

STORAGE NAME: h1765.sgc.doc
DATE: February 27, 2002

**HOUSE OF REPRESENTATIVES
COUNCIL FOR SMARTER GOVERNMENT
ANALYSIS**

BILL #: HB 1765 (PCB CJA 02-62)
RELATING TO: Collection of Court-Ordered Payments in Criminal Cases
SPONSOR(S): Committee on Criminal Justice Appropriations and Representative Seiler
TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) CRIMINAL JUSTICE APPROPRIATIONS YEAS 11 NAYS 0
 - (2) COUNCIL FOR SMARTER GOVERNMENT YEAS 12 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

This bill authorizes referrals by clerks of court to a registered collection agent to collect court-ordered judgments in criminal cases that are due the county. The bill would give prosecutors this same authorization in criminal cases where financial obligations are owed to the state.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

The Office of Statewide Prosecution has outstanding court-ordered payment judgments in the amount of \$2,318,315 for costs of prosecution (pursuant to 938.27, F.S.). Approximately 40 percent of this amount (\$1,025,298) has been reduced to civil judgments and is available for collection under normal, customary practices. The Office of Statewide Prosecution is acting on these judgments by corresponding with the debtors, but has no resources to handle the enforcement process.

Current law does not specifically authorize the state to hire a collection agent to collect judgments owed to the state arising from criminal prosecution. The law (s. 938.30, F.S.) does allow counties to hire a collection agent for these obligations but only by an act of the county commission.

C. EFFECT OF PROPOSED CHANGES:

This bill would allow statewide prosecutors and state attorneys to assign registered collection agents or private attorneys to collect court-ordered judgments for costs that are due to the state as part of a criminal case. The bill would authorize clerks of court to make referrals to registered collection agents or private attorneys to collect court-ordered judgments for costs that are due to the county as part of a criminal case as well.

Smarter Government Council Comments:

The bill permits recovery of attorney fees and other costs of collection from the debtor but sets a cap on such recoverable costs at 40% of the *debt*. The 40% cap does not appear to regulate the contract between the prosecutor and the collection agent, which, it is expected, would be based upon a flat rate or a percentage of an amount *recovered* rather than a percentage of the debt owed.

D. SECTION-BY-SECTION ANALYSIS:

See Section C, Effect of Proposed Changes, above.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate. See fiscal comments.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. See fiscal comments.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See fiscal comments.

D. FISCAL COMMENTS:

The bill could increase revenues to state and local governments since it will enhance their ability to collect state and local judgments. Since there is no way to predict how often these governments will avail themselves of these new provisions, or their ultimate success in collections, the fiscal impact is indeterminate.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill would not require a county or municipality to spend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill would not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill would not reduce the percentage of a state tax shared with counties and municipalities as an aggregate.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

STORAGE NAME: h1765.sgc.doc

DATE: February 27, 2002

PAGE: 4

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON CRIMINAL JUSTICE APPROPRIATIONS:

Prepared by:

Staff Director:

Gregory M. Davis

James P. DeBeaugrine

AS REVISED BY THE COUNCIL FOR SMARTER GOVERNMENT:

Prepared by:

Council Director:

Don Rubottom

Don Rubottom