

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT

ADMINISTRATIVE ORDER NO.:
08-17 AMENDED
SUPERSEDES 08-17

IN RE: FEES - COSTS OF PROSECUTION

WHEREAS, the right of the state attorney to request costs of prosecution in criminal cases has been authorized by Florida Statutes for over 20 years; and

WHEREAS, amendments to Section 938.27, Florida Statutes, that are effective on July 1, 2008, mandate that costs for the state attorney shall be set in all cases at no less than \$50 per case when a misdemeanor or criminal traffic offense is charged and no less than \$100 per case when a felony offense is charged, including a proceeding in which the underlying offense is a violation of probation or community control; and

WHEREAS, amendments to Section 938.27, Florida Statutes, that are effective on July 1, 2008, mandate that the sentencing court order cost of prosecution without regard to the defendant's present ability to pay; and

WHEREAS, Section 938.27, Florida Statutes, requires the court to order the defendant to pay the costs of prosecution within a specific period or in specified installments; and

WHEREAS, Section 938.27, Florida Statutes, requires a defendant placed on probation or community control, be ordered to make payment of costs of prosecution a condition of such probation or community control; and

WHEREAS, Section 938.27, Florida Statutes, requires the clerk of court to collect and disburse costs of prosecution in any case; and

WHEREAS, there is a need for direction to the Clerk of Court to properly implement the requirements of Section 938.27, Florida Statutes: IT IS ORDERED:

1. Effective July 1, 2008, the Clerk of the Court shall include on each criminal judgment costs for the state attorney in the amount of \$50.00 in misdemeanor cases and \$100.00 in felony cases, including original actions and violations of probation or community control. A claim for costs higher than \$50.00 in misdemeanor cases and \$100.00 in felony cases must be submitted by motion and scheduled for hearing before the assigned judge prior to imposition of a sentence or within 60 days after the date a sentence is imposed, if jurisdiction is specifically reserved for that purpose in the judgment and sentence. The motion shall set forth facts justifying the imposition of additional costs with particularity.
 2. Payment of these costs shall be made a condition of probation or community control in each case in which a defendant is placed on probation or community control. Payment of these costs shall be by a payment schedule established by the probation or community control officer. Full payment of the costs shall be made within five years or within the term of probation or community control, whichever is less.
 3. Payment of these costs shall be made within five years of the defendant's release from custody if a term of imprisonment is imposed without probation or community control.
 4. Payment of these costs shall be within 90 days if imprisonment, probation, or community control is not ordered as a sanction unless the sentencing judge alters the time.
- DONE AND ORDERED this 3rd day of July, 2008.

CLAYTON D. SIMMONS
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CHIEF JUDGE

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