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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 254 Session of  
2021

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INTRODUCED BY STREET, MUTH, KEARNEY, CAPPELLETTI, TARTAGLIONE,  
COSTA AND KANE, FEBRUARY 22, 2021

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REFERRED TO JUDICIARY, FEBRUARY 22, 2021

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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. Section 9730(b) of Title 42 of the Pennsylvania  
12 Consolidated Statutes, amended December 18, 2019 (P.L.776,  
13 No.115), 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 (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 costs, restitution or  
12 fine 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. In determining the appropriate installments,  
17 the issuing authority, senior judge or senior magisterial  
18 district judge shall [consider the defendant's financial  
19 resources, the defendant's ability to make restitution and  
20 reparations and the nature of the burden the payment will  
21 impose on the defendant] assign an installment payment for  
22 the costs, restitution or fine that complies with the  
23 requirements under section 9758(b) (relating to fine). If the  
24 defendant is in default of a payment or advises the issuing  
25 authority, senior judge or senior magisterial district judge  
26 that default is imminent, the issuing authority, senior judge  
27 or senior magisterial district judge may schedule a rehearing  
28 on the payment schedule. At the rehearing the defendant has  
29 the burden of proving [changes of financial condition such  
30 that the defendant is without the means to meet the payment

1 schedule] that the payments are causing the defendant  
2 manifest hardship. The issuing authority, senior judge or  
3 senior magisterial district judge [may extend or accelerate  
4 the schedule, leave it unaltered] shall extend the  
5 installment payment time limitation or sentence the defendant  
6 to a period of community service as the issuing authority,  
7 senior judge or senior magisterial district judge finds to be  
8 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 and  
16 has assets less than 200% of the Federal poverty level.

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

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

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

26 (v) The defendant is unable to afford to meet the  
27 defendant's basic life needs, including food, rent or  
28 mortgage payments, utilities, medical expenses,  
29 transportation and dependent care.

30 Section 2. Sections 9758(b) and (c) and 9772 of Title 42 are

1 amended to read:

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 125% of the Federal poverty level may not be  
18 required to make payments until the defendant's income is  
19 more than 125% of the Federal poverty level.

20 (ii) A defendant whose household income is more than  
21 125% but less than 150% of the Federal poverty level may  
22 not be required to make monthly installment payments that  
23 exceed two times the hourly minimum wage for the  
24 locality.

25 (iii) A defendant whose household income is equal to  
26 or more than 150% but less than 175% of the Federal  
27 poverty level may not be required to make monthly  
28 installment payments that exceed three times the hourly  
29 minimum wage for the locality.

30 (iv) A defendant whose household income is greater

1 than or equal to 175% but less than 185% of the Federal  
2 poverty level may not be required to make monthly  
3 installment payments that exceed four times the hourly  
4 minimum wage for the locality.

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

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

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

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

29 § 9772. Failure to pay fine.

30 [Unless there is proof that failure to pay a fine or that

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

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

14 § 1533. Suspension of operating privilege for failure to  
15 respond to citation.

16 (a) Violations within Commonwealth.--The department shall  
17 suspend the operating privilege of any person who has failed to  
18 respond to a citation or summons to appear before an issuing  
19 authority or a court of competent jurisdiction of this  
20 Commonwealth for any violation of this title, other than  
21 parking, or who has failed to pay any fine, costs or restitution  
22 imposed by an issuing authority or such courts for violation of  
23 this title, other than parking, upon being duly notified by an  
24 issuing authority or a court of this Commonwealth. An issuing  
25 authority or court shall notify the department that a person has  
26 failed to pay any fine, costs or restitution only after making a  
27 preliminary finding of non-indigency and a willful failure to  
28 pay without causing manifest hardship.

29 (b) Violations outside Commonwealth.--The department shall  
30 suspend the operating privilege of any person who has failed to

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

18 \* \* \*

19 § 6504. Inability to pay fine and costs.

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

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

30 (c) Alternative sentence.--A person who is found to have a

1 manifest hardship as provided in 42 Pa.C.S. § 9730 (relating to  
2 payment of court costs, restitution and fines) may be sentenced  
3 to community service in the amount of one hour for every \$20 of  
4 the unpaid balance of the fine.

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