

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 465 Unclaimed Court-Ordered Payments/DOC Operating Trust Fund
SPONSOR(S): Dean and Troutman
TIED BILLS: **IDEN./SIM. BILLS:** SB 1910

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|--|-----------------------|-----------------|-----------------------|
| 1) <u>Corrections (Sub)</u> | <u>6 Y, 0 N</u> | <u>Whittier</u> | <u>De La Paz</u> |
| 2) <u>Public Safety & Crime Prevention</u> | <u>17 Y, 0 N w/CS</u> | <u>Whittier</u> | <u>De La Paz</u> |
| 3) <u>Finance & Tax</u> | <u></u> | <u>Levin</u> | <u>Diez-Arguelles</u> |
| 4) <u>Public Safety Appropriations (Sub)</u> | <u></u> | <u></u> | <u></u> |
| 5) <u>Appropriations</u> | <u></u> | <u></u> | <u></u> |

SUMMARY ANALYSIS

Section 945.31, F.S., permits the Department of Corrections ("DOC") to establish bank accounts outside the State Treasury for the purpose of collecting and disbursing restitution and other court ordered payments from persons in its custody or supervision. (The DOC is authorized to collect an administrative processing fee of 4 percent of the gross amount of the payments.) Additionally, pursuant to Section 945.215 (1) (f), F.S. inmates may have balances in their individual inmate bank trust fund accounts which is earned by the inmate, or donated by others but designated for the inmate.

In order to account for these funds, the DOC maintains an automated accounting system known as Court Ordered Payment System ("COPS"). Upon release from prison, the inmate is issued a check for the remaining funds, after disbursements have been made for court or other administrative costs, and victims' restitution.

Many times the checks are not cashed and the funds remain in the account, unused and unable to earn interest. Occasionally money is donated without instructions regarding the recipient's identity and sometimes the donor cannot be found to determine the proper recipient of the donation.

HB 465 w/ CS authorizes the Department of Corrections (DOC) to deposit or transfer into the Crimes Compensation Trust Fund:

- Offender overpayments that are less than \$10 at the end of the offender's supervision;
- Offender funds that are not claimed within 1 year after supervision is terminated;
- Victim restitution payments that are not claimed within 1 year after the offender's supervision is terminated to the Operating Trust Fund to fund victim programs or the automated victim and information and notification programs;
- Interest earned on balances in the Court-Ordered Payment System (COPS) bank accounts; and
- Payments that cannot be identified and are not claimed within 1 year after they are received.

The bill also repeals Section 960.0025, F.S. According to the department, no funds have ever been transferred pursuant to this section, and no request has ever been received for such a transfer.

The bill requires the 4 percent administrative processing fee to be deposited to General Revenue.

The bill appears to have a positive, but indeterminate fiscal impact on the state. See Fiscal Comments.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0465c.ft.doc
DATE: April 8, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | 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. EFFECT OF PROPOSED CHANGES:

Section 945.31, F.S., permits the Department of Corrections ("DOC") to establish bank accounts outside the State Treasury for the purpose of collecting and disbursing restitution and other court ordered payments from persons in its custody or supervision. (The DOC is authorized to collect an administrative processing fee of 4 percent of the gross amount of the payments.) Additionally, pursuant to Section 945.215 (1) (f), F.S. inmates may have balances in their individual inmate bank trust fund accounts which is earned by the inmate, or donated by others but earmarked for the inmate.

In order to account for these funds, the DOC maintains an automated accounting system known as Court Ordered Payment System ("COPS"). Upon release from prison, the inmate is issued a check for the remaining funds, after disbursements have been made for court or other administrative costs, and victims' restitution.

The DOC estimates that approximately 3,000 checks are issues each year to offenders with a face amount less than \$10. The cost to issue each check is estimated to be \$3.71.

Many times the checks are not cashed and the funds remain in the account, unused and unable to earn interest. Occasionally money is donated without instructions regarding the recipient's identity and insufficient information concerning the donor may make it difficult to determine the proper recipient of the donation.

Currently, victim restitution checks that are not cashed are directed to the Attorney General's Crimes Compensation Trust Fund to be used for victim compensation purposes. According to the Attorney General's Office, claims made to the fund can be as small as \$1-\$10 for or as much as \$50,000 for a catastrophic claim where the person has over 35% disability.

HB 465 w/ CS authorizes the DOC to deposit or transfer into the Crimes Compensation Trust Fund:

- Offender overpayments that are less than \$10 at the end of the offender's supervision;
- Offender funds that are not claimed within 1 year after supervision is terminated;
- Victim restitution payments that are not claimed within 1 year after the offender's supervision is terminated;
- Interest earned on balances in the COPS bank accounts; and
- Payments that cannot be identified and are not claimed within 1 year after they are received.

The DOC states that the unclaimed funds will be maintained in an interest-bearing account for one year following the end of supervision to allow victims an opportunity to claim funds. Both the principal sum and the interest earned will be transferred to the Crimes Compensation Trust Fund at the end of one year.

The bill also repeals Section 960.0025, F.S.. According to the department, no funds have ever been transferred pursuant to this section, and no request has ever been received for such a transfer.

C. SECTION DIRECTORY:

Section 1: Amends s. 945.31, F.S.; authorizes the Department of Corrections to deposit or transfer into the Crimes Compensation Trust Fund certain overpayments and other payments. It also permits a service fee to be transferred to General Revenue.

Section 2: Repeals s. 960.0025, F.S.

Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: See Fiscal Comments.
2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.
2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS:

The following fiscal information was obtained from the DOC:

The DOC estimates that there is approximately \$1 million in unclaimed, nonrecurring funds that "have accumulated over the years" that would be transferred to the fund.

The fiscal impact relating to offender overpayments less than \$10.00 at end of supervision will be minimal. The department issues about 3,000 checks for under \$10.00 per year at a cost of \$3.71 per check. By not issuing these checks, the department will retain the amount that previously was

disbursed and will avoid costs associated with the per-check bank service charges, check form costs, and postage (approximately 75 cents).

Unclaimed offender funds should have a minimal fiscal impact since there are not many checks issued. The new language would allow the department to avoid filing unclaimed property reports. The interest earned on invested COPS funds was approximately \$300,000 last year.

Unidentified payments do not happen frequently, so they should have a minimal fiscal impact. In the time that COPS has been operating, most of the unidentified payments have been resolved, so that only a few from each year remain. Like unclaimed offender funds, the new language would allow the department to avoid filing unclaimed property reports.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: N/A

2. Other: N/A

B. RULE-MAKING AUTHORITY: N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill authorizes, rather than requires, the DOC to deposit or transfer funds into the Crimes Compensation Trust Fund.

The bill does not specify a time at which the transfers must occur.

As currently written, no funds are retained for the operation of COPS.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

At the March 20, 2003, Public Safety & Crime Prevention Committee meeting, a strike-everything amendment was offered which changed all occurrences of "Operating Trust Fund" to "General Revenue Fund." The strike-everything was further amended by changing "Operating Trust Fund" in the new language to "Crimes Compensation Trust Fund." The bill was passed with the amended strike-everything amendment.