

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 1430

INTRODUCER: Criminal Justice Committee and Senator Collins

SUBJECT: Postjudgment Execution Proceedings Relating to Terrorism

DATE: April 7, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bond</u>	<u>Cibula</u>	<u>JU</u>	Favorable
2.	<u>Cellon</u>	<u>Stokes</u>	<u>CJ</u>	Fav/CS
3.	<u>Bond</u>	<u>Yeatman</u>	<u>RC</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 1430 expands current law remedies available to a victim of international terrorism to collect a civil judgment against a terrorist party or an agency or instrumentality of a terrorist. The bill authorizes creditor process to be served upon any person or entity over whom the court has jurisdiction, thereby subjecting the assets to Florida jurisdiction. A Florida court enforcing a terrorism victim's anti-terrorism judgment may garnish intangible assets wherever they are located, without territorial limitation. If these intangible assets are traceable to the terrorist judgment debtor they are subject to execution, garnishment, and turnover by a United States securities custodian or intermediary. In addition, if an electronic funds transfer is currently being held by an intermediary and either the sender or recipient is the terrorist judgment debtor or a related party, the funds are deemed to be property of the terrorist judgment debtor and subject to seizure to apply against the judgment.

The bill applies to any postjudgment execution proceeding served, or filed before, on, or after July 1, 2025, the effective date of the bill.

The bill is effective upon becoming a law.

II. Present Situation:

Civil Judgment Collections Process

The court's entry of a final judgment is not the end of a civil case. A final civil judgment awarding money damages does not automatically put money in the hands of the prevailing party, referred to as the judgment creditor. A final judgment merely gives the judgment creditor the legal right to seek out assets of the judgment debtor and forcibly sell or transfer those assets to or for the benefit of the judgment creditor. This is commonly referred to as the collections process.

There are several means for a judgment debtor to forcibly attempt to collect the judgment. The primary means of collection are:

- Execution – An “execution” is the lawful seizure of property owned by the judgment debtor to be sold at public auction. The net proceeds of an execution on property are paid to the judgment creditor to be applied against the debt. Execution applies to real property and personal property. Execution and sale are conducted by the sheriff.¹
- Garnishment – A “garnishment” is the seizure of monies owed to the judgment debtor, which money is then paid to the judgment creditor to be applied against the debt. Common targets of a garnishment are bank accounts and wages.²
- Proceedings Supplementary – Proceedings supplementary is a collections tool created by statute. When any judgment creditor holds an unsatisfied judgment or judgment lien, the judgment creditor may file a motion asking for proceedings supplementary. In the proceeding, the court may issue a Notice to Appear to the judgment debtor or to any person alleged to be holding property of the judgment debtor, or to any person who may have property that was fraudulently transferred by the judgment debtor to that third party. After the hearing, the court may order the sheriff to execute on property found to be owned by the judgment debtor, or found to have been fraudulently conveyed by the judgment debtor, for sale for the benefit of the judgment creditor.³

While collection actions are primarily focused on assets of the judgment debtor, there may be occasions where property titled or held in the name of another may be seized in payment of the judgment. This occurs where the judgment debtor has fraudulently transferred the property to a third party in an attempt to thwart collection of the judgment. It also occurs if a third party owes money to the judgment debtor or if legal title or possession of property is held by a person or entity who is conspiring with the judgment debtor to hide or conceal assets of the judgment debtor. Florida has adopted the Uniform Fraudulent Transfer Act to address these situations.⁴

Terrorism

“Terrorism” or “terrorist activity” as defined in s. 775.30, F.S., mean an activity that:

- Involves:
 - A violent act or an act dangerous to human life which is a violation of the criminal laws of this state or of the United States; or

¹ The civil execution process is governed by ch. 56, F.S.

² The garnishment process is generally governed by ch. 77, F.S.

³ Section 56.29, F.S.

⁴ Chapter 726, F.S.

- A violation of s. 815.06, F.S. (offenses against computer users); and
- Is intended to:
 - Intimidate, injure, or coerce a civilian population;
 - Influence the policy of a government by intimidation or coercion; or
 - Affect the conduct of a government through destruction of property, assassination, murder, kidnapping, or aircraft piracy.

A person who commits the offenses specified in s. 775.30(2), F.S., in furtherance of intimidating or coercing the policy of a government, or in furtherance of affecting the conduct of a government by mass destruction, assassination, or kidnapping, commits the crime of terrorism, a first degree felony.⁵ A person who commits a violation of s. 775.30(2), F.S., which results in death or serious bodily injury commits a life felony.⁶

Civil Remedy for Victims of Acts of Terrorism

Section 772.13, F.S., authorizes a person who is injured by an act of terrorism, or by an act facilitating or furthering terrorism to pursue a cause of action for threefold the actual damages sustained. If the person prevails in the action, he or she is entitled to minimum damages in the amount of \$1,000 and reasonable attorney fees and court costs in the trial and appellate courts. Federal law authorizes a similar civil cause of action for acts of terrorism under 18 U.S.C. s. 2333.

Collecting a Judgment Against a Terrorist

Victims of terrorism currently holding unsatisfied judgments against terrorists report that their collection efforts are being hindered by the courts. Once a judgment is entered against a terrorist party, the ability to collect on the judgment is complicated by the nature of the international transactions and the complex processes such criminal organizations use to hide, launder, and transfer assets. Collection is also hindered by traditional limits on the jurisdiction of the courts and banking laws that provide for bank seizure and hold of funds related to a terrorist but do not provide a means for creditor process against the seized funds. For instance, the courts have adopted the position that a bank account has a situs, the court must have in rem jurisdiction over the bank, and the mere act of maintaining physical branch banks in Florida does not give a Florida court jurisdiction to garnish the account.⁷

III. Effect of Proposed Changes:

CS/SB 1430 amends the statute relating to civil remedies for terrorism to increase the available remedies for a victim of terrorism to use to collect on a judgment entered against a terrorist party or associate of a terrorist party. The bill makes it easier for a victim to collect on a judgment in a postjudgment execution proceeding entered against a terrorist party under Florida law as well as under 18 U.S.C. s. 2333 or a substantially similar federal law. Further, the bill permits

⁵ A first degree felony is punishable by up to 30 years' imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

⁶ A life felony is punishable by up to life imprisonment or a term of years not exceeding life and a \$15,000 fine. Sections 775.082 and 775.083, F.S.

⁷ *Power Rental Op Co, LLC v. Virgin Islands Water & Power Auth.*, No. 3:20-CV-1015-TJC-JRK, 2021 WL 9881137, at *8 (M.D. Fla. July 6, 2021).

enforcement in any postjudgment execution proceedings against any agency or instrumentality of the terrorist party not named in the judgment pursuant to section 201(a) of the federal Terrorism Risk Insurance Act.⁸

The bill provides that creditor process issued under ch. 56, F.S., (final process) or ch. 77, F.S., (garnishment) may be served upon any person or entity over whom the court has personal jurisdiction. Under the bill, writs of garnishment issued under s. 77.01, F.S., and proceedings supplementary under s. 56.29, F.S., apply to intangible assets wherever they are located, including bank accounts, financial assets, or other intangible property. A Florida court enforcing a terrorism victim's anti-terrorism judgment may garnish intangible assets wherever they are located, so long as the garnishee is subject to personal jurisdiction in the state of Florida. Further, the situs of any intangible assets held or maintained by or in the possession, custody, or control of a person or entity so served is deemed to be in Florida for the purposes of a final process or garnishment proceeding. Under the bill, service of a writ or notice to appear provides the court with in rem jurisdiction over any intangible assets regardless of the physical location, if any, of the assets.

The bill allows a creditor to reach a terrorist debtor's interest within a financial asset or security entitlement by legal process through the securities intermediary⁹ or financial institution with whom the debtor's account is maintained. If the securities intermediary is a foreign entity, legal process may be served upon the United States securities custodian or intermediary that has reported holding or maintaining the blocked financial assets or security entitlement to the Office of Foreign Assets Control of the United States Department of the Treasury.¹⁰ These financial assets or security entitlements are subject to execution, garnishment, and turnover by the U.S. securities custodian or intermediary.

If an electronic funds transfer ("EFT") is not completed within 5 banking days¹¹ and is cancelled because a U.S. intermediary financial institution has blocked the transaction in compliance with a United States sanctions program, and a terrorist party or any agency or instrumentality thereof was either the originator or the intended beneficiary of the EFT, the blocked funds are deemed owned by the terrorist party or its agency or instrumentality, and thus, are subject to execution and garnishment.

⁸ 28 U.S.C. s. 1610.

⁹ A securities intermediary is defined in s. 678.1021(1)(n), F.S., as a clearing corporation or a person, including a bank or broker, that in the ordinary course of its business maintains securities accounts for others and is acting in that capacity. A clearing corporation is defined in s. 678.1021(1)(e), F.S., as a person that is registered as a "clearing agency" under the federal securities laws; a federal reserve bank; or any other person that provides clearance or settlement services with respect to financial assets that would require it to register as a clearing agency under the federal securities laws but for an exclusion or exemption from the registration requirement, if its activities as a clearing corporation, including promulgation of rules, are subject to regulation by a federal or state governmental authority.

¹⁰ The Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy or economy of the United States. <https://ofac.treasury.gov/> (last visit March 26, 2025).

¹¹ The 5-day period is prescribed by s. 670.211(4), F.S.

The bill is effective upon becoming a law and applies to any postjudgment execution proceeding served or filed before, on, or after that date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill has the potential for a significant positive fiscal impact on private citizens seeking to collect judgments against an international terrorist party or affiliate thereof.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 772.13 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on April 1, 2025:

Amends the effective date to “upon becoming a law.”

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
