

By Senator Silver

38-546-98

See HB

1 A bill to be entitled
2 An act relating to collection of court costs
3 and fines; creating s. 938.30, F.S.; providing
4 for supplementary proceedings for enforcement
5 of court-ordered payment of financial
6 obligations in criminal cases; providing for
7 examination under oath regarding a person's
8 ability to pay financial obligations in a
9 criminal case; providing for service or actual
10 notice of orders to appear; providing for
11 taking of testimony; providing for orders that
12 nonexempt property in the hands of another be
13 applied toward satisfying an obligation;
14 providing for a judgment of civil lien;
15 providing for applicability of the Uniform
16 Fraudulent Transfer Act in certain collection
17 matters; providing for payment schedules;
18 providing for civil contempt sanctions for
19 failure to appear or comply with certain
20 orders; providing for specified enforcement
21 costs and fees to be assessed; providing for
22 attorney's fees; providing for the use of
23 special masters; providing for construction;
24 permitting use of the new provisions in
25 addition to or in lieu of other provisions of
26 law; providing for certain court orders;
27 providing an effective date.

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29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Section 938.30, Florida Statutes, is
2 created to read:

3 938.30 Court-imposed financial obligations in criminal
4 cases; supplementary proceedings.--

5 (1) Any person who has been ordered to pay any
6 financial obligation in any criminal case is subject to the
7 provisions of this section.

8 (2) The court may require a person ordered to pay an
9 obligation to appear and be examined under oath concerning the
10 person's financial ability to pay the obligation. Any person
11 failing to attend a hearing may be arrested on warrant or
12 capias which may be issued by the clerk upon order of the
13 court.

14 (3) The order requiring the person's appearance shall
15 be served a reasonable time before the date of the examination
16 in the manner provided for service of summons, as provided for
17 service of papers under rules of civil procedure, or by actual
18 notice.

19 (4) Testimony may be taken regarding any subject
20 relevant to the financial interests of the person tending to
21 aid in satisfying the obligation. Other witnesses who may have
22 information relevant to the issue of the person's ability or
23 lack of ability to pay the obligation may be examined.
24 Documents and other exhibits may also be produced as evidence.

25 (5) The court may order that any nonexempt property of
26 the person which is in the hands of another be applied toward
27 satisfying the obligation.

28 (6) If judgment has not been previously entered on any
29 court-imposed financial obligation, the court may enter
30 judgment thereon and issue any writ necessary to enforce the
31 judgment in the manner allowed in civil cases. Any judgment

1 issued under this section constitutes a civil lien against the
2 judgment debtor's presently owned or after-acquired property.
3 Supplementary proceedings to satisfy a judgment imposed
4 pursuant to this section undertaken by any governmental entity
5 may proceed without bond.

6 (7) Provisions of the Uniform Fraudulent Transfer Act
7 apply to collection matters under this section and may be used
8 to collect any court-imposed financial obligation subject to
9 this section.

10 (8) In lieu of examining the person, or in addition
11 thereto, the court may order the person to comply with a
12 payment schedule to satisfy the obligation.

13 (9) Any person failing to appear or willfully failing
14 to comply with an order under this section, including an order
15 to comply with a payment schedule, may be held in civil
16 contempt.

17 (10) Costs incurred in enforcing compliance under this
18 section may be taxed against the person. Such costs may
19 include postage, copying, docketing fees, service fees, and
20 court reporter's fees. Reasonable attorney's fees may be
21 assessed at the court's discretion.

22 (11) The court may refer any proceeding under this
23 section to a special master who shall report findings and make
24 recommendations to the court.

25 (12) The provisions of this section may be used in
26 addition to, or in lieu of, other provisions of law for
27 enforcing payment of court-imposed financial obligations in
28 criminal cases. The court may enter any orders necessary to
29 carry out the purposes of this section.

30 Section 2. This act shall take effect upon becoming a
31 law.

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HOUSE SUMMARY

Provides for supplementary proceedings for enforcement of court-ordered payment of financial obligations in criminal cases. Provides for examination under oath regarding a person's ability to pay the financial obligation. Provides for service or actual notice of orders to appear. Provides for taking of testimony. Provides for orders that nonexempt property in the hands of another be applied to satisfy an obligation. Provides for a judgment of civil lien. Provides for applicability of the Uniform Fraudulent Transfer Act in collection matters. Provides for payment schedules. Provides for civil contempt sanctions for failure to appear or comply with certain orders. Provides for specified enforcement costs and fees to be assessed. Provides for attorney's fees. Provides for the use of special masters. Provides for construction. Permits use of the new provisions in addition to or in lieu of other provisions of law.