

ORDINANCE NO. 13-12

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MARION COUNTY, FLORIDA, PROVIDING FOR THE ESTABLISHMENT OF A MARION COUNTY ALCOHOL AND OTHER DRUG ABUSE TRUST FUND; PROVIDING FOR TRANSFER OF FUNDS; PROVIDING FOR MANDATORY COSTS PURSUANT TO SECTION 938.13, FLORIDA STATUTES; PROVIDING FOR DISCRETIONARY COSTS AND ASSESSMENTS PURSUANT TO SECTIONS 938.21 AND 938.22, FLORIDA STATUTES; PROVIDING FOR ALLOCATION OF FUNDS AND SELECTION OF RECIPIENT PROGRAMS; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE INCLUSION IN THE MARION COUNTY CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Marion County Ordinance 92-46 provided for the imposition and collection of an additional cost in misdemeanor cases involving the unlawful use of drugs or alcohol, the allocation of those costs and for the selection of recipient drug and alcohol treatment programs; and

WHEREAS, since Ordinance 92-46 was enacted, the enabling Florida Statutes have been either renumbered, amended or repealed; and

WHEREAS, pursuant to Ordinance 92-46 there was established a "Drug Abuse Treatment Fund"; and

WHEREAS, Marion County Ordinance 92-47, provided for the establishment of a "Drug Abuse Trust Fund" pursuant to Section 893.165, Florida Statutes; and

WHEREAS, since Ordinance 92-47 was enacted, the authorizing Section of the Florida Statute has been amended and additional statutes have been enacted authorizing the collection of assessments for deposit into a county "Alcohol and Other Drug Abuse Trust Fund"; and

WHEREAS, pursuant to current Florida Statutes, the Board of County Commissioners of Marion County, Florida wishes to combine these two separate funds and establish, as authorized by Florida Statutes, an "Alcohol and Other Drug Abuse Trust Fund" and to provide for the allocation of funds and selection of recipient programs; and

WHEREAS, Section 938.13, Florida Statutes, provides that when any person 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 – \$14 of which shall be deposited into the

County Alcohol and Other Drug Abuse Trust Fund for allocation to local substance abuse programs under Section 893.165, Florida Statutes, and the remaining \$1 of which shall be retained by the Clerk of the Circuit Court as a service charge; and

WHEREAS, Section 938.21, Florida Statutes, authorizes the courts to assess, for alcohol and other drug abuse programs, a court cost up to the amount of the fine authorized for the offense, to any defendant who pleads guilty or nolo contendere to, or is convicted of any criminal violation under Chapters 893, 562, 567 or 568, Florida Statutes, and/or Sections 316.193, 856.011 or 856.015, Florida Statutes; and

WHEREAS, Sections 938.21 and 938.23, Florida Statutes, authorize courts to order an additional assessment, in addition to any fine imposed by law for any criminal violation of Chapter 893, 562, 567 or 568, Florida Statutes, and/or Section 316.193, 855.011 or 865.015, Florida Statutes, in an amount up to the amount of the fine authorized for the offense, if the court 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.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Marion County, Florida, that:

SECTION 1. Findings. The Board of County Commissioners of Marion County, Florida ("Board"), hereby finds and determines that there is established or in existence within Marion County one or more comprehensive alcohol and other drug abuse treatment or education programs which meet the standards for qualification of such programs by the Florida Department of Children and Family Services.

SECTION 2. Establishment of Marion County Alcohol and Other Drug Abuse Trust Fund.

- (a) Pursuant to the authority granted under Sections 893.13, 938.13, 938.21 and 938.23, Florida Statutes, there is hereby established the Marion County Alcohol and Other Drug Abuse Trust Fund ("Trust Fund"), into which shall be deposited all monies remitted to Marion County pursuant to Sections 893.165, 938.13, 938.21 and 938.23, Florida Statutes. These monies shall be used only for the support of alcohol and other drug abuse treatment and educational programs based in Marion County, Florida, which meet the standards of qualifications for such programs of the Florida Department and Family Services. All such assessments shall be collected by the Clerk of the Circuit Court ("Clerk") for deposit into the Trust Fund, with the exception of the \$1 service charge for the Clerk referenced in Section 938.13, Florida Statutes. Monies in such Trust Fund will be held, distributed and accounted for in the manner set forth in Section 893.165, Florida Statutes, and other appropriate Florida law. All monies on deposit in the Trust Fund at the end of any fiscal year shall be entirely carried forward into the Trust Fund for the ensuing fiscal year.

- (b) The Board shall be responsible for the establishment, implementation, administration, supervision, and evaluation of the Trust Fund.
- (c) Once each month, the Board shall require a full report from the Clerk as to the amount of costs and assessments imposed by the courts, the amount of funds collected and deposited into the Trust Fund, and the amount of expenditures from the Trust Fund.

SECTION 3. Transfer of Funds. All monies currently deposited and held in the Drug Abuse Treatment Fund and the Drug Abuse Trust Fund shall be deposited into the Trust Fund.

SECTION 4. Mandatory Costs. Pursuant to Section 938.13, Florida Statutes when any person 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 the law, in the sum of \$15. The Clerk shall collect the \$15 and forward \$14 to the Board to be deposited to the credit of the Trust Fund for allocation to local substance abuse programs under Section 893.165, Florida Statutes. The Clerk shall retain the remaining \$1 of each \$15 collected as a service charge of the Clerk's office.

SECTION 5. Discretionary Costs and Assessments.

- (a) Pursuant to Section 938.21, Florida Statutes, when any defendant who pleads guilty or nolo contendere to, or is convicted of any criminal violation under Chapter 893, 562, 567 or 568, Florida Statutes and/or Sections 316.193, 856.011 or 856.015, Florida Statutes, in addition to any fine and other penalty provided by law, there shall be imposed a court cost, for alcohol and other drug abuse programs, in the amount of \$15 or, in the judge's discretion, a greater amount not to exceed the fine authorized for the violation. Such costs shall be imposed in each case unless waived by the judge. The Clerk shall collect the court cost, unless waived, and forward it to the Board to be deposited to the credit of the Trust Fund for allocation to local substance abuse programs.
- (b) Pursuant to Section 938.23, Florida Statutes, in addition to any fine imposed by law for any criminal offense under Chapter 893 or for any criminal violation of Sections 316.193, 856.011, 856.015 or Chapters 562, 567, or 568, Florida Statutes, the court shall be authorized to impose an additional assessment in an amount up to the amount of the fine authorized for the offense, if the court 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. Any additional assessments shall be collected by the Clerk and forwarded to the Board to be deposited to the credit of the Trust Fund for the purpose of providing assistance grants to drug abuse treatment or alcohol treatment or education programs as provided in Section 893.165, Florida Statutes.

SECTION 6. Allocation of Funds and Selection of Recipient Programs.

- (a) Monies deposited into the Trust Fund shall be used to financially assist alcohol and other drug treatment or education programs based in Marion County which meet the standards for qualification of such programs by the Florida Department of Children and Family Services.
- (b) Each year during the month of February the County Administrator will post a notice on the county website and issue a media release for Marion County based alcohol and other drug abuse treatment or education programs to submit proposals to receive assistance grants from the Trust Fund. The notice and media release will detail where proposals from such programs shall be submitted and the time period that proposals will be received for review by the County Administrator, including an established deadline for proposals.
- (c) The criteria for selection of programs to receive assistance grants from the Trust Fund includes, but is not limited to the following:
 - (1) Length of time the program has been in existence.
 - (2) Success of the Program.
 - (3) Number of citizens served annually by the program.
- (d) The County Administrator shall each year make recommendations to the Board for approval those Marion County based alcohol and drug abuse treatment or educational programs to receive grants from the Trust Fund.
- (e) The time period for programs to receive grant assistance from the Trust Fund is the county fiscal year, beginning on October 1 and ending on September 30.

SECTION 7. Repeal of ordinances. Generally, all ordinances, or parts of ordinances, in conflict with this ordinance are, to the extent of such conflict, hereby repealed. Specifically, Marion County Ordinances 92-46 and 92-47 are hereby repealed.

SECTION 8. Severability. It is declared to be the intent of the Board that if any section, subsection, clause, phrase, or provision of this ordinance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of the ordinance.

SECTION 9. Inclusion in the Marion County Code of Ordinances. It is the intention of the Board of County Commissioners of Marion County, Florida, and it is hereby provided that the provisions of this ordinance shall become and be made a part of the Code of Marion County, Florida; that the word "ordinance" may be changed to "section", "article", or other appropriate designation.

SECTION 10. Effective Date. A certified copy of this Ordinance shall be filed with the Department of State by the Clerk within ten (10) days after enactment by the Board, and shall take effect upon receipt of official acknowledgment of filing as a provided in Section 125.66(2), Florida Statutes.

DULY ADOPTED this 21 day of May, 2013.

BOARD OF COUNTY COMMISSIONERS
MARION COUNTY, FLORIDA


KATHY BRYANT, CHAIRMAN

ATTEST:


DAVID R. ELLSPERMANN, CLERK

RECEIVED NOTICE FROM
SECRETARY OF STATE ON JUNE 7,
2013 THAT ORDINANCE WAS FILED
ON MAY 28, 2013.