

By Senator Gutman

34-936-99

See HB

1                                   A bill to be entitled  
2           An act relating to court-imposed financial  
3           obligations in criminal cases; amending s.  
4           938.30, F.S.; providing for conversion of  
5           court-ordered obligations to pay court costs  
6           into obligations to perform community service,  
7           under specified circumstances; providing for  
8           assessments against a person for reimbursements  
9           for the costs of processing bench warrants and  
10          pickup orders; providing for penalties;  
11          providing an effective date.

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

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15           Section 1. Section 938.30, Florida Statutes, 1998  
16 Supplement, is amended to read:

17           938.30 Court-imposed financial obligations in criminal  
18 cases; supplementary proceedings.--

19           (1) Any person who has been ordered to pay any  
20 financial obligation in any criminal case is subject to the  
21 provisions of this section. Courts operating under the  
22 provisions of this section shall have jurisdiction over such  
23 court-imposed financial obligations to ensure compliance.

24           (2) The court may require a person ordered to pay an  
25 obligation to appear and be examined under oath concerning the  
26 person's financial ability to pay the obligation. The court  
27 may reduce a person's court-ordered financial obligation based  
28 on the court's determination of the person's ability to pay  
29 the obligation. The judge may convert the court-ordered  
30 obligation to pay court costs to a court-ordered obligation to  
31 perform community service after examining a person under oath

1 and determining a person's inability to pay. Any person  
2 failing to attend a hearing may be arrested on warrant or  
3 capias which may be issued by the clerk upon order of the  
4 court.

5 (3) The order requiring the person's appearance shall  
6 be served a reasonable time before the date of the examination  
7 in the manner provided for service of summons, as provided for  
8 service of papers under rules of civil procedure, or by actual  
9 notice.

10 (4) Testimony may be taken regarding any subject  
11 relevant to the financial interests of the person tending to  
12 aid in satisfying the obligation. Other witnesses who may have  
13 information relevant to the issue of the person's ability or  
14 lack of ability to pay the obligation may be examined.  
15 Documents and other exhibits may also be produced as evidence.

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

19 (6) If judgment has not been previously entered on any  
20 court-imposed financial obligation, the court may enter  
21 judgment thereon and issue any writ necessary to enforce the  
22 judgment in the manner allowed in civil cases. Any judgment  
23 issued under this section constitutes a civil lien against the  
24 judgment debtor's presently owned or after-acquired property,  
25 when recorded pursuant to s. 55.10. Supplementary proceedings  
26 undertaken by any governmental entity to satisfy a judgment  
27 imposed pursuant to this section may proceed without bond.

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

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

4           (9) Any person failing to appear or willfully failing  
5 to comply with an order under this section, including an order  
6 to comply with a payment schedule, may be held in civil  
7 contempt.

8           (10) Administrative costs incurred in enforcing  
9 compliance under this section may be assessed against the  
10 person. Such costs may include postage, copying, docketing  
11 fees, service fees, ~~and~~ court reporter's fees, and  
12 reimbursements for the costs of processing bench warrants and  
13 pickup orders. Reasonable attorney's fees may be assessed at  
14 the court's discretion. Judges may assess such administrative  
15 costs and attorney's fees against the person as the court  
16 deems necessary to offset such costs incurred under this  
17 section.

18           (11) The court may refer any proceeding under this  
19 section to a special master who shall report findings and make  
20 recommendations to the court. The court shall act on such  
21 recommendations within a reasonable amount of time.

22           (12) A record of court-imposed financial obligations  
23 collected by the clerk of court under the provisions of this  
24 section shall be reported quarterly by the clerk of court to  
25 the chief judge of the judicial circuit.

26           (13) Court-imposed financial obligations arising from  
27 criminal cases which are past due, and which have been reduced  
28 to judgment by the court, may be referred by the county  
29 commission to a collection agent who is registered and in good  
30 standing pursuant to chapter 559 or a private attorney. Such  
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1 referrals must be made in accordance with established bid  
2 practices.

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

8 Section 2. This act shall take effect July 1, 1999.

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11 HOUSE SUMMARY

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13 Revises provisions relating to court-imposed financial  
14 obligations in criminal cases. Provides for conversion of  
15 court-ordered obligations to pay court costs into  
16 obligations to perform community service, under specified  
17 circumstances. Provides for assessments against a person  
18 for reimbursements for the costs of processing bench  
19 warrants and pickup orders.

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