

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1208 Session of 2022

INTRODUCED BY BROWNE, MARTIN, MENSCH, BOSCOLA, STEFANO AND CAPPELLETTI, APRIL 28, 2022

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, OCTOBER 25, 2022

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in sentencing, further
3 providing for ~~COLLECTION OF RESTITUTION, REPARATION, FEES,~~ <--
4 ~~COSTS, FINES AND PENALTIES,~~ FOR payment of court costs,
5 restitution and fines and for collection of court costs,
6 restitution and fines by private collection agency.

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

9 ~~Section 1. Section 9730(a) and (b)(3) and (4) of Title 42 of~~ <--
10 ~~the Pennsylvania Consolidated Statutes are amended and~~
11 ~~subsection (b) is amended by adding paragraphs to read:~~

12 ~~SECTION 1. SECTION 9728(G.1) OF TITLE 42 OF THE PENNSYLVANIA~~ <--
13 ~~CONSOLIDATED STATUTES IS AMENDED TO READ:~~

14 ~~§ 9728. COLLECTION OF RESTITUTION, REPARATION, FEES, COSTS,~~
15 ~~FINES AND PENALTIES.~~

16 * * *

17 ~~(G.1) PAYMENT. NO LESS THAN 50% OF ALL MONEYS COLLECTED BY~~
18 ~~THE COUNTY PROBATION DEPARTMENT OR OTHER AGENT DESIGNATED BY THE~~
19 ~~COUNTY COMMISSIONERS OF THE COUNTY WITH THE APPROVAL OF THE~~

1 ~~PRESIDENT JUDGE OF THE COUNTY PURSUANT TO SUBSECTION (B) (1) AND~~
2 ~~DEDUCTED PURSUANT TO SUBSECTION (B) (5) SHALL, UNTIL THE~~
3 ~~SATISFACTION OF THE DEFENDANT'S RESTITUTION OBLIGATION, BE USED~~
4 ~~TO PAY RESTITUTION TO VICTIMS. ANY REMAINING MONEYS SHALL BE~~
5 ~~USED TO PAY THE COSTS IMPOSED UNDER SECTION 1101 OF THE ACT OF~~
6 ~~NOVEMBER 24, 1998 (P.L.882, NO.111), KNOWN AS THE CRIME VICTIMS~~
7 ~~ACT, UNTIL SATISFACTION OF THE DEFENDANT'S SECTION 1101 COSTS~~
8 ~~OBLIGATION, AND THEN SHALL BE USED TO PAY FEES, COSTS, FINES,~~
9 ~~PENALTIES AND OTHER COURT ORDERED OBLIGATIONS.~~

10 * * *

11 ~~SECTION 2. SECTION 9730 (A) AND (B) (3) AND (4) OF TITLE 42~~
12 ~~ARE AMENDED AND SUBSECTION (B) IS AMENDED BY ADDING PARAGRAPHS~~
13 ~~TO READ:~~

14 SECTION 1. SECTION 9730 (A) AND (B) (3) AND (4) OF TITLE 42 OF <--
15 THE PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED AND
16 SUBSECTION (B) IS AMENDED BY ADDING PARAGRAPHS TO READ:

17 § 9730. Payment of court costs, restitution and fines.

18 (a) Method of payment.--The treasurer of each county [may]
19 shall allow the use of credit cards, debit cards and bank cards
20 in the payment of court costs, restitution and fines and may
21 provide for automatic periodic deductions from a bank account,
22 subject to the agreement of the owner of the account.

23 (b) Procedures regarding default.--

24 * * *

25 ~~(2.1) If the issuing authority, senior judge or senior <--~~

26 (2.1) (I) IF THE ISSUING AUTHORITY, SENIOR JUDGE OR <--

27 SENIOR magisterial district judge schedules a financial

28 determination hearing for the defendant and provides

29 notice to the defendant of the hearing, but the defendant

30 fails to appear at the financial determination hearing,

1 the issuing authority, senior judge or senior magisterial
2 district judge may turn the delinquent account over to a
3 private collection agency or the county's collection
4 enforcement unit as set forth under section 9728
5 (relating to collection of restitution, reparation, fees,
6 costs, fines and penalties), as provided by law.

7 ~~(2.2) If the defendant has a delinquent account turned~~ <--

8 (II) IN EACH COMMUNICATION WITH THE DEFENDANT, THE <--
9 PRIVATE COLLECTION AGENCY OR THE COUNTY'S COLLECTION
10 ENFORCEMENT UNIT SHALL NOTIFY THE DEFENDANT OF THE
11 DEFENDANT'S RIGHT TO REQUEST A NEW FINANCIAL
12 DETERMINATION HEARING UNDER PARAGRAPH (2.2).

13 (2.2) (I) IF THE DEFENDANT HAS A DELINQUENT ACCOUNT
14 TURNED over to a private collection agency or the
15 county's collection enforcement unit under paragraph (2) <--
16 or (2.1), the defendant may request a new financial
17 determination hearing on the defendant's financial
18 ability to pay the court costs, restitution or fines.

19 ~~Upon receipt of the request for a new financial~~ <--

20 (II) UPON RECEIPT OF THE REQUEST FOR A NEW FINANCIAL <--
21 determination hearing under this paragraph, the issuing
22 authority, senior judge or senior magisterial district
23 judge shall schedule and conduct the hearing in
24 accordance with this subsection. In each communication <--
25 with the defendant, the private collection agency or the
26 county's collection enforcement unit shall notify the
27 defendant of the defendant's right to request a new
28 financial determination hearing under this paragraph.

29 ~~Upon notice that the defendant has requested a new~~
30 ~~financial determination hearing under this paragraph, the~~

~~private collection agency or the county's collection enforcement unit shall cease all collections activities pending the conclusion of the financial determination hearing. If the defendant fails to appear at the financial determination hearing under this paragraph, the private collection agency or county's collection enforcement unit may resume collection activities.~~

~~(3) If the issuing authority, senior judge or senior~~

(III) UPON NOTICE THAT THE DEFENDANT HAS REQUESTED A <--
NEW FINANCIAL DETERMINATION HEARING UNDER THIS PARAGRAPH,
THE PRIVATE COLLECTION AGENCY OR THE COUNTY'S COLLECTION
ENFORCEMENT UNIT SHALL CEASE ALL COLLECTIONS ACTIVITIES
PENDING THE CONCLUSION OF THE FINANCIAL DETERMINATION
HEARING.

(IV) IF THE DEFENDANT FAILS TO APPEAR AT THE
FINANCIAL DETERMINATION HEARING UNDER THIS PARAGRAPH, THE
PRIVATE COLLECTION AGENCY OR COUNTY'S COLLECTION
ENFORCEMENT UNIT MAY RESUME COLLECTION ACTIVITIES.

(V) IF THE DEFENDANT REQUESTS A NEW FINANCIAL
DETERMINATION HEARING AFTER FAILING TO APPEAR AT A
HEARING PREVIOUSLY REQUESTED UNDER THIS PARAGRAPH, THE
PRIVATE COLLECTION AGENCY OR COUNTY COLLECTION
ENFORCEMENT UNIT'S COLLECTION ACTIVITIES MAY CONTINUE
UNLESS STAYED BY COURT ORDER.

(3) (I) IF THE ISSUING AUTHORITY, SENIOR JUDGE OR SENIOR magisterial district judge determines that the defendant is without the financial means to pay the costs, restitution or [fine] finer immediately or in a single remittance, the issuing authority, senior judge or senior magisterial district judge may provide for payment

1 in installments or, in the case of costs or fines, reduce
2 or waive the costs or fines[.], EXCEPT COSTS IMPOSED <--
3 UNDER SECTION 1101 OF THE ACT OF NOVEMBER 24, 1998
4 (P.L.882, NO.111), KNOWN AS THE CRIME VICTIMS ACT. In
5 determining the appropriate installments, reduction or
6 waiver, the issuing authority, senior judge or senior
7 magisterial district judge shall consider the defendant's
8 financial resources, the defendant's ability to make
9 restitution and reparations and the nature of the burden
10 the payment will impose on the ~~defendant. If the~~ <--
11 ~~defendant is in default of a payment or~~ DEFENDANT. <--

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. The issuing authority, senior judge or senior
21 magisterial district judge may extend or accelerate the
22 schedule, leave it unaltered, REDUCE OR WAIVE THE COSTS <--
23 OR FINES, EXCEPT COSTS IMPOSED UNDER SECTION 1101.1 1101 <--
24 OF THE CRIME VICTIMS ACT or sentence the defendant to a
25 period of community service as the issuing authority,
26 senior judge or senior magisterial district judge finds
27 to be just and practicable under the ~~circumstances. The~~ <--
28 ~~issuing authority, senior judge or senior~~ CIRCUMSTANCES. <--

29 (III) IF THE ISSUING AUTHORITY, SENIOR JUDGE OR
30 SENIOR MAGISTERIAL DISTRICT JUDGE DETERMINES THAT THE

1 DEFENDANT IS WITHOUT THE FINANCIAL MEANS TO PAY THE
2 COSTS, RESTITUTION OR FINES UNDER THIS PARAGRAPH, THE
3 ISSUING AUTHORITY, SENIOR JUDGE OR SENIOR magisterial
4 district judge shall waive an existing collection fee
5 under section 9730.1(b) (relating to collection of court
6 costs, restitution and fines by private collection
7 agency) that was not previously collected from the
8 defendant who is determined to be without the financial
9 means to pay the costs, restitution or fines under this
10 paragraph.

11 (4) A decision of the issuing authority, senior judge or
12 senior magisterial district judge under paragraph (2), (2.1)
13 or (3) is subject to section 5105 (relating to right to
14 appellate review).

15 Section ~~2~~ 3 2. Section 9730.1(a) and (e) of Title 42 are <--
16 amended and the section is amended by adding a subsection to
17 read:

18 § 9730.1. Collection of court costs, restitution and fines by
19 private collection agency.

20 (a) Generally.--In accordance with section [9730(b)(1) and
21 (2)] 9730(b) (relating to payment of court costs, restitution
22 and fines), an issuing authority may refer the collection of
23 costs, fines and restitution of a defendant to a private
24 collection agency whether or not the defendant's maximum
25 sentence or probationary term has expired with or without
26 holding a hearing pursuant to this section. Such collection
27 agency shall adhere to accepted practices in accordance with
28 applicable Federal and State law to collect such costs, fines
29 and restitution.

30 * * *

1 (c.1) Credit reporting.--A private collection agency may not
2 share information with a consumer reporting agency regarding a
3 defendant's failure to pay costs, fines and restitution unless a
4 financial determination hearing has been conducted in accordance
5 with section 9730(b) and the issuing authority, senior judge or
6 senior magisterial district judge has determined that the
7 defendant is financially able to pay the costs, fines and
8 restitution.

9 * * *

10 (e) Definitions.--As used in this section, the following
11 words and phrases shall have the meanings given to them in this
12 subsection:

13 "Amount owing." The total amount owed by a defendant on
14 fines, costs or restitution in accordance with the order of
15 court sentencing the defendant and this section.

16 "Consumer reporting agency." As defined in section 603(f) of
17 the Fair Credit Reporting Act (Public Law 91-508, 15 U.S.C. §
18 1681a(f)).

19 "Private collection agency." A person, company, partnership
20 or other entity that uses any instrumentality of interstate
21 commerce or the mails in any business the principal purpose of
22 which is the collection of any debts, or who regularly collects
23 or attempts to collect, directly or indirectly, debts owed or
24 due or asserted to be owed or due another under the applicable
25 laws of the United States and of this Commonwealth.

26 Section ~~3~~ 4 3. This act shall take effect in 120 days.

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