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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1036 Session of  
2018

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

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REFERRED TO JUDICIARY, FEBRUARY 9, 2018

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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, the issuing  
5 authority, senior judge or senior magisterial district judge  
6 may turn the delinquent account over to a private collection  
7 agency or impose imprisonment for nonpayment, as provided by  
8 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  
12 immediately or in a single remittance without causing  
13 manifest hardship to the defendant as defined in paragraph  
14 (5), the issuing authority, senior judge or senior  
15 magisterial district judge [may] shall provide for payment in  
16 installments, assign community service or some combination  
17 thereof. In determining the appropriate installments, the  
18 issuing authority, senior judge or senior magisterial  
19 district judge shall [consider the defendant's financial  
20 resources, the defendant's ability to make restitution and  
21 reparations and the nature of the burden the payment will  
22 impose on the defendant] assign an installment payment under  
23 section 9758(b) (relating to fine). If the defendant is in  
24 default of a payment or advises the issuing authority, senior  
25 judge or senior magisterial district judge that default is  
26 imminent, the issuing authority, senior judge or senior  
27 magisterial district judge may schedule a rehearing on the  
28 payment schedule. At the rehearing the defendant has the  
29 burden of proving changes of financial condition such that  
30 the [defendant is without the means to meet the payment

1 schedule] payments are causing the defendant manifest  
2 hardship. The issuing authority, senior judge or senior  
3 magisterial district judge [may extend or accelerate the  
4 schedule, leave it unaltered] shall extend the installment  
5 payment time limitation under section 9758(b) or sentence the  
6 defendant to a period of community service as the issuing  
7 authority, senior judge or senior magisterial district judge  
8 finds to be just and practicable under the circumstances.

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

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

15 (i) The defendant is involuntarily unemployed.

16 (ii) The defendant's household income is less than  
17 200% of the Federal poverty level.

18 (iii) The defendant is receiving any kind of public  
19 assistance.

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

25 § 9758. Fine.

26 \* \* \*

27 (b) Installment payment.--

28 (1) Except for fines imposed under Title 34 (relating to  
29 game), the court may permit installment payments as it  
30 considers appropriate to the circumstances of the defendant,

1 in which case its order shall specify when each installment  
2 payment is due. Installment payments for fines imposed for  
3 summary offenses under Title 34 shall not exceed one year for  
4 summary offenses and, except for 34 Pa.C.S. § 2522 (relating  
5 to shooting at or causing injury to human beings), shall not  
6 exceed two years for misdemeanor offenses.

7 (2) The following shall apply to installment payments  
8 permitted under this subsection:

9 (i) A defendant whose household income is less than  
10 or equal to 100% of the Federal poverty level may not be  
11 required to pay more than \$100 per month.

12 (ii) A defendant whose household income is more than  
13 100% but less than 150% of the Federal poverty level may  
14 not be required to pay more than \$150 per month.

15 (iii) A defendant whose household income is equal to  
16 or more than 150% but less than 200% of the Federal  
17 poverty level may not be required to pay more than \$200  
18 per month.

19 (iv) A defendant whose household income is equal to  
20 or more than 200% of the Federal poverty level, the court  
21 shall consider the evidence presented and set a payment  
22 plan that would not impose what a reasonable person would  
23 consider manifest hardship to the defendant or the  
24 defendant's dependents.

25 (c) Alternative sentence.--The sentence of the court may  
26 include an alternative sentence in the event of nonpayment. A  
27 person sentenced to community service under this subsection  
28 shall be assigned one hour of service for each \$20 of the unpaid  
29 balance of the fine and costs.

30 § 9772. Failure to pay fine.

1 Unless there is proof that failure to pay a fine or that  
2 portion of the fine that is due [is excusable] will cause  
3 manifest hardship as defined in section 9730(b) (relating to  
4 payment of court costs, restitution and fines), the court may  
5 after a hearing find the defendant guilty of contempt and  
6 sentence him to not more than six months imprisonment, if a term  
7 of confinement of that amount could have been imposed for the  
8 offense charged. If an alternative sentence has been imposed  
9 under section 9758(c) (relating to alternative sentence), the  
10 alternative sentence may not take effect until there has been a  
11 preliminary finding of non-indigency, and a willful failure to  
12 pay the fine.

13 Section 2. Section 1533 of Title 75 is amended by adding a  
14 subsection to read:

15 § 1533. Suspension of operating privilege for failure to  
16 respond to citation.

17 \* \* \*

18 (g) Exceptions.--A defendant for whom a fine has been found  
19 to cause manifest hardship as defined in 42 Pa.C.S. § 9730(b)  
20 (relating to payment of court costs, restitution and fines)  
21 shall be ordered to pay the fine in installment payments as  
22 provided under section 6504(a) (relating to inability to pay  
23 fine and costs) or be given an alternative sentence under  
24 6504(c).

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

26 § 6504. Inability to pay fine and costs.

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

1 installments and shall fix the amounts, times and manner of  
2 payment.

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

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

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