

By Representative Fasano

1 A bill to be entitled
 2 An act relating to liens in favor of the state
 3 upon things of value payable or accruing to
 4 alleged offenders; amending s. 944.512, F.S.,
 5 relating to the lien in favor of the state upon
 6 proceeds which are payable or accrue to, or on
 7 behalf of, a convicted person from a literary
 8 or other account of the person's crime;
 9 creating a lien upon royalties, commissions,
 10 proceeds of sale, or other things of value
 11 payable or accruing to, or on behalf of, a
 12 person charged with a felony but not yet
 13 convicted of the felony; providing for
 14 discharge of the lien when conviction does not
 15 result; providing for automatic attachment of
 16 the lien at the time of filing of formal
 17 charges; requiring the state attorney to obtain
 18 an order to perfect the lien; authorizing
 19 certain other legal action by the state
 20 attorney for the circuit of the court having
 21 jurisdiction over the person charged with the
 22 felony or by a member of the victim's family;
 23 providing conforming language; providing an
 24 effective date.

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 26 Be It Enacted by the Legislature of the State of Florida:

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 28 Section 1. Section 944.512, Florida Statutes, is
 29 amended to read:

30 944.512 State lien on proceeds from literary or other
 31 type of account of crime for which convicted.--

1 (1) A lien prior in dignity to all others shall exist
2 in favor of the state upon royalties, commissions, proceeds of
3 sale, or any other thing of value payable to or accruing to a
4 person who is charged or who has been convicted of a felony
5 ~~felon~~ or a person on her or his behalf, including any person
6 to whom the proceeds may be transferred or assigned by gift or
7 otherwise, from any literary, cinematic, or other account of
8 the crime for which she or he is charged or was convicted. A
9 conviction shall be defined as a guilty verdict by a jury or
10 judge, or a guilty or nolo contendere plea by the defendant,
11 regardless of adjudication of guilt. The lien shall attach
12 automatically at the time of the filing of formal charges
13 ~~conviction~~ in county or circuit court or, if the person was
14 convicted of the felony on or before the effective date of
15 this act, at the time of the conviction in county or circuit
16 court. In the event of an appeal, the funds will be held in
17 the Revolving Escrow Trust Fund of the Department of Legal
18 Affairs until the appeal is resolved. If the charge does not
19 result in a conviction, the lien shall be automatically
20 discharged when the court of last resort terminates its
21 jurisdiction in the cause, and all the moneys held shall be
22 given to the person charged, or person acting on behalf of her
23 or him.

24 (2) The proceeds of such account shall be distributed
25 in the following order:

26 (a) Twenty-five percent to the dependents of the
27 convicted felon. If there are no dependents, this portion
28 shall be distributed to the Crimes Compensation Trust Fund to
29 be distributed as awards for crime victims.

30 (b) Twenty-five percent to the victim or victims of
31 the crime or to their dependents, to the extent of their

1 damages as determined by the court in the lien enforcement
2 proceedings. If there are no victims or dependents, or if
3 their damages are less than 25 percent of the proceeds, this
4 portion, or its remainder, shall be distributed to the Crimes
5 Compensation Trust Fund to be distributed as awards to crime
6 victims.

7 (c) After payments have been made pursuant to
8 paragraph (a) or paragraph (b), an amount equal to pay all
9 court costs in the prosecution of the convicted felon, which
10 shall include, but not be limited to, jury fees and expenses,
11 court reporter fees, and reasonable per diem for the
12 prosecuting attorneys for the state, shall go to the General
13 Revenue Fund. Additional costs shall be assessed for the
14 computed per capita cost of imprisonment or supervision by the
15 state or county correctional system. Such costs shall be
16 determined by the Auditor General.

17 (d) The rest, residue, and remainder to the Crimes
18 Compensation Trust Fund to be distributed as awards to crime
19 victims.

20 (3) A judge may place a lien prior in dignity to all
21 others in favor of the state or county upon any financial
22 settlement payable to or accruing to a convicted offender or
23 person on her or his behalf, as a result of injury incurred
24 during or at the time of a violation of the state law, or as a
25 result of an attempt to flee apprehension for the offense for
26 which the offender was convicted. A conviction is defined as
27 in subsection (1). The lien shall be attached by order of the
28 judge at the time of the conviction in county or circuit
29 court. In the event of an appeal, the funds shall be held in
30 the Revolving Escrow Trust Fund of the Department of Legal
31 Affairs until the appeal is resolved.

1 (4) The proceeds of such account shall be distributed
2 in the following order:

3 (a) Payment of all medical care, treatment,
4 hospitalization, and transportation resulting from said
5 injury.

6 (b) Payment to the victim or victims of the crime or
7 to their dependents, to the extent of their damages as
8 determined by the court in the lien enforcement proceeding.

9 (c) Payment of all court costs in the prosecution of
10 the convicted felon, which shall include, but not be limited
11 to, jury fees and expense, court reporter fees, and reasonable
12 per diem for the prosecuting attorneys and public defenders.

13 (d) Payment of cost of incarceration in state or
14 county facilities.

15 (e) The rest, residue, remainder to the injured party.

16 (5)(a) Except with respect to a person who is charged
17 with a felony but not yet convicted of the felony,the
18 department is hereby authorized and directed to report to the
19 Department of Legal Affairs the existence or reasonably
20 expected existence of circumstances which would be covered by
21 this section. Upon such notification, the Department of Legal
22 Affairs is authorized and directed to take such legal action
23 as is necessary to perfect and enforce any ~~the~~ lien created by
24 this section at the time of conviction.

25 (b) With respect to a person who is charged with a
26 felony but not yet convicted of the felony, after the lien
27 described in subsection (1) attaches at the time of filing of
28 formal charges, the state attorney in the circuit of the court
29 having jurisdiction over the person charged with the felony
30 shall promptly obtain a court order perfecting the lien.
31 Other legal action with respect to enforcement of the lien may

1 be taken by the state attorney or by any member of the
2 victim's family.

3 Section 2. For the purpose of incorporating the
4 amendment to section 944.512, Florida Statutes, in a reference
5 thereto, subsection (2) of section 960.295, Florida Statutes,
6 is reenacted to read:

7 960.295 Civil restitution lien supplemental to other
8 forms of restitution available to lienholder.--

9 (2) APPLICABILITY OF OTHER CIVIL REMEDIES; ESTOPPEL AS
10 A LIMITATION UPON ENFORCEMENT.--A civil restitution lien order
11 entered under this civil restitution lien act does not bar any
12 subsequent civil remedy or recovery, but the amount of such
13 restitution must be set off against any subsequent independent
14 civil recovery. Notwithstanding this civil restitution lien
15 act, the crime victim, the state and its local subdivisions,
16 or other aggrieved parties are not precluded from collecting
17 costs on conviction ordered under chapter 939, relating to
18 court costs; moneys awarded under this chapter, relating to
19 victim assistance; moneys awarded by a restitution order under
20 s. 775.089, relating to restitution; proceeds resulting from
21 forfeitures ordered under chapter 895, relating to
22 racketeering offenses and illegal debts; moneys distributed
23 pursuant to a lien placed on the offender's property under s.
24 944.512, relating to the state lien on literary and other
25 accounts of crimes; or inmate reimbursements under chapter
26 946, relating to correctional work programs, except that no
27 duplicate recovery may be made in favor of crime victims, the
28 state and its local subdivisions, and other aggrieved parties.

29 Section 3. This act shall take effect July 1 of the
30 year in which enacted and shall apply to offenses for which
31 formal charges are filed on or after that date.

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HOUSE SUMMARY

Creates a lien upon royalties, commissions, proceeds of sale, or other things of value payable or accruing to, or on behalf of, a person charged with a felony. Provides for discharge of the lien when conviction does not result. Provides for automatic attachment of the lien at the time of filing of formal charges. Requires the state attorney to obtain an order to perfect the lien. Authorizes certain other legal action by the state attorney for the circuit of the court having jurisdiction over the person charged with the felony or by a member of the victim's family. Provides conforming language.