450 of court costs. In the 1,530 cases, there were 6,174 total counts, so if the \$65 would have been assessed per count, then the total amount of money owed on those 1,530 cases would have been \$401,310, which amounts to an increase of \$301,860 in costs. Granted, 100% of these costs are not collected, but the County could receive a significant increase in funding for the four programs specified in County code. It should be noted that Florida Statute §939.185 also states that if a defendant is found to be indigent, the \$65 court cost shall not be imposed.

The proposed amendment to Indian River County Code §§305.11 and 305.12 (attached) provides for assessing \$65 in court costs for each charge a defendant is convicted of and also exempts defendants from paying the \$65 court cost if they are found to be indigent by the court.

**Funding:** If the board decides to proceed with amending the County code, once the projected revenue amount is established, a budget amendment would be brought before the Board to allocate these additional revenues and expenses.

The cost of publication of the required public notice for the public hearing was \$123.48. The cost was funded from the County Attorney's Office budget within the General Fund (account number 00110214-034910).

| Description               | Account Number  | Amount   |
|---------------------------|-----------------|----------|
| County Attorney/Legal Ads | 00110214-034910 | \$123.48 |

**Recommendation:** Staff recommends the Board conduct the necessary Public Hearing and after taking testimony from interested parties, approve the ordinance amendment and authorize the chairman to sign the amendment on behalf of the Board.

**Attachments:** Indian River County Code §§305.11 and 305.12  
Proposed Ordinance Amendment

Copies to: Ryan Butler, Clerk of Court  
Kristin Daniels, Director, Office of Management and Budget

*Office of*  
**INDIAN RIVER COUNTY**  
**ATTORNEY**

**Indian River County Code Sections Pertaining to Court Costs**

**Section 305.11. - Imposition of additional court costs in criminal cases pursuant to Section 939.185, Florida Statutes (2004), as amended.**

Pursuant to the authority set forth in Section 939.185, Florida Statutes (2004), as amended, an additional court cost of sixty-five dollars (\$65.00) shall be imposed by the courts in Indian River County when a person pleads guilty or nolo contendere to, or is found guilty of, or adjudicated delinquent for, any felony, misdemeanor, delinquent act, or criminal traffic offense under the Florida Statutes. The courts in Indian River County shall order payment of these additional court costs in all matters as set forth in [Section 305.11](#) of this chapter, but may defer payment if the person against whom the cost is imposed is indigent. The additional court cost authorized pursuant to Section 939.185, Florida Statutes (2004), as amended shall be collected by the Clerk and remitted to Indian River County for use in accordance with [Section 305.12](#) of the Code.  
(Ord. No. 2004-019, 6-22-04; Ord. No. 2007-028, § 2, 7-24-07)

**Section 305.12. - Uses of additional court costs in criminal cases.**

(1) Funds received from the additional court cost set forth in [section 305.11](#) of this chapter shall be distributed as follows:

- (A) Twenty-five (25) percent shall be remitted to fund innovations to supplement funding for the state court system in Indian River County consistent with Section 29.004, Florida Statutes (2004) and to fund local requirements consistent with Section 29.008(2)(a)2, Florida Statutes (2004).
  - (B) Twenty-five (25) percent shall be remitted to assist in providing legal aid programs in Indian River County consistent with Section 29.008(3), Florida Statutes (2004).
  - (C) Twenty-five (25) percent shall be remitted to fund personnel and legal materials for the public as part of law libraries in Indian River County.
  - (D) Twenty-five (25) percent of the amount collected shall be used as determined by the board of county commissioners to support teen court programs, juvenile assessment centers, and other juvenile alternative programs.
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