

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 758 Session of 2015

INTRODUCED BY TOEPEL, LONGIETTI, STEPHENS, MASSER, BARRAR, MILLARD, ROZZI, COHEN, A. HARRIS, M. K. KELLER, MURT, QUINN, TOPPER, KILLION, BAKER, DAVIS, B. MILLER, SAYLOR, SCHLEGEL CULVER, TOOHIL, EVERETT, KORTZ, FARRY AND JOZWIAK, MARCH 9, 2015

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 23, 2015

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in judgments and other
3 liens, further providing for personal earnings exempt from
4 process; and, in sentencing, further providing for payment of
5 court costs, restitution and fines.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Section 8127(b) of Title 42 of the Pennsylvania
9 Consolidated Statutes is amended to read:

10 § 8127. Personal earnings exempt from process.

11 \* \* \*

12 (b) Priority.--An order of attachment for support shall have
13 first priority and an order described in subsection (a)(5) shall
14 have second priority over any other attachment, execution,
15 garnishment or wage assignment.

16 \* \* \*

17 ~~Section 2. Section 9730(a) and (b)(2) of Title 42 are~~

<--

1 ~~amended and the section is amended by adding subsections to~~  
2 ~~read:~~

3 SECTION 2. SECTION 9730 OF TITLE 42 IS AMENDED TO READ: <--

4 § 9730. Payment of court costs, restitution and fines.

5 (a) [Use of credit cards] Method of payment.--The treasurer  
6 of each county may allow the use of credit cards and bank cards  
7 in the payment of court costs, RESTITUTION and fines[.], and may <--  
8 provide for automatic periodic deductions from a bank account,  
9 subject to the agreement of the owner of the account.

10 (a.1) Wage attachment.--A court may, at sentencing, assign  
11 an amount not greater than 25% of the defendant's gross salary,  
12 wages or other earnings to be used for the payment of  
13 restitution, fines or court costs, RESTITUTION OR FINES. <--

14 (b) Procedures regarding default.--

15 \* \* \* <--

16 (1) IF A DEFENDANT DEFAULTS IN THE PAYMENT OF [A FINE,] <--  
17 COURT COSTS [OR], RESTITUTION OR FINE AFTER IMPOSITION OF  
18 SENTENCE, THE ISSUING AUTHORITY OR A SENIOR JUDGE OR SENIOR  
19 MAGISTERIAL DISTRICT JUDGE APPOINTED BY THE PRESIDENT JUDGE  
20 FOR THE PURPOSES OF THIS SECTION MAY CONDUCT A HEARING TO  
21 DETERMINE WHETHER THE DEFENDANT IS FINANCIALLY ABLE TO PAY.

22 (2) If the issuing authority, senior judge or senior  
23 magisterial district judge determines that the defendant is  
24 financially able to pay the [fine or] costs, RESTITUTION OR <--  
25 FINE, the issuing authority, senior judge or senior  
26 magisterial district judge may enter an order for wage  
27 attachment, turn the delinquent account over to a private  
28 collection agency or impose imprisonment for nonpayment, as  
29 provided by law.

30 \* \* \* <--

1           (3) IF THE ISSUING AUTHORITY, SENIOR JUDGE OR SENIOR  
2           MAGISTERIAL DISTRICT JUDGE DETERMINES THAT THE DEFENDANT IS  
3           WITHOUT THE FINANCIAL MEANS TO PAY THE [FINE OR] COSTS,  
4           RESTITUTION OR FINE IMMEDIATELY OR IN A SINGLE REMITTANCE,  
5           THE ISSUING AUTHORITY, SENIOR JUDGE OR SENIOR MAGISTERIAL  
6           DISTRICT JUDGE MAY PROVIDE FOR PAYMENT IN INSTALLMENTS. IN  
7           DETERMINING THE APPROPRIATE INSTALLMENTS, THE ISSUING  
8           AUTHORITY, SENIOR JUDGE OR SENIOR MAGISTERIAL DISTRICT JUDGE  
9           SHALL CONSIDER THE DEFENDANT'S FINANCIAL RESOURCES[, THE  
10          DEFENDANT'S ABILITY TO MAKE RESTITUTION AND REPARATIONS AND  
11          THE NATURE OF THE BURDEN THE PAYMENT WILL IMPOSE ON THE  
12          DEFENDANT] AND ABILITY TO PAY. IF THE DEFENDANT IS IN DEFAULT  
13          OF A PAYMENT OR ADVISES THE ISSUING AUTHORITY, SENIOR JUDGE  
14          OR SENIOR MAGISTERIAL DISTRICT JUDGE THAT DEFAULT IS  
15          IMMINENT, THE ISSUING AUTHORITY, SENIOR JUDGE OR SENIOR  
16          MAGISTERIAL DISTRICT JUDGE MAY SCHEDULE A REHEARING ON THE  
17          PAYMENT SCHEDULE. AT THE REHEARING THE DEFENDANT HAS THE  
18          BURDEN OF PROVING CHANGES OF FINANCIAL CONDITION SUCH THAT  
19          THE DEFENDANT IS WITHOUT THE MEANS TO MEET THE PAYMENT  
20          SCHEDULE. THE ISSUING AUTHORITY, SENIOR JUDGE OR SENIOR  
21          MAGISTERIAL DISTRICT JUDGE MAY EXTEND OR ACCELERATE THE  
22          SCHEDULE, LEAVE IT UNALTERED OR SENTENCE THE DEFENDANT TO A  
23          PERIOD OF COMMUNITY SERVICE AS THE ISSUING AUTHORITY, SENIOR  
24          JUDGE OR SENIOR MAGISTERIAL DISTRICT JUDGE FINDS TO BE JUST  
25          AND PRACTICABLE UNDER THE CIRCUMSTANCES.

26          (4) A DECISION OF THE ISSUING AUTHORITY, SENIOR JUDGE OR  
27          SENIOR MAGISTERIAL DISTRICT JUDGE UNDER PARAGRAPH (2) OR (3)  
28          IS SUBJECT TO SECTION 5105 (RELATING TO RIGHT TO APPELLATE  
29          REVIEW).

30          (c) Prohibition against adverse action.--No employer may

1 discharge, refuse to hire, or take any other adverse action  
2 against any person based in whole or in part on an order for the  
3 attachment of wages or the possibility thereof. An employer who  
4 violates this section may be held in contempt of court and shall  
5 be liable to the person for actual damages resulting from the  
6 violative action.

7 Section 3. This act shall take effect in 180 days.