

SENATE BILL 1097

By Haile

AN ACT to amend Tennessee Code Annotated, Section 55-10-419, relative to the electronic monitoring indigency fund.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-10-419(a)(2), is amended by deleting the subdivision and substituting instead:

(2) "Eligible costs" means the costs that may be paid from the person or the fund, subject to this section, and that are associated with:

(A) The lease, purchase, installation, removal, or maintenance of a functioning ignition interlock device or any other cost or fee associated with a functioning ignition interlock device required in accordance with § 40-11-118(d)(1)(B), § 55-10-401, § 55-10-409(b)(2), § 55-10-409(d)(2), § 55-10-417(a)(1), § 55-10-417(k), or other applicable law for a person determined to be indigent; or

(B) The use, monitoring, and maintenance of an alternative device required pursuant to § 40-11-118(d)(2), § 40-11-152, § 55-10-402(d)(2)(A)(iii), § 55-10-402(h)(7), or any other applicable law for a person determined by a court to be indigent;

SECTION 2. Tennessee Code Annotated, Section 55-10-419(a)(5), is amended by deleting the subdivision and substituting instead:

(5) "Indigent" means not having sufficient means to pay for eligible costs;

SECTION 3. Tennessee Code Annotated, Section 55-10-419(h), is amended by deleting the subsection and substituting instead:

(h)

(1) Notwithstanding another law to the contrary, the eligible costs incurred to comply with a court order requiring the use of a functioning ignition interlock device or an alternative device must be paid by the person ordered to use the device, unless the person is determined to be indigent.

(2) A person determined to be indigent shall pay a minimum of thirty dollars (\$30.00) per month toward eligible costs for a functioning ignition interlock device or an alternative device. The remainder of the monthly eligible costs must be paid from the fund; provided, that the remaining monthly eligible costs must not exceed one hundred seventy dollars (\$170) per month.

(3) A court shall determine whether a person ordered to use an alternative device is indigent by conducting a full and complete hearing to determine the person's indigency, which may include financial statements made by the person. All statements made by the person must be by written affidavit of indigency created by the administrative office of the courts and sworn to before the court. If the person intentionally misrepresents, falsifies, or withholds any information in the affidavit of indigency, then the person commits perjury as set out in § 39-16-702. When making a finding as to indigency under this section, the court shall consider:

(A) The person's income, regardless of the source, including, but not limited to, governmental assistance or pensions;

(B) The person's monthly expenses;

(C) The number of individuals residing in the person's household, and whether any of them are the person's dependents;

(D) The person's employment status and education level;

(E) The person's ownership or equity in real or personal property;

(F) The person's debts, liens, or encumbrances;

(G) The person's investments;

(H) The amount of the appearance or appeal bond, whether the person has been able to obtain release by making bond, and, if the person obtained release by making bond, the amount of money paid and the source of the money;

(I) The poverty level income guidelines compiled and published by the United States department of labor; and

(J) Other circumstances presented to the court that the court finds to be relevant to the issue of indigency.

(4) The state treasurer shall deem a person ordered to use a functioning ignition interlock device to be indigent if the person is either qualified to receive or is receiving funds on the date the person was ordered to use the device from any of the following sources:

(A) Supplemental nutrition assistance (SNAP) program;

(B) Temporary assistance for needy families (TANF) program; or

(C) State medicaid program.

SECTION 4. Tennessee Code Annotated, Section 55-10-419(j), is amended by deleting the subsection and substituting the following:

(j)

(1) Providers of functioning ignition interlock devices shall submit claims and invoices to the state treasurer for reimbursement from the ignition interlock device account for an indigent person with eligible costs associated with a functioning ignition interlock device. Providers of alternative devices shall submit

claims and invoices to the respective local government for reimbursement from the alternative device account for an indigent person with eligible costs associated with an alternative device. Both type of claims must be:

- (A) Submitted not later than ninety (90) calendar days after the device has been order by the court;
- (B) Accompanied by a court order requiring a device; and
- (C) Submitted with an attestation from the provider for each claim indicating that the charges contained in the claim are true and accurate and do not contain duplicate claims or charges previously submitted for reimbursement.

(2) The clerk of the court having jurisdiction over the person shall provide the state treasurer with proof that the person who has been ordered to use a functioning ignition interlock device qualifies for one (1) or more of the programs listed in subdivision (h)(4), demonstrating the person is indigent. The person must provide the clerk of the court with authorization and consent to obtain documentation demonstrating that, on the date that the person was ordered to use the device, the person is eligible to receive or is receiving funds from at least one (1) of the sources listed in subdivision (h)(4).

(3) Providers of alternative devices shall provide the respective local government with the affidavit of indigency, and any other information considered by the court to arrive at a determination that the person is indigent.

SECTION 5. This act takes effect upon becoming a law, the public welfare requiring it.