

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1036 Session of 2018

INTRODUCED BY GREENLEAF, LEACH, FONTANA, BARTOLOTTA, MENSCH, COSTA, RESCHENTHALER, HUGHES AND BREWSTER, FEBRUARY 9, 2018

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, APRIL 24, 2018

AN ACT

1 Amending Titles 42 (Judiciary and Judicial Procedure) and 75
2 (Vehicles) of the Pennsylvania Consolidated Statutes, in
3 sentencing, further providing for payment of court costs,
4 restitution and fines, for fine and for failure to pay fine;
5 in licensing of drivers, further providing for suspension of
6 operating privilege for failure to respond to citation; and,
7 in penalties and disposition of fines, further providing for
8 inability to pay fine and costs.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Sections 9730(b), 9758(b) and (c) and 9772 of
12 Title 42 of the Pennsylvania Consolidated Statutes are amended
13 to read:

14 § 9730. Payment of court costs, restitution and fines.

15 * * *

16 (b) Procedures regarding default.--

17 (1) If a defendant defaults in the payment of a fine,
18 court costs or restitution after imposition of sentence, the
19 issuing authority or a senior judge or senior magisterial
20 district judge appointed by the president judge for the
21 purposes of this section [may] shall conduct a hearing to

1 determine whether the defendant is financially able to pay.

2 (2) If the issuing authority, senior judge or senior
3 magisterial district judge determines that the defendant is
4 financially able to pay the [fine or costs] FINE, COSTS OR <--
5 RESTITUTION, the issuing authority, senior judge or senior
6 magisterial district judge may turn the delinquent account
7 over to a private collection agency or impose imprisonment
8 for nonpayment, as provided by law.

9 (3) If the issuing authority, senior judge or senior
10 magisterial district judge determines that the defendant is
11 without the financial means to pay the [fine or costs] FINE, <--
12 COSTS OR RESTITUTION immediately or in a single remittance
13 without causing manifest hardship to the defendant as defined
14 in paragraph (5), the issuing authority, senior judge or
15 senior magisterial district judge [may] shall provide for
16 payment in installments, assign community service or some
17 combination thereof. In determining the appropriate
18 installments, the issuing authority, senior judge or senior
19 magisterial district judge shall [consider the defendant's
20 financial resources, the defendant's ability to make
21 restitution and reparations and the nature of the burden the
22 payment will impose on the defendant] assign an installment
23 payment FOR THE FINE, COSTS OR RESTITUTION THAT COMPLIES WITH <--
24 THE REQUIREMENTS under section 9758(b) (relating to fine). If
25 the defendant is in default of a payment or advises the
26 issuing authority, senior judge or senior magisterial
27 district judge that default is imminent, the issuing
28 authority, senior judge or senior magisterial district judge
29 may schedule a rehearing on the payment schedule. At the
30 rehearing the defendant has the burden of proving [changes of <--

1 financial condition such that the [defendant is without the <--
2 means to meet the payment schedule] THAT THE payments are <--
3 causing the defendant manifest hardship. The issuing
4 authority, senior judge or senior magisterial district judge
5 [may extend or accelerate the schedule, leave it unaltered]
6 shall extend the installment payment time limitation under <--
7 section 9758(b) or sentence the defendant to a period of
8 community service as the issuing authority, senior judge or
9 senior magisterial district judge finds to be just and
10 practicable under the circumstances.

11 (4) A decision of the issuing authority, senior judge or
12 senior magisterial district judge under paragraph (2) or (3)
13 is subject to section 5105 (relating to right to appellate
14 review).

15 (5) A defendant shall be considered to experience
16 manifest hardship if any of the following apply:

17 (i) The defendant is involuntarily unemployed AND <--
18 HAS ASSETS LESS THAN 200% OF THE FEDERAL POVERTY LEVEL.

19 (ii) The defendant's household income is AND ASSETS <--
20 ARE less than 200% of the Federal poverty level.

21 (iii) The defendant is receiving any kind of public
22 assistance.

23 (iv) The defendant presents evidence to the judge
24 during the hearing that would cause a reasonable person
25 to believe paying the full amount of the penalty would
26 cause manifest hardship to the defendant or their
27 dependents.

28 (v) THE DEFENDANT IS UNABLE TO AFFORD TO MEET THE <--
29 DEFENDANT'S BASIC LIFE NEEDS, INCLUDING FOOD, RENT OR
30 MORTGAGE PAYMENTS, UTILITIES, MEDICAL EXPENSES,

1 TRANSPORTATION AND DEPENDENT CARE.

2 § 9758. Fine.

3 * * *

4 (b) Installment payment.--

5 (1) Except for fines imposed under Title 34 (relating to
6 game), the court may permit installment payments as it
7 considers appropriate to the circumstances of the defendant,
8 in which case its order shall specify when each installment
9 payment is due. Installment payments for fines imposed for
10 summary offenses under Title 34 shall not exceed one year for
11 summary offenses and, except for 34 Pa.C.S. § 2522 (relating
12 to shooting at or causing injury to human beings), shall not
13 exceed two years for misdemeanor offenses.

14 (2) The following shall apply to installment payments
15 permitted under this subsection:

16 (i) A defendant whose household income is less than
17 or equal to ~~100%~~ 125% of the Federal poverty level may <--
18 not be required to ~~pay more than \$100 per month~~ MAKE <--
19 PAYMENTS UNTIL THE DEFENDANT'S INCOME IS MORE THAN 125%
20 OF THE FEDERAL POVERTY LEVEL.

21 (ii) A defendant whose household income is more than
22 ~~100%~~ 125% but less than 150% of the Federal poverty level <--
23 may not be required to ~~pay more than \$150 per month~~ MAKE <--
24 MONTHLY INSTALLMENT PAYMENTS THAT EXCEED TWO TIMES THE
25 HOURLY MINIMUM WAGE FOR THE LOCALITY.

26 (iii) A defendant whose household income is equal to
27 or more than 150% but less than ~~200%~~ 175% of the Federal <--
28 poverty level may not be required to ~~pay more than \$200~~ <--
29 per month.

30 (iv) A defendant whose household income is equal to

1 ~~or more than 200% of the Federal poverty level, the court~~
2 ~~shall consider the evidence presented and set a payment~~
3 ~~plan that would not impose what a reasonable person would~~
4 ~~consider manifest hardship to the defendant or the~~
5 ~~defendant's dependents.~~ MAKE MONTHLY INSTALLMENT PAYMENTS <--
6 THAT EXCEED THREE TIMES THE HOURLY MINIMUM WAGE FOR THE
7 LOCALITY.

8 (IV) A DEFENDANT WHOSE HOUSEHOLD INCOME IS GREATER
9 THAN OR EQUAL TO 175% BUT LESS THAN 185% OF THE FEDERAL
10 POVERTY LEVEL SHALL NOT BE REQUIRED TO MAKE MONTHLY
11 INSTALLMENT PAYMENTS THAT EXCEED FOUR TIMES THE HOURLY
12 MINIMUM WAGE FOR THE LOCALITY.

13 (V) A DEFENDANT WHOSE HOUSEHOLD INCOME IS GREATER
14 THAN OR EQUAL TO 185% BUT LESS THAN 200% OF THE FEDERAL
15 POVERTY LEVEL SHALL NOT BE REQUIRED TO MAKE MONTHLY
16 INSTALLMENT PLANS THAT EXCEED FIVE TIMES THE HOURLY
17 MINIMUM WAGE FOR THE LOCALITY.

18 (VI) IF A DEFENDANT'S HOUSEHOLD INCOME IS EQUAL TO
19 OR MORE THAN 200% OF THE FEDERAL POVERTY LEVEL, THE
20 COURT, ISSUING AUTHORITY, SENIOR JUDGE OR SENIOR
21 MAGISTERIAL DISTRICT JUDGE SHALL CONSIDER THE EVIDENCE
22 PRESENTED AND SET A PAYMENT PLAN THAT WOULD NOT IMPOSE
23 WHAT A REASONABLE PERSON WOULD CONSIDER MANIFEST HARDSHIP
24 TO THE DEFENDANT OR THE DEFENDANT'S DEPENDENTS.

25 (VII) A COURT, ISSUING AUTHORITY, SENIOR JUDGE OR
26 SENIOR MAGISTERIAL DISTRICT JUDGE MAY DEVIATE FROM THE
27 MAXIMUM MONTHLY PAYMENT PLANS UNDER THIS PARAGRAPH ONLY
28 IF IT FINDS BY A PREPONDERANCE OF THE EVIDENCE PRESENTED
29 AT THE HEARING THAT THE DEFENDANT HAS THE PRESENT ABILITY
30 TO PAY A HIGHER AMOUNT PER MONTH WITHOUT EXPERIENCING A

1 MANIFEST HARDSHIP.

2 (c) Alternative sentence.--The sentence of the court may
3 include an alternative sentence in the event of nonpayment. A
4 person sentenced to community service under this subsection
5 shall be assigned A MINIMUM OF one hour of service for each \$20 <--
6 of the unpaid balance of the fine and costs.

7 § 9772. Failure to pay fine.

8 [Unless there is proof that failure to pay a fine or that <--
9 portion of the fine that is due {is excusable} will cause <--
10 manifest hardship as defined in section 9730(b) (relating to
11 payment of court costs, restitution and fines) UNLESS THE COURT <--
12 FINDS THAT A DEFENDANT IS FINANCIALLY ABLE TO PAY A FINE OR A
13 PORTION OF THE FINE THAT IS DUE WITHOUT CAUSING THE DEFENDANT
14 MANIFEST HARDSHIP, the court may after a hearing find the
15 defendant guilty of contempt and sentence him to not more than
16 six months imprisonment, if a term of confinement of that amount
17 could have been imposed for the offense charged. If an
18 alternative sentence has been imposed under section 9758(c)
19 (relating to alternative sentence), the alternative sentence may
20 not take effect until there has been a preliminary finding of
21 non-indigency, and a willful failure to pay the fine.

22 ~~Section 2. Section 1533 of Title 75 is amended by adding a~~ <--
23 ~~subsection to read:~~

24 ~~§ 1533. Suspension of operating privilege for failure to~~
25 ~~respond to citation.~~

26 * * *

27 ~~(g) Exceptions. A defendant for whom a fine has been found~~
28 ~~to cause manifest hardship as defined in 42 Pa.C.S. § 9730(b)~~
29 ~~(relating to payment of court costs, restitution and fines)~~
30 ~~shall be ordered to pay the fine in installment payments as~~

1 ~~provided under section 6504(a) (relating to inability to pay~~
2 ~~fine and costs) or be given an alternative sentence under~~
3 ~~6504(c).~~

4 ~~Section 3. Section 6504 of Title 75 is amended to read:~~

5 SECTION 2. SECTIONS 1533(A) AND (B) AND 6504 OF TITLE 75 ARE <--
6 AMENDED TO READ:

7 § 1533. SUSPENSION OF OPERATING PRIVILEGE FOR FAILURE TO
8 RESPOND TO CITATION.

9 (A) VIOLATIONS WITHIN COMMONWEALTH.--THE DEPARTMENT SHALL
10 SUSPEND THE OPERATING PRIVILEGE OF ANY PERSON WHO HAS FAILED TO
11 RESPOND TO A CITATION OR SUMMONS TO APPEAR BEFORE AN ISSUING
12 AUTHORITY OR A COURT OF COMPETENT JURISDICTION OF THIS
13 COMMONWEALTH FOR ANY VIOLATION OF THIS TITLE, OTHER THAN
14 PARKING, OR WHO HAS FAILED TO PAY ANY FINE, COSTS OR RESTITUTION
15 IMPOSED BY AN ISSUING AUTHORITY OR SUCH COURTS FOR VIOLATION OF
16 THIS TITLE, OTHER THAN PARKING, UPON BEING DULY NOTIFIED BY AN
17 ISSUING AUTHORITY OR A COURT OF THIS COMMONWEALTH. AN ISSUING
18 AUTHORITY OR COURT SHALL NOTIFY THE DEPARTMENT THAT A PERSON HAS
19 FAILED TO PAY ANY FINE, COSTS OR RESTITUTION ONLY AFTER MAKING A
20 PRELIMINARY FINDING OF NON-INDIGENCY AND A WILLFUL FAILURE TO
21 PAY WITHOUT CAUSING MANIFEST HARDSHIP.

22 (B) VIOLATIONS OUTSIDE COMMONWEALTH.--THE DEPARTMENT SHALL
23 SUSPEND THE OPERATING PRIVILEGE OF ANY PERSON WHO HAS FAILED TO
24 RESPOND TO A CITATION, SUMMONS OR SIMILAR WRIT TO APPEAR BEFORE
25 A COURT OF COMPETENT JURISDICTION OF THE UNITED STATES OR ANY
26 STATE WHICH HAS ENTERED INTO AN ENFORCEMENT AGREEMENT WITH THE
27 DEPARTMENT, AS AUTHORIZED UNDER SECTION 6146 (RELATING TO
28 ENFORCEMENT AGREEMENTS), FOR ANY VIOLATION OF THE MOTOR VEHICLE
29 LAWS OF SUCH STATE, OTHER THAN PARKING, OR WHO HAS FAILED TO PAY
30 ANY FINE OR COSTS IMPOSED BY SUCH COURT UPON BEING DULY NOTIFIED

1 IN ACCORDANCE WITH THE LAWS OF SUCH JURISDICTION IN WHICH THE
2 VIOLATION OCCURRED. A PERSON WHO PROVIDES PROOF, SATISFACTORY TO
3 THE DEPARTMENT, THAT THE FULL AMOUNT OF THE FINE AND COSTS HAS
4 BEEN FORWARDED TO AND RECEIVED BY THE COURT SHALL NOT BE
5 REGARDED AS HAVING FAILED TO RESPOND FOR THE PURPOSES OF THIS
6 SUBSECTION. THE DEPARTMENT SHALL NOT SUSPEND THE OPERATING
7 PRIVILEGE OF A PERSON WHO HAS FAILED TO PAY A FINE OR COSTS
8 UNLESS AN ISSUING AUTHORITY OR COURT HAS FIRST MADE A
9 PRELIMINARY FINDING OF NON-INDIGENCY AND A WILLFUL FAILURE TO
10 PAY WITHOUT CAUSING MANIFEST HARDSHIP.

11 * * *

12 § 6504. Inability to pay fine and costs.

13 (a) Order for installment payments.--Upon plea and proof
14 that a person is unable to pay any fine and costs imposed under
15 this title, a court may, in accordance with 42 Pa.C.S. § 9758
16 (relating to fine), order payment of the fine and costs in
17 installments and shall fix the amounts, times and manner of
18 payment.

19 (b) Imprisonment for nonpayment.--Any person who is found
20 able to pay but does not comply with an order entered under this
21 section may be imprisoned for a number of days equal to one day
22 for each \$40 of the unpaid balance of the fine and costs.

23 (c) Alternative sentence.--A person who is found to have a
24 manifest hardship as defined in 42 Pa.C.S. § 9730 (relating to
25 payment of court costs, restitution and fines) may be sentenced
26 to community service in the amount of one hour for every \$20 of
27 the unpaid balance of the fine.

28 Section 4 3. This act shall take effect in 60 days.

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