

By the Committee on Criminal Justice and Senator Crist

307-2087A-98

1 A bill to be entitled
2 An act relating to collection of court costs
3 and fines; creating the "Comprehensive Court
4 Enforcement Program Act"; providing legislative
5 intent; creating s. 938.30, F.S.; providing for
6 supplementary proceedings for enforcement of
7 court-ordered payment of financial obligations
8 in criminal cases; providing for examination
9 under oath regarding a person's ability to pay
10 financial obligations in a criminal case;
11 providing for reduction of the obligation based
12 on a person's ability to pay; providing for
13 service or actual notice of orders to appear;
14 providing for taking of testimony; providing
15 for orders that nonexempt property in the hands
16 of another be applied toward satisfying an
17 obligation; providing for a judgment of civil
18 lien; providing for applicability of the
19 Uniform Fraudulent Transfer Act in certain
20 collection matters; providing for payment
21 schedules; providing for civil contempt
22 sanctions for failure to appear or comply with
23 certain orders; providing for specified
24 enforcement costs and fees and attorney's fees
25 to be assessed to offset the costs of operating
26 the program; providing for the use of special
27 masters; providing that the clerk of court
28 shall make quarterly reports to the chief
29 judge; permitting county commissions to refer
30 certain court-imposed financial obligations to
31 collection agents; permitting use of the new

1 provisions in addition to or in lieu of other
2 provisions of law; providing for certain court
3 orders; providing an effective date.
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5 Be It Enacted by the Legislature of the State of Florida:
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7 Section 1. Short title.--This act may be cited as the
8 "Comprehensive Court Enforcement Program Act."

9 Section 2. Legislative intent.--Florida's judiciary
10 routinely enters judgments and court orders in criminal cases
11 setting forth court costs, fines, and fees against litigants
12 pursuant to statutory law. The enforcement of such court
13 orders is crucial to ensure respect for the rule of law and
14 credibility of the court. Uncollected fines, fees, and court
15 costs are more than lost revenue; they represent a court order
16 ignored, an unobeyed sentence, and the punished going
17 unpunished. To ensure that noncompliers fulfill their
18 financial obligations under all sentences and court orders
19 imposed, this act is designed to satisfy the need for
20 enforcement of such sentences and court orders through
21 aggressive followup in a manner most appropriate for courts
22 and their respective communities, to set reasonable parameters
23 for compliance, collect offenders' financial obligations to
24 the state, and to increase respect for the law.

25 Section 3. Judicial oversight and jurisdiction.--The
26 Comprehensive Court Enforcement Program may be implemented as
27 supplementary proceedings in any judicial circuit by the chief
28 judge of that circuit. Judges in such circuits shall have
29 jurisdiction to carry out the provisions of this act in
30 criminal cases to ensure compliance with court-imposed
31 financial obligations.

1 Section 4. 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. Courts operating under the
8 provisions of this section shall have jurisdiction over such
9 court-imposed financial obligations to ensure compliance.

10 (2) The court may require a person ordered to pay an
11 obligation to appear and be examined under oath concerning the
12 person's financial ability to pay the obligation. The court
13 may reduce a person's court-ordered financial obligation based
14 on the court's determination of the person's ability to pay
15 the obligation. Any person who fails to attend a hearing may
16 be arrested on warrant or capias, which may be issued by the
17 clerk upon order of the court.

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

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

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

1 (6) If judgment has not been previously entered on any
2 court-imposed financial obligation, the court may enter
3 judgment thereon and issue any writ necessary to enforce the
4 judgment in the manner allowed in civil cases. Any judgment
5 issued under this section constitutes a civil lien against the
6 judgment debtor's presently owned or after-acquired property
7 when recorded pursuant to s. 55.10. Supplementary proceedings
8 undertaken by any governmental entity to satisfy a judgment
9 imposed pursuant to this section may proceed without bond.

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

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

17 (9) Any person who fails to appear or willfully fails
18 to comply with an order under this section, including an order
19 to comply with a payment schedule, may be held in civil
20 contempt.

21 (10) Administrative costs incurred in enforcing
22 compliance under this section may be assessed against the
23 person. Such costs may include postage, copying, docketing
24 fees, service fees, and court reporter's fees. Reasonable
25 attorney's fees may be assessed at the court's discretion.
26 Judges may assess such administrative costs and attorney's
27 fees against the person as the court deems necessary to offset
28 such costs incurred under this section.

29 (11) The court may refer any proceeding under this
30 section to a special master, who shall report findings and
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1 make recommendations to the court. The court shall act on such
2 recommendations within a reasonable amount of time.

3 (12) A record of court-imposed financial obligations
4 collected by the clerk of court under the provisions of this
5 section shall be reported quarterly by the clerk of court to
6 the chief judge of the judicial circuit.

7 (13) Court-imposed financial obligations arising from
8 criminal cases which are past due and which have been reduced
9 to judgment by the court may be referred by the county
10 commission to a collection agent who is registered and in good
11 standing pursuant to chapter 559 or to a private attorney.
12 Such referrals must be made in accordance with established bid
13 practices.

14 (14) The provisions of this section may be used in
15 addition to, or in lieu of, other provisions of law for
16 enforcing payment of court-imposed financial obligations in
17 criminal cases. The court may enter any orders necessary to
18 carry out the purposes of this section.

19 Section 5. This act shall take effect upon becoming a
20 law.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 462
4 . Authorizes the court to require a person ordered to pay a
5 financial obligation in any criminal case to appear
6 before it and be examined under oath concerning the
7 person's financial ability to pay the obligation.
8 . Authorizes the court to reduce the obligation based on
9 its determination of the person's ability to pay.
10 . Provides that any person who fails to attend a hearing
11 may be arrested on a warrant or capias.
12 . Provides that testimony may be taken regarding any
13 subject relevant to the person's financial interests.
14 Other witnesses may be examined; documents or other
15 exhibits may be produced as evidence.
16 . Authorizes the court to order any nonexempt property of
17 the person, "which is in the hands of another" to be
18 applied toward satisfying the obligation.
19 . Provides that the Uniform Fraudulent Transfer Act applies
20 to collection matters under the newly created section and
21 may be used to collect any court-imposed financial
22 obligation under the section.
23 . Authorizes holding a person in civil contempt for failure
24 to appear or willful failure to comply with an order,
25 including an order to comply with a payment schedule.
26 . Authorizes assessment of "administrative costs" against
27 the person, including such things as docketing fees,
28 service fees, and court reporter fees. Authorizes
29 assessment of "reasonable attorney's fees."
30 . Authorizes court referral of a proceeding to a special
31 master who in turn may report findings and make
 recommendations to the court.
 Requires the clerk of court make a quarterly report of
 court-imposed financial obligations which it collects
 pursuant to the section.