

2B:19-1

LEGISLATIVE HISTORY CHECKLIST
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"Comprehensive Enforcement Program"

NJSA: 2B:19-1

LAWS OF: 1995 **CHAPTER:** 9

BILL NO: S335

SPONSOR(S): DiFrancesco

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY:** Appropriations
SENATE: Judiciary; Budget

AMENDED DURING PASSAGE: Yes
Senate Committee Substitute (3R) enacted

DATE OF PASSAGE: **ASSEMBLY:** September 26, 1994 Re-enacted 1-10-95
SENATE: May 12, 1994 Re-enacted 12-19-95

DATE OF APPROVAL: January 12, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes 2-24-94 & 3-10-94

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: Yes

HEARINGS: No

Report referred to in statement:
974.90 New Jersey. Governor's Management Review Commission.
C929 Collection of assessments, fines and restitution.
1993b October 19, 1993, Trenton, 1993.
KBG:pp

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[THIRD REPRINT]

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 335

STATE OF NEW JERSEY

ADOPTED FEBRUARY 24, 1994

Sponsored by Senator DiFRANCESCO Assemblymen Haytaian, Solomon, DeCroce, Felice, Assemblywoman Gregory-Scocchi, Assemblyman Rocco, Assemblywoman J. Smith, Assemblyman Warsh, Assemblywoman Heck and Assemblyman Roma

1 AN ACT creating the "Comprehensive Enforcement ³[Court]
2 Program³ Fund³[,]³" ³and³ revising various parts of the
3 statutory law ³[and making an appropriation]³.

4

5 BE IT ENACTED *by the Senate and General Assembly of the*
6 *State of New Jersey:*

7 1. (New section) Sections 1 through 9 of this act shall be
8 known and may be cited as the "Comprehensive Enforcement
9 ³[Court] Program³ Fund Act."

10 2. (New section) The Legislature finds and declares that:

11 a. The Judiciary routinely enters judgments and court orders
12 setting forth assessments, surcharges, fines and restitution
13 against litigants pursuant to statutory law.

14 b. The enforcement of court orders is crucial to ensure respect
15 for the rule of law and credibility of the court process.

16 c. Despite monitoring of judgments and court orders by
17 probation divisions and other segments of the Judiciary
18 responsible for doing so, many orders are not complied with
19 because there is a lack of central coordination, funding,
20 automation, and control.

21 d. The Judiciary has successfully developed a hearing officer
22 program in child support enforcement and a pilot criminal
23 enforcement court project, which is in the process of being
24 expanded, that have demonstrated significant increases in
25 collections and compliance.

26 e. The Governor's Management Review Commission has
27 reviewed the collections process in New Jersey and made
28 recommendations supporting the establishment and funding of a
29 statewide comprehensive enforcement ³[court]³ program
30 operated by the Judiciary.

31 f. Upon passage of this act, the Supreme Court and the Chief
32 Justice will establish a Statewide comprehensive enforcement
33 ³[court] program³ within the present structure of the Superior
34 Court which will provide for the enforcement of court orders and
35 oversee collection of court-ordered fines, assessments,

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SBA committee amendments adopted March 10, 1994.

² Senate floor amendments adopted March 31, 1994.

³ Senate amendments adopted in accordance with Governor's recommendations December 15, 1994.

1 surcharges and judgments in the civil, criminal and family
2 divisions, the Tax Court and in certain municipal court matters as
3 ²[determined by the Supreme Court] provided in section 6 of this
4 act². The comprehensive enforcement ³[court] program³ will
5 utilize the child support hearing officer model and the pilot
6 project criminal enforcement court model, supported by a
7 Statewide automation system designed to increase collections,
8 compliance and accountability.

9 3. (New section) There is established as a separate fund in the
10 General Fund, to be administered by the Administrative Office of
11 the Courts, a "Comprehensive Enforcement ³[Court] Program³
12 Fund." This fund shall be the depository for the deductions from
13 collections ¹and the enforced community service fees¹ described
14 in sections 4 and ¹[6] 5¹ of this act for the purpose of operating
15 the comprehensive enforcement ³[court] program³, the computer
16 system established pursuant to P.L.1992, c.169, enforced
17 community service and any subsequent programs or
18 methodologies employed to enforce collection of court ordered
19 financial obligations.

20 4. (New section) ²a.² ³[The] Subject to the approval of the
21 Director of the Division of Budget and Accounting, the³
22 Administrative Office of the Courts is authorized to deduct an
23 amount up to 25% of all moneys collected through the
24 comprehensive enforcement ³[court] program³, except for victim
25 restitution and for Violent Crimes Compensation Board
26 assessments, for deposit in the "Comprehensive Enforcement
27 ³[Court] Program³ Fund" established pursuant to section 3 of this
28 act to fund the comprehensive enforcement ³[court] program³,
29 the CAPS computer system, enforced community service, and
30 other programs employed to collect court ordered financial
31 obligations. The Administrative Office of the Courts shall
32 promulgate a schedule for the deduction of collections to be
33 deposited in the "Comprehensive Enforcement ³[Court] Program³
34 Fund."

35 ²b. Of the funds deposited in the "Comprehensive Enforcement
36 ³[Court] Program³ Fund," no more than \$550,000.00 annually
37 shall be allocated to fund the comprehensive enforcement
38 ³[court] program³.²

39 5. (New section) a. The governing body of each county,
40 through the sheriff or such other authorized officer, may
41 establish a labor assistance program as an alternative to direct
42 incarceration to be utilized by the comprehensive enforcement
43 ³[court] program³ as a sentencing option. An enrollment fee of
44 \$15.00 shall be paid by each person who is sentenced to a labor
45 assistance program. Additionally, each person so sentenced shall
46 pay a fee of \$2.00 per day for each day originally sentenced to
47 the labor assistance program. Labor assistance program fees
48 shall be paid to the county treasurer for use by the county.

49 b. In counties that do not establish a labor assistance program,
50 the probation services division shall establish an enforced
51 community service program as an alternative to direct
52 incarceration, to be utilized by the comprehensive enforcement
53 ³[court] program³ as a sentencing option. An enrollment fee of
54 \$15.00 shall be paid by each person who is sentenced to the

1 enforced community service program. Additionally, each person
2 so sentenced shall pay a fee of \$2.00 per day for each day
3 originally sentenced to the enforced community service program.
4 Enforced community service fees shall be deposited in the
5 "Comprehensive Enforcement ³[Court] Program³ Fund."

6 c. (1) As used in this section, "labor assistance program"
7 means, a work program, established by the county under the
8 direction of the sheriff or other authorized county officer, which
9 rigorously supervises offenders providing physical labor as an
10 alternative to incarceration.

11 (2) As used in this section, "enforced community service"
12 means a work program, established and supervised by the
13 probation division, which directly and rigorously supervises
14 offenders providing physical labor as an alternative to direct
15 incarceration in those counties which have chosen not to create a
16 labor assistance program.

17 6. (New section) ²a.² All matters involving the collection of
18 monies ²[in a municipal court,]² in the Superior Court and Tax
19 Court which have not been resolved in accordance with an order
20 of the court may be transferred, pursuant to court rule, to the
21 comprehensive enforcement ³[court] program³ for such action as
22 may be appropriate.

23 ²b.(1) A municipal court may request that all matters which
24 have not been resolved in accordance with an order of that court
25 be transferred to the comprehensive enforcement ³[court]
26 program³ for such action as may be appropriate. All monies
27 collected through the comprehensive enforcement ³[court]
28 program³ which result from the enforcing of orders transferred
29 from any municipal court shall be subject to the 25% deduction
30 authorized pursuant to section 4 of this act except for monies
31 collected in connection with the enforcement of orders related to
32 parking violations.

33 (2) Nothing contained in this act shall prevent any municipal
34 court from contracting the services of a private collection
35 agency to collect any monies which have not been remitted in
36 accordance with an order of that court.²

37 7. (New section) All matters involving the imposition of a
38 sentence of community service by either the Superior Court or a
39 municipal court which have not been complied with by the
40 offender shall be transferred, by the sentencing judge to the
41 comprehensive enforcement ³[court] program³ for such suitable
42 compliance sanctions as may be appropriate, including
43 incarceration, participation in a labor assistance program,
44 enforced community service, imposition of a financial sanction,
45 or a combination of these sanctions or such other alternative as
46 may be appropriate.

47 8. (New section) a. At any time after a person has completed
48 the total sentence to a labor assistance program or enforced
49 community service program, the comprehensive enforcement
50 ³[court] hearing officer³ may determine that the payor is
51 financially unable to comply with the financial obligations
52 initially imposed by the sentencing court. The comprehensive
53 enforcement ³[court] hearing officer³ may then:

54 (1) Accept the participation in a labor assistance program or

1 enforced community service in lieu of payment of the remaining
2 court ordered financial obligations;

3 (2) Impose additional hours in a labor assistance program or
4 enforced community service in lieu of payment of the remaining
5 court ordered financial obligations;

6 (3) Impose a term of imprisonment in lieu of paying the
7 remaining court ordered financial obligations; or

8 (4) Docket the total amount due as a judgment in the Superior
9 Court.

10 b. When the comprehensive enforcement ³[court] hearing
11 officer³ has exhausted all of the steps enumerated in this section
12 and any additional hours of a labor assistance program or
13 enforced community service or any term of imprisonment have
14 been completed, the person may be terminated from probation
15 supervision and the total amount owed may be removed from
16 probation records and deducted from outstanding and
17 uncollectable amounts owed. These actions notwithstanding,
18 whenever a judgment is docketed in the Superior Court, the
19 person remains liable to pay the outstanding debt as originally
20 imposed by the sentencing court.

21 c. Notwithstanding the foregoing, the ³[court] comprehensive
22 enforcement hearing officer³ may not relieve the person of the
23 obligation to pay the VCCB assessment or restitution to a victim.

24 9. (New section) Any recommendation by a comprehensive
25 enforcement ³[court]³ hearing officer shall be in conformity with
26 court rules and shall be approved by a judge of the Superior Court
27 prior to entry.

28 10. N.J.S.2C:46-1 is amended to read as follows:

29 2C:46-1. Time and Method of Payment; Disposition of Funds.

30 a. When a defendant is sentenced to pay an assessment
31 pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a fine, a
32 penalty imposed pursuant to N.J.S.2C:35-15, a forensic
33 laboratory fee imposed pursuant to N.J.S.2C:35-20 or to make
34 restitution, the court may grant permission for the payment to be
35 made within a specified period of time or in specified
36 installments. If no such permission is embodied in the sentence,
37 the assessment, fine, penalty, fee or restitution shall be payable
38 forthwith, and the court shall file a copy of the judgment of
39 conviction with the Clerk of the Superior Court who shall enter
40 the following information upon the record of docketed judgments:

41 (1) the name of the convicted person as judgment debtor;

42 (2) the amount of the assessment imposed pursuant to section
43 2 of P.L.1979, c.396 (C.2C:43-3.1) and the Violent Crimes
44 Compensation Board as a judgment creditor in that amount;

45 (3) the amount of any restitution ordered and the name of any
46 persons entitled to receive payment as judgment creditors in the
47 amount and according to the priority set by the court;

48 (4) the amount of any fine and the governmental entity
49 entitled to receive payment pursuant to N.J.S.2C:46-4;

50 (5) the amount of the mandatory Drug Enforcement and
51 Demand Reduction penalty imposed;

52 (6) the amount of the forensic laboratory fee imposed; and

53 (7) the date of the order.

54 Where there is more than one judgment creditor the creditors

1 shall be given priority consistent with the provisions of section 13
2 of P.L.1991, c.329 (C.2C:46-4.1). These entries shall have the
3 same force as a civil judgment docketed in the Superior Court.

4 b. (1) When a defendant sentenced to pay an assessment
5 imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a
6 fine, a penalty imposed pursuant to N.J.S.2C:35-15, a forensic
7 laboratory fee imposed pursuant to N.J.S.2C:35-20 or to make
8 restitution is also sentenced to probation, the court shall make
9 continuing payment of installments on the assessment and
10 restitution a condition of probation, and may make continuing
11 payment of installments on the fine, the mandatory Drug
12 Enforcement and Demand Reduction penalty or the forensic
13 laboratory fee a condition of probation.

14 (2) When a defendant sentenced to pay an assessment imposed
15 pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a fine, a
16 penalty imposed pursuant to N.J.S.2C:35-15, a forensic
17 laboratory fee imposed pursuant to N.J.S.2C:35-20 or to make
18 restitution is also sentenced to a custodial term in a State
19 correctional facility, the court may require the defendant to pay
20 installments on the assessment, penalty, fee, fine and restitution.

21 c. The defendant shall pay an assessment imposed pursuant to
22 section 2 of P.L.1979, c.396 (C.2C:43-3.1), restitution, penalty,
23 fee or fine or any installment thereof to the officer entitled by
24 law to collect the payment. In the event of default in payment,
25 such agency shall take appropriate action for its collection.

26 d. (1) When, in connection with a sentence of probation, a
27 defendant is sentenced to pay an assessment imposed pursuant to
28 section 2 of P.L.1979, c.396 (C.2C:43-3.1), a fine, a penalty
29 imposed pursuant to N.J.S.2C:35-15, a forensic laboratory fee
30 imposed pursuant to N.J.S.2C:35-20 or to make restitution, the
31 defendant, in addition, shall be sentenced to pay a transaction fee
32 on each occasion that the defendant makes a payment or an
33 installment payment, until the defendant has paid the full amount
34 he is sentenced to pay. All other individuals making payments on
35 court ordered financial obligations through the probation division
36 shall also pay a transaction fee on each payment or installment
37 payment. The Administrative Office of the Courts shall
38 promulgate a transaction fee schedule for use in connection with
39 installment payments made pursuant to this paragraph; provided,
40 however, the transaction fee on an installment payment shall not
41 exceed [~~\$1.00~~] \$2.00.

42 (2) When, in connection with a custodial sentence in a State
43 correctional institution, a defendant is sentenced to pay an
44 assessment imposed pursuant to section 2 of P.L.1979, c.396
45 (C.2C:43-3.1), a fine, a penalty imposed pursuant to
46 N.J.S.2C:35-15, a forensic laboratory fee imposed pursuant to
47 N.J.S.2C:35-20 or to make restitution, the defendant, in addition,
48 shall be sentenced to pay a transaction fee on each occasion that
49 the defendant makes a payment or an installment payment until
50 the defendant has paid the full amount he is sentenced to pay.
51 The Department of Corrections shall promulgate a transaction
52 fee schedule for use in connection with installment payments
53 made pursuant to this paragraph; provided, however, the
54 transaction fee on an installment payment shall not exceed \$1.00.
55 (cf: P.L.1992, c.169, s.1)

1 11. N.J.S.2C:46-2 is amended to read as follows:

2 2C:46-2. Consequences of Nonpayment; Summary Collection.
3 a. When a defendant sentenced to pay an assessment imposed
4 pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), monthly
5 probation fee, fine, other court imposed financial penalties or to
6 make restitution defaults in the payment thereof or of any
7 installment, upon the motion of the person authorized by law to
8 collect the payment, the motion of the prosecutor, the motion of
9 the victim entitled to payment of restitution, the motion of the
10 Violent Crimes Compensation Board, the motion of the State or
11 county Office of Victim and Witness Advocacy or upon its own
12 motion, the court shall recall him, or issue a summons or a
13 warrant of arrest for his appearance. The court shall afford the
14 person notice and an opportunity to be heard on the issue of
15 default. Failure to make any payment when due shall be
16 considered a default. The standard of proof shall be by a
17 preponderance of the evidence, and the burden of establishing
18 good cause for a default shall be on the person who has defaulted.

19 (1) If the court finds that the person has defaulted without
20 good cause, the court shall:

21 (a) Order the suspension of the driver's license or the
22 nonresident reciprocity driving privilege of the person; and

23 (b) Prohibit the person from obtaining a driver's license or
24 exercising reciprocity driving privileges until the person has made
25 all past due payments; and

26 (c) Notify the Director of the Division of Motor Vehicles of
27 the action taken; and

28 (d) Take such other actions as may be authorized by law.

29 (2) If the court finds that the person defaulted on payment of a
30 [fine] court imposed financial obligation without good cause and
31 finds that the default was willful, the court may, in addition to
32 the action required by paragraph ¹[a.]¹ (1) of this ¹[section]
33 subsection a.¹, impose a term of imprisonment or participation in
34 a labor assistance program or enforced community service to
35 achieve the objective of the [fine] court imposed financial
36 obligation. These options shall not reduce the amount owed by the
37 person in default. The term of imprisonment or enforced
38 community service or participation in a labor assistance program
39 in such case shall be specified in the order of commitment. It
40 need not be equated with any particular dollar amount but, in the
41 case of a fine it shall not exceed one day for each \$20.00 of the
42 fine nor 40 days if the fine was imposed upon conviction of a
43 disorderly persons offense nor 25 days for a petty disorderly
44 persons offense nor one year in any other case, whichever is the
45 shorter period. In no case shall the total period of imprisonment
46 in the case of a disorderly persons offense for both the sentence
47 of imprisonment and for failure to pay a fine exceed six months.

48 (3) Except where incarceration is ordered pursuant to
49 paragraph ¹[a.]¹ (2) of this ¹[section] subsection a.¹, if the court
50 finds that the person has defaulted the court shall take
51 appropriate action to modify or establish a reasonable schedule
52 for payment, and, in the case of a fine, if the court finds that the
53 circumstances that warranted the fine have changed or that it
54 would be unjust to require payment, the court may revoke or

1 suspend the fine or the unpaid portion of the fine.

2 (4) When failure to pay an assessment imposed pursuant to
3 section 2 of P.L.1979, c.396 (C.2C:43-3.1), monthly probation fee
4 or], restitution or other financial penalties or to perform
5 enforced community service or to participate in a labor
6 assistance program is determined to be willful, the failure to do
7 so shall be considered to be contumacious.

8 (5) When a fine, assessment imposed pursuant to section 2 of
9 P.L.1979, c.396 (C.2C:43-3.1), other financial penalty or
10 restitution is imposed on a corporation, it is the duty of the
11 person or persons authorized to make disbursements from the
12 assets of the corporation or association to pay it from such assets
13 and their failure so to do may be held to be contumacious.

14 b. Upon any default in the payment of a fine, assessment
15 imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1),
16 monthly probation fee, other financial penalties, restitution, or
17 any installment thereof, execution may be levied and such other
18 measures may be taken for collection of it or the unpaid balance
19 thereof as are authorized for the collection of an unpaid civil
20 judgment entered against the defendant in an action on a debt.

21 c. Upon any default in the payment of restitution or any
22 installment thereof, the victim entitled to the payment may
23 institute summary collection proceedings authorized by
24 subsection b. of this section.

25 d. Upon any default in the payment of an assessment imposed
26 pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or any
27 installment thereof, the Violent Crimes Compensation Board or
28 the party responsible for collection may institute summary
29 collection proceedings authorized by subsection b. of this section.

30 e. When a defendant sentenced to make restitution to a public
31 entity other than the Violent Crimes Compensation Board,
32 defaults in the payment thereof or any installment, the court
33 may, in lieu of other modification of the sentence, order the
34 defendant to perform work in a labor assistance program or
35 enforced community service program.

36 f. If a defendant ordered to participate in a labor assistance
37 program or enforced community service program fails to report
38 for work or to perform the assigned work, the comprehensive
39 enforcement ³[court] hearing officer³ may revoke ³[its] the³
40 work order and impose any sentence permitted as a consequence
41 of the original conviction.

42 g. If a defendant ordered to participate in a labor assistance
43 program or an enforced community service program pays all
44 outstanding assessments, the comprehensive enforcement ³[court]
45 hearing officer³ may review ³[its] the³ work order, and modify
46 ¹the¹ same to reflect the objective of the sentence.

47 h. As used in this section ¹[;]:¹

48 (1) "Comprehensive enforcement ³[court] program³" means
49 the ³[court] program³ established pursuant to the
50 "Comprehensive ³[Court]³ Enforcement ³Program³ Fund Act,"
51 P.L. , c. (C.) (now pending before the Legislature as
52 sections 1 through 9 of this bill).

53 (2) The terms "labor assistance program" and "enforced
54 community service" have the same meaning as those terms are

1 defined in section 5 of the "Comprehensive ³[Court]³
2 Enforcement ³Program³ Fund Act," P.L. , c. (C.) (now
3 pending before the Legislature as ¹[sections 5 of]¹ this bill).

4 (3) "Public entity" means ¹[,]¹ the State, any county,
5 municipality, district, public authority, public agency and any
6 other political subdivision or public body in the State.

7 (cf: P.L.1993, c.275, s.17)

8 ³[12. There is hereby appropriated ¹from the General Fund¹
9 \$550,000.00 to the Administrative Office of the Courts for the
10 purpose of training and hiring comprehensive enforcement court
11 hearing officers.]³

12 ³[13.] 12.³ This act shall take effect immediately, except that
13 section 10 shall take effect 60 days after enactment.

14
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16
17

18 Authorizes the Supreme Court to establish an enforcement
19 program and certain community services programs.

SENATE, No. 335

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Senator DiFRANCESCO

1 **AN ACT** authorizing the Supreme Court to establish an
2 enforcement court; supplementing Title 2B of the New Jersey
3 Statutes; amending N.J.S.2C:46-2 and making an appropriation.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the
6 *State of New Jersey*:

7 1. Section 1 through 8 of this act shall be known and may cited
8 as the "Comprehensive Enforcement Act."

9 2. The Legislature finds and declares that:

10 a. Courts routinely impose fines, assessments, restitution and
11 community service on defendants in criminal cases and enter
12 judgements and issue court orders in civil matters.

13 b. The enforcement of court orders and other court-imposed
14 sanctions is crucial to ensure the rule of law and the credibility
15 of the judicial process.

16 c. As a result of a lack of central coordination, funding,
17 automation and control, outstanding financial assessments and
18 court ordered sanctions are often not complied with and are
19 poorly monitored.

20 d. The judiciary has successfully developed enforcement
21 programs which have significantly increased collections and
22 compliance in the areas of child support and criminal sanctions.

23 e. It is, therefore, altogether fitting and proper to authorize
24 the Supreme Court to establish a comprehensive enforcement
25 program in each county.

26 3. As used in this act, "enforcement court" means the Superior
27 Court, Law Division, Enforcement Part.

28 4. a. The Supreme Court is authorized to establish an
29 enforcement court in each county. The enforcement court shall
30 be empowered to provide for the enforcement of court orders and
31 to oversee collection of court-ordered fines, assessments and
32 judgments. The Supreme Court may also, by court rule, empower
33 the enforcement court to enforce and oversee orders and
34 sanctions imposed by municipal courts in that county.

35 b. The Supreme Court shall adopt rules providing for the
36 qualifications and appointments of enforcement court hearing
37 officers. Hearing officers so appointed shall be under the
38 supervision of the Administrative Office of the Courts.

39 c. The Supreme Court shall also take any other action it deems
40 necessary to make the enforcement court accessible to the public
41 as a means of achieving speedy relief.

42 5. a. There is created in the Administrative Office of the

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 Courts a non-lapsing fund entitled the "Comprehensive
2 Enforcement Fund." The fund shall be the depository for the
3 funds collected pursuant to subsection b. of this section. Monies
4 from this fund shall be used to operate enforcement courts in
5 each county and to operate the computer system established
6 pursuant to P.L.1992, c.169.

7 b. The Administrative Office of the Courts is authorized to
8 deduct 25% of all monies collected through various enforcement
9 parts except for direct victim restitution for deposit in the
10 "Comprehensive Enforcement Fund."

11 6. The governing body of each county, through the Sheriff or
12 other authorized officer, shall establish a labor assistance
13 program as an alternative to direct incarceration to be utilized
14 by the enforcement court as a sentencing option. An enrollment
15 fee of \$15.00 shall be paid by each person who is sentenced to the
16 labor assistance program. Additionally, each person so sentenced
17 shall pay a fee of \$2.00 per day for each day actually served in
18 the labor assistance program. These fees shall be made through
19 the enforcement court for the use of the county.

20 7. All municipal court matters involving the collection of
21 monies which have not been resolved to the satisfaction of the
22 municipal court judge within four months of the imposition of
23 sentence shall be transferred to the enforcement court in the
24 county for such action as may be appropriate.

25 8. All matters involving the imposition of a sentence of
26 community service by either the Superior Court or a municipal
27 court which have not been satisfactorily complied with by the
28 offender shall be transferred to the enforcement court for such
29 suitable compliance sanctions as may be appropriate, including
30 direct incarceration, placement in a labor assistance program, a
31 financial sanction, a combination of these sanctions or such other
32 alternative as may be appropriate.

33 9. N.J.S.2C:46-2 is amended to read as follows:

34 2C:46-2. Consequences of Nonpayment; Summary Collection.

35 a. When a defendant sentenced to pay an assessment imposed
36 pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), fine or
37 other financial penalty or to make restitution defaults in the
38 payment thereof or of any installment, upon the motion of the
39 person authorized by law to collect the payment, the motion of
40 the prosecutor, the motion of the victim entitled to payment of
41 restitution, the motion of the Violent Crimes Compensation
42 Board, the motion of the State or county Office of Victim and
43 Witness Advocacy or upon its own motion, the court shall recall
44 him, or issue a summons or a warrant of arrest for his
45 appearance. The court shall afford the person notice and an
46 opportunity to be heard on the issue of default. Failure to make
47 any payment when due shall be considered a default. The
48 standard of proof shall be by a preponderance of the evidence,
49 and the burden of establishing good cause for a default shall be on
50 the person who has defaulted.

51 (1) If the court finds that the person has defaulted without
52 good cause, the court shall:

53 (a) Order the suspension of the driver's license or the
54 nonresident reciprocity driving privilege of the person; and

1 (b) Prohibit the person from obtaining a driver's license or
2 exercising reciprocity driving privileges until the person has made
3 all past due payments; and

4 (c) Notify the Director of the Division of Motor Vehicles of
5 the action taken; and

6 (d) Take such other actions as may be authorized by law.

7 (2) If the court finds that the person defaulted on payment of a
8 [fine] financial obligation without good cause and finds that the
9 default was willful, the court may, in addition to the action
10 required by paragraph a. (1) of this section, impose a term of
11 imprisonment to achieve the objective of the [fine] financial
12 obligation. The term of imprisonment in such case shall be
13 specified in the order of commitment. It need not be equated
14 with any particular dollar amount but, in the case of a fine, it
15 shall not exceed one day for each \$20.00 of the fine nor 40 days if
16 the fine was imposed upon conviction of a disorderly persons
17 offense nor 25 days for a petty disorderly persons offense nor one
18 year in any other case, whichever is the shorter period. In no
19 case shall the total period of imprisonment in the case of a
20 disorderly persons offense for both the sentence of imprisonment
21 and for failure to pay a fine exceed six months.

22 (3) Except where incarceration is ordered pursuant to
23 paragraph a. (2) of this section, if the court finds that the person
24 has defaulted the court shall take appropriate action to modify or
25 establish a reasonable schedule for payment, and, in the case of a
26 fine, if the court finds that the circumstances that warranted the
27 fine have changed or that it would be unjust to require payment,
28 the court may revoke or suspend the fine or the unpaid portion of
29 the fine.

30 (4) When failure to pay an assessment imposed pursuant to
31 section 2 of P.L.1979, c.396 (C.2C:43-3.1) or restitution is
32 determined to be willful, the failure to do so shall be considered
33 to be contumacious.

34 (5) When a fine, assessment imposed pursuant to section 2 of
35 P.L.1979, c.396 (C.2C:43-3.1) or restitution is imposed on a
36 corporation, it is the duty of the person or persons authorized to
37 make disbursements from the assets of the corporation or
38 association to pay it from such assets and their failure so to do
39 may be held to be contumacious.

40 b. Upon any default in the payment of a fine, assessment
41 imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1),
42 restitution, or any installment thereof, execution may be levied
43 and such other measures may be taken for collection of it or the
44 unpaid balance thereof as are authorized for the collection of an
45 unpaid civil judgment entered against the defendant in an action
46 on a debt.

47 c. Upon any default in the payment of restitution or any
48 installment thereof, the victim entitled to the payment may
49 institute summary collection proceedings authorized by
50 subsection b. of this section.

51 d. Upon any default in the payment of an assessment imposed
52 pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or any
53 installment thereof, the Violent Crimes Compensation Board or
54 the party responsible for collection may institute summary

1 collection proceedings authorized by subsection b. of this section.

2 e. (1) When a defendant sentenced to make restitution to a
3 public entity defaults in the payment thereof or of any
4 installment, the enforcement court may, in lieu of other
5 modifications of the sentence, order the defendant to perform
6 work in a work program established or designated by the public
7 entity.

8 (2) If a defendant ordered to participate in a work program
9 pursuant to this subsection fails to report for work or to perform
10 the assigned work, the enforcement court may revoke its work
11 order and impose any sentence consistent with the original
12 sentence.

13 (3) If a defendant ordered to participate in a work program
14 pursuant to this subsection pays all outstanding assessments, the
15 enforcement court may review its work order and modify same to
16 reflect the objective of the sentence.

17 (4) As used in this subsection: "Public entity" means the
18 State, any county, municipality, district, public authority, public
19 agency or any other political subdivision or public body in the
20 State. "Enforcement court" means the Superior Court, Law
21 Division, Enforcement Part.

22 (cf P.L.1991,c.329,s.11.)

23 10. There is hereby appropriated \$650,000.00 to the
24 Administrative Office of the Courts for the purpose of training
25 and hiring enforcement part hearing officers.

26 11. This act shall take effect immediately.

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STATEMENT

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31 In order to increase the collection of judicially imposed
32 financial penalties and to improve the enforcement of court
33 orders, this bill would authorize the Supreme Court to establish a
34 special enforcement court in each county. This court would be
35 staffed by hearing officers and would be responsible for the
36 collection of fines and other monetary penalties imposed in both
37 civil and criminal cases. The enforcement court would also be
38 responsible for monitoring compliance with court orders such as
39 those requiring defendants to make restitution or perform
40 community service.

41 In order to fund enforcement activities, 25% of all monies
42 collected through the enforcement court would be deposited in a
43 special fund. Monies in this fund would pay for operation of the
44 enforcement court. In addition, the bill would appropriate
45 \$650,000.00 to the Administrative Office of the Courts. This
46 appropriation would be used to hire and train the hearing officers
47 who would initially staff the enforcement court.

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52 Authorizes the Supreme Court to establish enforcement courts;
53 appropriates \$650,000.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[SECOND REPRINT]

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 335

STATE OF NEW JERSEY

DATED: AUGUST 15, 1994

The Assembly Appropriations Committee reports favorably Senate Bill No. 335 Scs (2R).

Senate Bill No. 335 Scs (2R) authorizes the Supreme Court to establish a statewide comprehensive enforcement court to increase the collection of judicially imposed financial penalties and to improve the enforcement of court orders. This court would be staffed by hearing officers and would be responsible for the collection of fines and other monetary penalties imposed in both civil and criminal cases. The enforcement court would also be responsible for monitoring compliance with court orders such as those requiring defendants to make restitution or perform community service. To fund enforcement activities, this bill provides that 25% of all monies collected through the enforcement court, except for restitution and Violent Crimes Compensation Board assessments, would be deposited in a special fund. Monies in the special fund would pay for operation of the enforcement court. The bill also appropriates \$550,000.00 to the Administrative Office of the Courts. This appropriation would be used to hire and train the hearing officers who would initially staff the enforcement court.

In addition to the establishment of the enforcement court, the bill authorizes each county to establish a labor assistance program under the supervision of its sheriff. These programs would provide supervised physical labor as a sentencing alternative to incarceration in a county facility. These programs would also serve as a sentencing option if an offender fails to meet court imposed financial penalties. In counties which do not establish labor assistance programs, a similar program to be known as enforced community service would be supervised by the probation division.

This bill is identical to Assembly Bill No. 1495 as amended by this committee.

FISCAL IMPACT:

This bill appropriates \$550,000 from the General Fund to the Administrative Office of the Courts as start-up funds for the establishment of the comprehensive enforcement court.

According to information provided by the Administrative Office of the Courts, the creation of the comprehensive enforcement court would result in the collection of approximately \$3.9 million in additional fines and penalties for calendar year 1995. Of this amount, \$1.8 million would be retained by the State, \$1.5 would be distributed to the counties and \$610,000 would be distributed to the municipalities.

Under the bill, the court may retain 25% of the amount of fines and penalties collected, except victim restitution and assessments by the Violent Crimes Compensation Board and certain municipal motor vehicle fines. This would result in the retention of \$550,000 in calendar year 1995. The Administrative Office of the Courts states that the appropriation in this bill and 25% of the first calendar year's collections will be sufficient to establish and operate the court for the first year. It is anticipated that the collections of the court after the first year will be sufficient to fund its operations without additional appropriations from the General Fund. No more than \$550,000 may be allocated annually from the special fund to fund the comprehensive enforcement court.

The Administrative Office of the Courts reports that no estimate of the revenues which might be generated by the new fees created in section 5 of the bill can be made at this time.

SENATE JUDICIARY COMMITTEE
STATEMENT TO
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 335
STATE OF NEW JERSEY

DATED: FEBRUARY 24, 1994

The Senate Judiciary Committee reports favorably a Senate Committee Substitute for Senate Bill No. 335.

In order to increase the collection of judicially imposed financial penalties and to improve the enforcement of court orders, this bill would authorize the Supreme Court to establish a statewide comprehensive enforcement court. This court would be staffed by hearing officers and would be responsible for the collection of fines and other monetary penalties imposed in both civil and criminal cases. The enforcement court would also be responsible for monitoring compliance with court orders such as those requiring defendants to make restitution or perform community service. In order to fund enforcement activities, this bill would provide that 25% of all monies collected through the enforcement court, except for restitution and Violent Crimes Compensation Board assessments, would be deposited in a special fund. Monies in this fund would pay for operation of the enforcement court. The bill would also appropriate \$550,000.00 to the Administrative Office of the Courts. This appropriation would be used to hire and train the hearing officers who would initially staff the enforcement court.

In addition to the establishment of the enforcement court, the bill would authorize counties to establish labor assistance program under the supervision of the sheriff. These programs would provide supervised physical labor as a sentencing alternative to incarceration in a county facility. These programs would also serve as a sentencing option if an offender fails to meet court imposed financial penalties. In counties which do not establish labor assistance programs, a similar program to be known as enforced community service would be supervised by the probation division.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 335

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MARCH 10, 1994

The Senate Budget and Appropriations Committee reports favorably Senate Bill No 335 (SCS), with committee amendments.

Senate Bill No. 335 (SCS), as amended, authorizes the Supreme Court to establish a special enforcement court in each county as a means of increasing the collection of judicially imposed monetary penalties and improving the enforcement of court orders. The court is to be staffed by hearing officers who would be responsible for collecting fines and other monetary penalties imposed in both civil and criminal cases and for monitoring compliance with court orders, such as those requiring defendants to make restitution or perform community service.

In order to fund the operations of the enforcement court, 25% of all monies collected by the enforcement court, except for victim restitution and assessments by the Violent Crimes Compensation Board, are to be deposited in a special fund for the operations of the court. In addition, the bill appropriates \$550,000 from the General Fund to the Administrative Office of the Courts for the hiring and training of seven hearing officers who will constitute the initial staff of the enforcement court.

The bill also creates new fees which are to be collected from persons ordered to participate in a labor assistance program or enforced community service program, two programs authorized by section 5 of the bill.

COMMITTEE AMENDMENTS

The committee amended the bill to clarify its wording and to specify that the appropriation in the bill is to be made from the General Fund.

FISCAL IMPACT

This bill appropriates \$550,000 from the General Fund to the Administrative Office of the Courts as start-up funds for the establishment of the comprehensive enforcement court.

According to the Administrative Office of the Courts, the creation of the comprehensive enforcement court would result in the collection of approximately \$3.9 million in additional fines and penalties for calendar year 1995. Of this amount, \$1.8 million would be retained by the State, \$1.5 would be distributed to the counties and \$610,000 would be distributed to the municipalities.

Under the bill, the court may retain 25% of the amount of fines and penalties collected, except victim restitution and assessments by the Violent Crimes Compensation Board. This would result in the retention of \$550,000 in calendar year 1995. The Administrative Office of the Courts states that the appropriation in this bill and 25% of the first calendar year's collections will be sufficient to establish and operate the court for the first year. It is anticipated that the collections of the court after the first year will be sufficient to fund its operations without additional appropriations from the General Fund.

According to the Administrative Office of the Courts, an estimate of the revenues which may be generated by the new fees created in section 5 of the bill cannot be made at this time.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

November 10, 1994

**SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 335
(SECOND REPRINT)**

To the Senate:

Pursuant to Article V, Section I, Paragraph 14, of the New Jersey Constitution, I am returning Senate Committee Substitute for Senate Bill No. 335 (Second Reprint) with my recommendations for reconsideration.

A. Summary of Bill

This bill authorizes the Supreme Court to establish a comprehensive enforcement court to increase the collection of judicially imposed financial obligations and to improve the enforcement of court orders. This court would be staffed by hearing officers and would be responsible for collecting fines and other monetary penalties imposed in both civil and criminal cases. The enforcement court also would be responsible for monitoring compliance with court orders such as those requiring defendants to make restitution or perform community service.

In addition to establishing the comprehensive enforcement court, the bill authorizes each county to establish a labor assistance program or an enforced community service program. These programs would provide supervised physical labor as a sentencing alternative to incarceration and as a sentencing option if a defendant fails to meet court-imposed financial obligations.

Funding for the comprehensive enforcement court would come from two sources. The bill appropriates \$550,000 from the General Fund for hiring and training the hearing officers who would staff the enforcement court. In addition, the bill establishes the Comprehensive Enforcement Court Fund (the Fund), an operational fund for the enforcement court that will be capitalized through deductions of up to 25 percent of certain monies collected through the enforcement court.

B. Recommended Action

Through this bill, the Legislature has proposed a viable solution to a long-standing problem: uncollected court-imposed assessments and fines. In October 1993, the Governor's Management Review Commission reported that the State is owed in excess of \$160 million in criminal debt. As the number of fines increases and as State agencies find it increasingly difficult to keep pace with current collections, the amount of outstanding criminal debt grows larger.

Strengthening the State's collection efforts would send a strong message to criminals that they will be held accountable for the assessments and fines imposed against them. I noted the importance of such efforts in my Inaugural Address. The work programs established by this bill, and the other sentencing options for criminals who do not pay their debt, would also help to accomplish that goal.

At the same time, it is important to keep the administrative costs of collection to a minimum. This bill calls for an appropriation of \$550,000 for training and hiring hearing officers. I am deleting the \$550,000 appropriation because I have been advised that program expenses could be funded through an accounts receivable against the funds anticipated to be collected. I prefer this less-costly funding mechanism to protect New Jersey's taxpayers. With regard to the on-going operation of the enforcement program, I believe the amount of money deducted from collections for this purpose should be approved by the Director of the Division of Budget and Accounting. This oversight will ensure that the amount of money deducted for the program will be commensurate with its projected cost.

As the bill is currently written, it refers to the formation of a comprehensive enforcement "court." It is important to note that the bill does not, in fact, create a new division of the Superior Court. Hearing officers, not judges, would be responsible for enforcing judicially imposed financial penalties and court orders. To prevent any confusion, I recommend renaming the comprehensive enforcement court the "comprehensive enforcement program."

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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For these reasons, I herewith return Senate Committee Substitute for Senate Bill No. 335 (Second Reprint) and recommend that it be amended as follows:

Page 1, Title, Line 1: Delete "Court" and insert "Program"

Page 1, Title, Lines 2-3: Delete "and making an appropriation"

Page 1, Section 1, Line 9: Delete "Court" and insert "Program"

Page 1, Section 2, Line 29: Delete "court"

Page 1, Section 2, Line 33: Delete "court" and insert "program"

Page 1, Section 2, Line 39: Delete "court" and insert "program"

Page 2, Section 3, Line 3: Delete "Court" and insert "Program"

Page 2, Section 3, Line 7: Delete "court" and insert "program"

Page 2, Section 4, Line 11: After "a." delete "The" and insert "Subject to the approval of the Director of the Division of Budget and Accounting, the"

Page 2, Section 4, Line 13: Delete "court" and insert "program"

Page 2, Section 4, Line 16: Delete "Court" and insert "Program"

Page 2, Section 4, Line 17: Delete "court" and insert "program"

Page 2, Section 4, Line 22: Delete "Court" and insert "Program"

Page 2, Section 4, Line 24: Delete "Court" and insert "Program"

Page 2, Section 4, Line 25: Delete "court" and insert "program"

Page 2, Section 5, Line 30: Delete "court" and insert "program"

Page 2, Section 5, Line 40: Delete "court" and insert "program"

Page 2, Section 5, Line 46: Delete "Court" and insert "Program"

Page 3, Section 6, Line 8: Delete "court" and insert "program"

Page 3, Section 6, Line 12: Delete "court" and insert "program"

Page 3, Section 6, Line 14: Delete "court" and insert "program"

Page 3, Section 7, Line 27: Delete "court" and insert "program"

Page 3, Section 8, Line 35: Delete "court" and insert "hearing officer"

Page 3, Section 8, Line 37: After "enforcement" delete "court" and insert "hearing officer"

Page 3, Section 8, Line 49: Delete "courrt" and insert "hearing officer"

Page 4, Section 8, Line 5: Delete "court" and insert "comprehensive enforcement hearing officer"

Page 4, Section 9, Line 9: Delete "court"

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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Page 7, Section 11, Line 24: Delete "court" and insert "hearing officer"; delete "its" and insert "the"

Page 7, Section 11, Line 28: Delete "court" and insert "hearing officer"

Page 7, Section 11, Line 29: Delete "its" and insert "the"

Page 7, Section 11, Line 32: Delete "court" and insert "program"; delete "court" and insert "program"

Page 7, Section 11, Line 33: Delete "Court"; after "Enforcement" insert "Program"

Page 7, Section 11, Line 38: Delete "Court"; after "Enforcement" insert "Program"

Page 7, Sections 12-13,
Lines 45-49:

After "12." delete up to and including "13."

Respectfully,

/s/ Christine Todd Whitman

GOVERNOR

[seal]

Attest:

/s/ Peter Verniero

Chief Counsel to the Governor