

## Committee Substitute for House Bill No. 1381

An act relating to collection of court costs and fines; creating the “Comprehensive Court Enforcement Program Act”; providing legislative intent; creating s. 938.30, F.S.; providing for supplementary proceedings for enforcement of court-ordered payment of financial obligations in criminal cases; providing for examination under oath regarding a person’s ability to pay financial obligations in a criminal case; providing for reduction of the obligation based on a person’s ability to pay; providing for service or actual notice of orders to appear; providing for taking of testimony; providing for orders that nonexempt property in the hands of another be applied toward satisfying an obligation; providing for a judgment of civil lien; providing for applicability of the Uniform Fraudulent Transfer Act in certain collection matters; providing or payment schedules; providing for civil contempt sanctions for failure to appear or comply with certain orders; providing for specified enforcement costs and fees and attorney’s fees to be assessed to offset the costs of operating the program; providing for the use of special masters; providing that the clerk of court shall make quarterly reports to the chief judge; permitting county commissions to refer certain court-imposed financial obligations to collection agents; permitting use of the new provisions in addition to or in lieu of other provisions of law; providing for certain court orders; providing an effective date.

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

Section 1. Short title.—This act shall be known as the “Comprehensive Court Enforcement Program Act.”

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

Section 3. Judicial oversight and jurisdiction.—The Comprehensive Court Enforcement Program may be implemented as supplementary proceedings in any judicial circuit by the chief judge of that circuit. Judges in such circuits shall have jurisdiction to carry out the provisions of this act in

criminal cases to ensure compliance with court-imposed financial obligations.

Section 4. Section 938.30, Florida Statutes, is created to read:

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

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

(2) The court may require a person ordered to pay an obligation to appear and be examined under oath concerning the person's financial ability to pay the obligation. The court may reduce a person's court-ordered financial obligation based on the court's determination of the person's ability to pay the obligation. Any person failing to attend a hearing may be arrested on warrant or capias which may be issued by the clerk upon order of the court.

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved by the Governor May 27, 1998.

Filed in Office Secretary of State May 27, 1998.