

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 328 Session of 2023

INTRODUCED BY STREET, HAYWOOD, KEARNEY, KANE, CAPPELLETTI,
TARTAGLIONE AND SAVAL, FEBRUARY 14, 2023

REFERRED TO JUDICIARY, FEBRUARY 14, 2023

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. Section 9730(b) of Title 42 of the Pennsylvania
12 Consolidated Statutes, amended or added November 3, 2022
13 (P.L.2175, No.163), is amended 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 court
18 costs, restitution or fines 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 costs, restitution or fine, the
5 issuing authority, senior judge or senior magisterial
6 district judge may enter an order for wage attachment, turn
7 the delinquent account over to a private collection agency or
8 impose imprisonment for nonpayment, as provided by law.

9 (2.1) (i) If the issuing authority, senior judge or
10 senior magisterial district judge schedules a financial
11 determination hearing for the defendant and provides
12 notice to the defendant of the hearing, but the defendant
13 fails to appear at the financial determination hearing,
14 the issuing authority, senior judge or senior magisterial
15 district judge may turn the delinquent account over to a
16 private collection agency or the county's collection
17 enforcement unit as set forth under section 9728
18 (relating to collection of restitution, reparation, fees,
19 costs, fines and penalties), as provided by law.

20 (ii) In each communication with the defendant, the
21 private collection agency or the county's collection
22 enforcement unit shall notify the defendant of the
23 defendant's right to request a new financial
24 determination hearing under paragraph (2.2).

25 (2.2) (i) If the defendant has a delinquent account
26 turned over to a private collection agency or the
27 county's collection enforcement unit under paragraph
28 (2.1), the defendant may request a new financial
29 determination hearing on the defendant's financial
30 ability to pay the court costs, restitution or fines.

1 (ii) Upon receipt of the request for a new financial
2 determination hearing under this paragraph, the issuing
3 authority, senior judge or senior magisterial district
4 judge shall schedule and conduct the hearing in
5 accordance with this subsection.

6 (iii) Upon notice that the defendant has requested a
7 new financial determination hearing under this paragraph,
8 the private collection agency or the county's collection
9 enforcement unit shall cease all collections activities
10 pending the conclusion of the financial determination
11 hearing.

12 (iv) If the defendant fails to appear at the
13 financial determination hearing under this paragraph, the
14 private collection agency or county's collection
15 enforcement unit may resume collection activities.

16 (v) If the defendant requests a new financial
17 determination hearing after failing to appear at a
18 hearing previously requested under this paragraph, the
19 private collection agency or county collection
20 enforcement unit's collection activities may continue
21 unless stayed by court order.

22 (3) (i) If the issuing authority, senior judge or
23 senior magisterial district judge determines that the
24 defendant is without the financial means to pay the
25 costs, restitution or fines immediately or in a single
26 remittance[,], without causing manifest hardship to the
27 defendant as defined in paragraph (5), the issuing
28 authority, senior judge or senior magisterial district
29 judge [may] shall provide for payment in installments or,
30 in the case of costs or fines, reduce or waive the costs

1 or fines, except costs imposed under section 1101 of the
2 act of November 24, 1998 (P.L.882, No.111), known as the
3 Crime Victims Act. In determining the appropriate
4 installments, reduction or waiver, the issuing authority,
5 senior judge or senior magisterial district judge shall
6 [consider the defendant's financial resources, the
7 defendant's ability to make restitution and reparations
8 and the nature of the burden the payment will impose on
9 the defendant.] assign an installment payment for the
10 costs, restitution or fines that complies with the
11 requirements under section 9758(b) (relating to fine).

12 (ii) If the defendant is in default of a payment or
13 advises the issuing authority, senior judge or senior
14 magisterial district judge that default is imminent, the
15 issuing authority, senior judge or senior magisterial
16 district judge may schedule a rehearing on the payment
17 schedule. At the rehearing the defendant has the burden
18 of proving [changes of financial condition such that the
19 defendant is without the means to meet the payment
20 schedule.] that the payments are causing the defendant
21 manifest hardship. The issuing authority, senior judge or
22 senior magisterial district judge [may extend or
23 accelerate the schedule, leave it unaltered, reduce or
24 waive the costs or fines, except costs imposed under
25 section 1101 of the Crime Victims Act,] shall extend the
26 installment payment time limitation or sentence the
27 defendant to a period of community service as the issuing
28 authority, senior judge or senior magisterial district
29 judge finds to be just and practicable under the
30 circumstances.

1 (iii) If the issuing authority, senior judge or
2 senior magisterial district judge determines that the
3 defendant is without the financial means to pay the
4 costs, restitution or fines under this paragraph, the
5 issuing authority, senior judge or senior magisterial
6 district judge shall waive an existing collection fee
7 under section 9730.1(b) (relating to collection of court
8 costs, restitution and fines by private collection
9 agency) that was not previously collected from the
10 defendant who is determined to be without the financial
11 means to pay the costs, restitution or fines under this
12 paragraph.

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

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

19 (i) The defendant is involuntarily unemployed and
20 has assets less than 200% of the Federal poverty level.

21 (ii) The defendant's household income and assets are
22 less than 200% of the Federal poverty level.

23 (iii) The defendant is receiving any kind of public
24 assistance.

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

30 (v) The defendant is unable to afford to meet the

1 defendant's basic life needs, including food, rent or
2 mortgage payments, utilities, medical expenses,
3 transportation and dependent care.

4 Section 2. Sections 9758(b) and (c) and 9772 of Title 42 are
5 amended to read:

6 § 9758. Fine.

7 * * *

8 (b) Installment payment.--

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

18 (2) The following shall apply to installment payments
19 permitted under this subsection:

20 (i) A defendant whose household income is less than
21 or equal to 125% of the Federal poverty level may not be
22 required to make payments until the defendant's income is
23 more than 125% of the Federal poverty level.

24 (ii) A defendant whose household income is more than
25 125% but less than 150% of the Federal poverty level may
26 not be required to make monthly installment payments that
27 exceed two times the hourly minimum wage for the
28 locality.

29 (iii) A defendant whose household income is equal to
30 or more than 150% but less than 175% of the Federal

1 poverty level may not be required to make monthly
2 installment payments that exceed three times the hourly
3 minimum wage for the locality.

4 (iv) A defendant whose household income is greater
5 than or equal to 175% but less than 185% of the Federal
6 poverty level may not be required to make monthly
7 installment payments that exceed four times the hourly
8 minimum wage for the locality.

9 (v) A defendant whose household income is greater
10 than or equal to 185% but less than 200% of the Federal
11 poverty level may not be required to make monthly
12 installment plans that exceed five times the hourly
13 minimum wage for the locality.

14 (vi) If a defendant's household income is equal to
15 or more than 200% of the Federal poverty level, the
16 court, issuing authority, senior judge or senior
17 magisterial district judge shall consider the evidence
18 presented and set a payment plan that would not impose
19 what a reasonable person would consider manifest hardship
20 to the defendant or the defendant's dependents.

21 (vii) A court, issuing authority, senior judge or
22 senior magisterial district judge may deviate from the
23 maximum monthly payment plans under this paragraph only
24 if it finds by a preponderance of the evidence presented
25 at the hearing that the defendant has the present ability
26 to pay a higher amount per month without experiencing a
27 manifest hardship.

28 (c) Alternative sentence.--The sentence of the court may
29 include an alternative sentence in the event of nonpayment. A
30 person sentenced to community service under this subsection

1 shall be assigned a minimum of one hour of service for each \$20
2 of the unpaid balance of the fine and costs.

3 § 9772. Failure to pay fine.

4 [Unless there is proof that failure to pay a fine or that
5 portion of the fine that is due is excusable] Unless the court
6 finds that a defendant is financially able to pay a fine or a
7 portion of the fine that is due without causing the defendant
8 manifest hardship, the court may after a hearing find the
9 defendant guilty of contempt and sentence him to not more than
10 six months imprisonment, if a term of confinement of that amount
11 could have been imposed for the offense charged. If an
12 alternative sentence has been imposed under section 9758(c)
13 (relating to alternative sentence), the alternative sentence may
14 not take effect until there has been a preliminary finding of
15 non-indigency, and a willful failure to pay the fine.

16 Section 3. Sections 1533(a) and (b) and 6504 of Title 75 are
17 amended to read:

18 § 1533. Suspension of operating privilege for failure to
19 respond to citation.

20 (a) Violations within Commonwealth.--The department shall
21 suspend the operating privilege of any person who has failed to
22 respond to a citation or summons to appear before an issuing
23 authority or a court of competent jurisdiction of this
24 Commonwealth for any violation of this title, other than
25 parking, or who has failed to pay any fine, costs or restitution
26 imposed by an issuing authority or such courts for violation of
27 this title, other than parking, upon being duly notified by an
28 issuing authority or a court of this Commonwealth. An issuing
29 authority or court shall notify the department that a person has
30 failed to pay any fine, costs or restitution only after making a

1 preliminary finding of nonindigency and a willful failure to pay
2 without causing manifest hardship.

3 (b) Violations outside Commonwealth.--The department shall
4 suspend the operating privilege of any person who has failed to
5 respond to a citation, summons or similar writ to appear before
6 a court of competent jurisdiction of the United States or any
7 state which has entered into an enforcement agreement with the
8 department, as authorized under section 6146 (relating to
9 enforcement agreements), for any violation of the motor vehicle
10 laws of such state, other than parking, or who has failed to pay
11 any fine or costs imposed by such court upon being duly notified
12 in accordance with the laws of such jurisdiction in which the
13 violation occurred. A person who provides proof, satisfactory to
14 the department, that the full amount of the fine and costs has
15 been forwarded to and received by the court shall not be
16 regarded as having failed to respond for the purposes of this
17 subsection. The department may not suspend the operating
18 privilege of a person who has failed to pay a fine or costs
19 unless an issuing authority or court has first made a
20 preliminary finding of nonindigency and a willful failure to pay
21 without causing manifest hardship.

22 * * *

23 § 6504. Inability to pay fine and costs.

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

30 (b) Imprisonment for nonpayment.--Any person who is found

1 able to pay but does not comply with an order entered under this
2 section may be imprisoned for a number of days equal to one day
3 for each \$40 of the unpaid balance of the fine and costs.

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

9 Section 4. This act shall take effect in 60 days.