

By Senator Crist

20-561-98

See HB 1381

1 A bill to be entitled

2 An act relating to court enforcement; creating

3 the "Comprehensive Court Enforcement Program

4 Act"; providing for legislative findings and

5 intent; providing for judicial oversight and

6 jurisdiction; providing for the creation of the

7 program by the Supreme Court; providing for

8 staffing; providing for the collection of

9 funds; providing for a notice to appear and a

10 procedure; providing for the screening of cases

11 for inclusion in the program; providing for

12 hearings; providing for negotiated settlements;

13 providing for alternatives to full payment;

14 providing fees; providing a definition;

15 providing alternatives to court-ordered

16 financial obligations; providing penalties;

17 providing for physical facilities and security;

18 providing for the transfer of certain community

19 service matters to the program for compliance

20 sanctions; providing for hearing costs;

21 providing for the deduction of money collected

22 in the Comprehensive Court Enforcement Program

23 by the clerk of the court; providing for the

24 disbursement of collected funds; providing for

25 the effective date of implementation of the

26 program; providing an effective date.

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

29

30 Section 1. Short title.--This act may be cited as the

31 "Comprehensive Court Enforcement Program Act."

1 Section 2. Legislative findings; intent.--The
2 judiciary routinely enters judgments and court orders setting
3 forth costs, fines, and restitution against litigants pursuant
4 to statutory law. While the enforcement of court orders is
5 crucial to ensure respect for the rule of law and credibility
6 of the court process, most courts are not organized to
7 seriously pursue moneys owed or the people who owe it.
8 Uncollected moneys are more than the hundreds of millions of
9 dollars in revenue loss; they represent a court order ignored,
10 an unobeyed sentence, and the punished going unpunished
11 without paying the consequences. Presently, the state lacks a
12 civil proceeding administered through the courts to pursue
13 nonpayers aggressively and hold them accountable for their
14 actions. To ensure that noncompliers totally fulfill their
15 obligations under all sentences imposed, the Comprehensive
16 Court Enforcement Program Act is designed to satisfy the need
17 for enforcement of court orders through aggressive followup,
18 to set reasonable parameters for compliance, to collect
19 offenders' debts, to save taxpayers' money, and to increase
20 respect for the law.

21 Section 3. Judicial oversight and jurisdiction.--The
22 Supreme Court and the Chief Justice shall establish a
23 statewide Comprehensive Court Enforcement Program within the
24 present structure of the judicial circuits which will provide
25 for the enforcement of court orders and oversee collection of
26 court-ordered costs, fines, and restitution. In each circuit,
27 the chief judge shall designate a judge or senior judge or
28 magistrate to preside over the Comprehensive Court Enforcement
29 Program. Such judge shall have jurisdiction over cases
30 originating in his or her respective circuit in matters in
31 which there is deficient compliance with payment of

1 court-ordered financial obligations, and such jurisdiction may
2 be extended to deficient compliance with community service
3 orders.

4 Section 4. Comprehensive Court Enforcement Program
5 staffing; funds collected.--The Comprehensive Court
6 Enforcement Program shall include the following staffing
7 requirements:

8 (1) A judge or magistrate appointed by the chief judge
9 of the circuit may take testimony and make findings of fact
10 and shall rule on a payment or compliance plan of action.

11 (2)(a) The clerk of the circuit court shall provide
12 one person for all hearings and that person shall be present
13 to assist in coordinating the proceedings, collect moneys,
14 issue receipts in the hearing room, and enter reports on the
15 outcome of hearings.

16 (b) The clerk of the circuit court shall deposit
17 moneys collected pursuant to this act in a separate account to
18 be used only for the Comprehensive Court Enforcement Program.

19 (3) A court reporter or recorder shall be employed for
20 hearing recordation.

21 (4) A bailiff shall be employed to maintain the same
22 level of security and order as in other proceedings.

23 Section 5. Notice to appear; procedure.--

24 (1) Those persons delinquent in paying financial
25 obligations ordered by the court shall receive notice of their
26 delinquency and be given an opportunity to comply before being
27 ordered to appear in the Comprehensive Court Enforcement
28 Program. The initial notice shall consist of a letter
29 informing the individual of the delinquency in payment as
30 ordered by the court. Compliance within 2 weeks shall be
31 demande.

1 (2) If compliance is not forthcoming and no settlement
2 effort is initiated, a summons shall be issued for order to
3 show cause why court-ordered financial obligations should not
4 be enforced. If the person fails to appear, a bench warrant
5 shall be issued. In the event of a failure to respond to the
6 order to show cause, the case shall be processed for a summary
7 collection hearing before the Comprehensive Court Enforcement
8 Program judge. If the debtor satisfies his or her obligation,
9 the bench warrant shall be vacated prior to execution. If a
10 bench warrant is issued, it shall contain a purge amount equal
11 to the arrearage or the total assessment, the exact amount to
12 be set by the judge or magistrate. Upon payment of that
13 amount, the warrant shall be set aside and the individual
14 released from custody.

15 Section 6. Screening of cases for inclusion in
16 program.--

17 (1) Any case:

18 (a) Which is at least 60 days in arrears of the
19 court-ordered payment schedule; or

20 (b) In which a period of at least 60 days has elapsed
21 since the final obligation was ordered due

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23 is subject to a hearing in the Comprehensive Court Enforcement
24 Program.

25 (2) Prioritization and selection of cases for
26 scheduling may be based on any reasonable set of criteria set
27 by the chief judge of the circuit, provided that financial
28 obligation is always to be prioritized before community
29 service.

30 Section 7. Hearings.--Comprehensive Court Enforcement
31 Program hearings shall be conducted as civil proceedings, and

1 shall be based on the alternative dispute resolution model to
2 effectuate an agreement between the defendant and the court as
3 to how payment of the monetary debt shall be accomplished and
4 satisfied.

5 Section 8. Negotiated settlements.--Those individuals
6 ordered to show cause shall have the opportunity to correct
7 deficiencies in compliance with financial obligations. Only a
8 Comprehensive Court Enforcement Program judge or chief judge
9 may reduce a court-ordered financial obligation. If a
10 defendant enters into a settlement agreement, further
11 execution of a recorded judgment is stayed, provided the
12 defendant begins and continues to meet the terms of the
13 agreement.

14 Section 9. Alternative to full payment.--The court
15 administrator's office in each circuit shall use the current
16 enforced community service program as an alternative to full
17 debt obligation payment, if the Comprehensive Court
18 Enforcement Program judge or magistrate finds that a debt
19 cannot be fully resolved.

20 (1) As used in this section, the term "enforced
21 community service" means a work program established and
22 currently being used by the court system which directly
23 supervises offenders providing physical labor.

24 (2) An enrollment fee of \$10 shall be paid by each
25 person who is sentenced to the enforced community service
26 program.

27 (3) Enforced community service fees shall be deposited
28 with the clerk of the court.

29 (4) Persons enrolled in the enforced community service
30 program must work a minimum of 5 hours at a time. Debt
31 balance shall be reduced by \$5 for each full hour of labor.

1 Section 10. Alternatives to payment of court-ordered
2 financial obligations.--If the Comprehensive Court Enforcement
3 Program judge appointed pursuant to section 4 determines that
4 the payor is financially unable to comply with the financial
5 obligation initially imposed by the sentencing court, the
6 judge or magistrate may:

7 (1) Create a scheduled payment plan, in the
8 enforcement court, designed to achieve compliance by setting a
9 rate that is reasonable.

10 (2) Impose enforced community service hours at \$5 per
11 hour in lieu of paying the court-ordered financial obligation,
12 until the balance is satisfied.

13 (3) In an extreme circumstance, with the approval of
14 the chief judge, relieve the person of the obligation to pay
15 except for victim restitution and crime victim compensation
16 costs.

17 Section 11. Penalties for willful failure to appear,
18 pay court-ordered financial obligations, comply with
19 court-ordered community service.--

20 (1) Failure to respond to a Comprehensive Court
21 Enforcement Program summons shall result in the issuance of a
22 warrant and may result in incarceration.

23 (2) Failure to pay financial obligations in the time
24 schedule established by the program shall result in a contempt
25 charge entered against the defendant and may result in
26 incarceration or other sanctions.

27 (3) Failure to comply with court-ordered community
28 service assigned by a program judge or magistrate shall result
29 in a contempt charge and may result in incarceration or other
30 sanctions.

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1 (4) Any debts not resolved to the judge's or
2 magistrate's satisfaction shall be entered as a lien in the
3 amount of the balance, plus a reasonable fee assessment.

4 Section 12. Physical facilities; security.--A
5 Comprehensive Court Enforcement Program hearing shall be
6 conducted in the same type of physical setting as any other
7 court proceeding, with the same level of security and other
8 amenities.

9 Section 13. Transfer of community service matters to
10 Comprehensive Court Enforcement Program for compliance
11 sanctions.--All matters involving the imposition of a sentence
12 of community service by any court in the judicial circuit
13 which have not been complied with by the offender may be
14 transferred by the sentencing court to the Comprehensive Court
15 Enforcement Program for such suitable sanctions as may be
16 appropriate, including imposition of a financial sanction,
17 enforced community service, incarceration, or a combination of
18 these sanctions or such other alternative as may be
19 appropriate.

20 Section 14. Hearing costs.--Costs for proceedings
21 shall be taxed against the defendant at the sum of \$10. This
22 fee is a required payment and shall be stated as such in the
23 notice to appear. This fee shall be collected by clerk of
24 court staff prior to the defendant's hearing.

25 Section 15. Deduction of money collected in
26 Comprehensive Court Enforcement Program.--Subject to the
27 approval of the clerk of the circuit court and the chief judge
28 of the circuit, the administrative office of the court for
29 said circuit is authorized to deduct an amount up to 25
30 percent of all moneys collected and 100 percent of all fees
31 collected from the Comprehensive Court Enforcement Program,

1 except for Crimes Compensation Trust Fund moneys pursuant to
2 s. 960.20, Florida Statutes, and victim restitution
3 assessments. These moneys shall be used to fund the
4 Comprehensive Court Enforcement Program and related costs
5 employed to collect court-ordered financial obligations. The
6 administrative office of the court in each circuit shall
7 promulgate a schedule for the deduction of collections to be
8 deposited with the clerk of the court pursuant to the
9 Comprehensive Court Enforcement Program. Of the funds
10 deposited with the clerk, no more than \$250,000 annually shall
11 be deducted and allocated to fund the Comprehensive Court
12 Enforcement Program.

13 Section 16. Disbursement of collected funds.--The
14 clerk of the circuit court shall disburse funds as provided by
15 Florida law and, if not provided by Florida law, shall
16 distribute partial payments on a pro rata basis. The hearing
17 fee of \$10 shall be distributed to the office of the clerk of
18 the circuit court to offset administrative costs.

19 Section 17. Effective date of program.--All judicial
20 circuits must have a Comprehensive Court Enforcement Program
21 operational by October 1, 1998.

22 Section 18. This act shall take effect upon becoming a
23 law.

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26 LEGISLATIVE SUMMARY

27 Creates the Comprehensive Court Enforcement Program Act
28 to satisfy the need for the enforcement of court orders
29 through aggressive followup, to set parameters for
30 compliance that are reasonable, to collect offenders'
31 debts, to save taxpayers' money, and to increase respect
for the law. Directs the Supreme Court and the Chief
Justice to establish a statewide program within the
structure of the judicial circuits. (See bill for
details.)