

1977

Session Law 77-045

Florida Senate & House of Representatives

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House of Representatives, Florida Senate &, "Session Law 77-045" (1977). *Staff Analysis*. 25.
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Keith 656-6905

944,512 / 77-45/1-3

HB 286 (Langley)

HCPP FAV + A 3/10/77? 5.19/650 ^{no BF}

SCPP FAV 4/26/77 5.18/93

was HB 465 in 1976 session

~~Bobby LATmore Office Bldg. 544~~
~~385-1230~~

DATE: April 26, 1977

COMMITTEE ACTION: 1. _____

SENATE

2. _____

STAFF ANALYSIS AND ECONOMIC STATEMENT
Corrections, Probation & Parole Comm.

3. _____

(Lannon)

Amend. or CS Attached _____

Bill No. and Sponsor:

Subject:

HB 286 Rep. Langley

Lien on royalties payable
to a convicted felon

REFERENCES: Corrections, Probation and Parole

I. BILL SUMMARY:

This bill places a lien on royalties, commissions, sales receipts, or other value received by a convicted felon for his or her account of the crime for which he or she was convicted. It provides for the following distributions of the money:

- (1) 25% to the felon's dependents;
- (2) 25% to the victims or their dependents to the extent of the damages;
- (3) reimbursement to the state for court costs and cost of incarceration; and
- (4) remainder to felon upon his or her release or death.

The Department of Offender Rehabilitation has the responsibility of informing the Attorney General when the circumstances are appropriate for the lien, and the Attorney General has the responsibility of perfecting and enforcing the lien.

II. PURPOSE:

A. Present Situation

There is no current statute that provides for a lien against royalties by virtue of the recipient's being a convicted felon. There are, however, other ways in which the proposed distribution could be approximated. As the law exists now the dependents could get court ordered support to the extent of their needs, victims could get judgments for the damages suffered, and the state could get a judgment for court costs and any other debts that could be legally established. Once the defendant-felon received any money, all of the above court orders and judgments could be enforced.

B. Effect on Present Situation

This bill would eliminate the need for the individuals involved and for the state to get independent judgments. In addition, it would result in the state's receiving all the money and then distributing it.

III. ECONOMIC CONSIDERATIONS:

Significant Economic Impact YES _____ NO X

IV. COMMENTS:

The disbursement plan provides that 25% of the money would be paid to the felon's dependents. This does not take into account the number of dependents or their need.

It seems that there could be some constitutional due process and equal protection questions involved in the state's stepping in and taking all of the royalties and distributing them according to statutory authorization simply because the recipient is a convicted felon. The act of the garnishment

FSA R6 900 / 5.18 / 93

(date) (approved)

Sponsor Furnished Copy

SENATE JUDICIARY-CIVIL COMMITTEE

Staff Analysis (by Steve Kubik)

Lost Year

1976
BILL NO. & INTRODUCER:
HB 465
Representative Langley

RELATING TO:
Corrections

I. BILL SUMMARY:

This bill provides for a lien in favor of the State upon royalties due to a convicted felon from any accounts of the crime for which he is imprisoned. The lien is to have priority over all others.

Provisions are made for the distribution of the proceeds.

The Department of Offender Rehabilitation is to report to the Attorney General the existence of circumstances relating to this act and the Attorney General is to perfect and enforce the lien.

II. ANALYSIS:

This is a new provision of the law with an obvious intent. The bill makes provisions for inmates' dependents and victims to each receive 25% of the proceeds. The balance is to pay the State's costs and then the remaining royalties go to the prisoner.

III. TECHNICAL ERRORS:

None noted.

IV. STAFF COMMENTS:

None.

V. REFERENCES:

Judiciary-Civil

Action Favorable 5/24/76



FSA RG 900/S. 18 /93

FLORIDA HOUSE OF REPRESENTATIVES

DONALD L. TUCKER, Speaker / JOHN L. RYALS, Speaker Pro Tempore
COMMITTEE ON CORRECTIONS, PROBATION & PAROLE

Donald F. Hazelton
Chairman

Helen Gordon Davis
Vice Chairperson

February 21, 1977

HB 286 by Representative Langley
Royalties Paid to Offenders

PROBLEM

A prisoner may now benefit from literary, cinematic and other royalties from descriptions of crimes for which he was committed to the state correctional system. Similar provisions, however, are not available for the victim or costs of trial and imprisonment.

WHAT THE BILL DOES

This bill would require the State of Florida to place a lien against royalties or commissions due a prisoner. The lien is to have priority over all others. The funds acquired would be distributed to dependents of the inmates and the victims of the crime; with provisions to pay the state's expense of trial and imprisonment.

Section 1. Authorizes a lien by the state, with the highest priority, on royalties and commissions accruing to an inmate for descriptions of the crime which caused his imprisonment.

Section 2. Provides for percentage distribution to victim and dependent. Requires the Auditor General to determine amount of delinquent costs to the state which would be paid by lien monies, with residue to the prisoner.

Section 3. Directs the Department of Offender Rehabilitation to report to the Attorney General any knowledge relating to such circumstances covered by this act. Authorizes the Attorney General to perfect and enforce the lien upon such notification.

Section 4. Provides an effective date.

ORGANIZATIONAL IMPACT

None.

STATEMENT OF ECONOMIC IMPACT
RESEARCH DOCUMENTATION

DATE: 2/23/77

REFERENCE: 1st 2nd 3rd

COMMITTEE: House Corrections

GOAL: Determine the potential cost of monitoring the frequency and amounts of royalties accruing to prisoners due to accounts of their crimes.

Further, to estimate the generated revenue as well as determine cost of dispersement.

METHODOLOGY/APPROACH: Subjective.

DATA SOURCES: In office analysis, because there is no way to determine the frequency with which persons convicted will receive royalties or the quality of those royalties. Specific data of monetary impact is unavailable.

ANALYST FOR COMMITTEE OF REFERENCE:

Janice Lester

ANALYST FOR APPROPRIATIONS:

ECONOMIC IMPACT STATEMENT

1st Committee:	Corrections, Probation and Parole	Date EIS Prepared	<u>2/23/77</u>
		Amended	_____
2nd Committee:	_____	Date EIS Amended	_____
3rd Committee:	_____	Date EIS Amended	_____
Final Floor Action	_____	Date EIS Amended	_____

PURPOSE - *Analyze what the bill is designed to accomplish. Describe present situation and the bill's effect thereon.*

This bill would require the State of Florida to place a lien against royalties or commissions due a prisoner. The lien is to have priority over all others. The funds acquired would be distributed to dependents of the inmates and the victims of the crime; with provisions to pay the state's expense of trial and imprisonment.

IMPACT - *Consider costs and benefits, both monetary and non-monetary, for the private sector (non-governmental entities) and the public sector (government). In discussing costs and benefits, distinguish between those which are social (borne by society as a whole) and those which are private (accrue to certain individuals or groups). Identify the specific groups which will be impacted.*

A. Cost of Implementation: The cost to the state would be that of financing staff for program regulation. It would be necessary to have someone to determine what persons are receiving royalties.

B. Source of Funds/Ultimate Burden of Costs: The ultimate burden of cost would be upon the prisoner. The royalties he would ordinarily receive would first be used for restitution and reimbursement to the state. Any administrative costs of this program in excess of revenues accrued to the state from generated royalties would be borne by the general revenue fund.

C. Effect on Competition and the Employment Market: None.

D. Benefits of Implementation: In the few cases in which this would apply, restitution of the victim, support of the dependents and payment of the state costs would be the resulting benefit.