

1 H.875

2 Introduced by Committee on Judiciary

3 Date:

4 Subject: Judicial Bureau; motor vehicles; violations

5 Statement of purpose of bill as introduced: This bill proposes to eliminate a
6 defendant's right to a trial by jury in traffic appeals, to allow the Judicial
7 Bureau to extend time periods for paying civil penalties for traffic violations,
8 to cap license suspension at 120 days for failure to pay a traffic ticket, to
9 eliminate credit bureau reporting for failure to pay traffic tickets, and not to
10 count prior DLS if the amount due is paid without participation in the DLS
11 Diversion Program.

12 An act relating to the elimination of a defendant's right to a trial by jury in
13 traffic appeals and fines for driving with license suspended

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 Sec. 1. 4 V.S.A. § 1107 is amended to read:

16 § 1107. APPEALS

17 (a) A decision of the hearing officer may be appealed to the Criminal
18 Division of the Superior Court. The proceeding before the Criminal Division
19 of the Superior Court shall be on the record, or at the option of the defendant,
20 de novo. The defendant shall have the right to trial by jury except in appeals of

1 traffic violations within the jurisdiction of the Judicial Bureau which shall be
2 heard before a judge. An appeal shall stay payment of a penalty and the
3 imposition of points.

4 * * *

5 Sec. 2. 4 V.S.A. § 1109 is amended to read:

6 § 1109. REMEDIES FOR FAILURE TO PAY

7 (a) As used in this section:

8 (1) “Amount due” means all financial assessments contained in a
9 ~~judicial bureau~~ Judicial Bureau judgment, including penalties, fines,
10 surcharges, court costs, and any other assessment authorized by law.

11 (2) “Designated collection agency” means a collection agency
12 designated by the ~~court administrator~~ Court Administrator.

13 (3) “~~Designated credit bureau~~” means a ~~credit bureau designated by the~~
14 ~~court administrator or the court administrator’s designee.~~ [Repealed.]

15 (b) A ~~judicial bureau~~ Judicial Bureau judgment shall provide notice that a
16 \$30.00 fee shall be assessed for failure to pay within 30 days. If the defendant
17 fails to pay the amount due within 30 days, the fee shall be added to the
18 judgment amount and deposited in the ~~court technology special fund~~ Court
19 Technology Special Fund established pursuant to section 27 of this title.

20 (c) Civil contempt proceedings. If an amount due remains unpaid for
21 75 days after the ~~judicial bureau~~ Judicial Bureau provides the defendant with a

1 notice of judgment, the ~~judicial bureau~~ Judicial Bureau may initiate civil
2 contempt proceedings pursuant to this subsection.

3 (1) Notice of hearing. The ~~judicial bureau~~ Judicial Bureau shall provide
4 notice by first class mail sent to the defendant's last known address that a
5 contempt hearing will be held pursuant to this subsection, and that failure to
6 appear at the contempt hearing may result in the sanctions listed in subdivision
7 (2) of this subsection.

8 (2) Failure to appear. If the defendant fails to appear at the contempt
9 hearing, the hearing officer may direct the clerk of the ~~judicial bureau~~ Judicial
10 Bureau to:

11 (A) cause the matter to be reported to one or more designated ~~credit~~
12 ~~bureaus~~ collection agencies; or

13 (B) refer the matter to ~~criminal division of the superior court~~ the
14 Criminal Division of the Superior Court for contempt proceedings.

15 (3) Hearing. The hearing shall be conducted in a summary manner. The
16 hearing officer shall examine the defendant and any other witnesses and may
17 require the defendant to produce documents relevant to the defendant's ability
18 to pay the amount due. The ~~state~~ State or municipality shall not be a party
19 except with the permission of the hearing officer. The defendant may be
20 represented by counsel at the defendant's own expense.

1 (4) Contempt.

2 (A) The hearing officer may conclude that the defendant is in
3 contempt if the hearing officer states in written findings a factual basis for
4 concluding that:

5 (i) the defendant knew or reasonably should have known that he or
6 she owed an amount due on a ~~judicial bureau~~ Judicial Bureau judgment;

7 (ii) the defendant had the ability to pay all or any portion of the
8 amount due; and

9 (iii) the defendant failed to pay all or any portion of the
10 amount due.

11 (B) In the contempt order, the hearing officer may do one or more of
12 the following:

13 (i) Set a date by which the defendant shall pay the amount due.

14 (ii) Assess an additional penalty not to exceed ten percent of the
15 amount due.

16 (iii) ~~Direct the clerk of the judicial bureau to cause the matter to be~~
17 ~~reported to one or more designated credit bureaus. The court administrator or~~
18 ~~the court administrator's designee is authorized to contract with one or more~~
19 ~~credit bureaus for the purpose of reporting information about unpaid judicial~~
20 ~~bureau judgments. [Repealed.]~~

1 (iv) Recommend that the ~~criminal division of the superior court~~
2 Criminal Division of the Superior Court incarcerate the defendant until the
3 amount due is paid. If incarceration is recommended pursuant to this
4 subdivision (4), the ~~judicial bureau~~ Judicial Bureau shall notify the ~~criminal~~
5 ~~division of the superior court~~ Criminal Division of the Superior Court that
6 contempt proceedings should be commenced against the defendant. The
7 ~~criminal division of the superior court~~ Criminal Division of the Superior Court
8 proceedings shall be de novo. If the defendant cannot afford counsel for the
9 contempt proceedings in ~~criminal division of the superior court~~ the Criminal
10 Division of the Superior Court, the ~~defender general~~ Defender General shall
11 assign counsel at the ~~defender general's~~ Defender General's expense.

12 (d) Collections.

13 (1) If an amount due remains unpaid after the issuance of a notice of
14 judgment, the ~~court administrator~~ Court Administrator may authorize the clerk
15 of the ~~judicial bureau~~ Judicial Bureau to refer the matter to a designated
16 collection agency.

17 (2) The ~~court administrator~~ Court Administrator or the ~~court~~
18 ~~administrator's~~ Court Administrator's designee is authorized to contract with
19 one or more collection agencies for the purpose of collecting unpaid ~~judicial~~
20 ~~bureau~~ Judicial Bureau judgments pursuant to 13 V.S.A. § 7171.

21 (e) For purposes of civil contempt proceedings, venue shall be statewide.

1 (f) Notwithstanding 32 V.S.A. § 502, the ~~court administrator~~ Court
2 Administrator is authorized to contract with a third party to collect fines,
3 penalties, and fees by credit card, debit card, charge card, prepaid card, stored
4 value card, and direct bank account withdrawals or transfers, as authorized by
5 32 V.S.A. § 583, and to add on and collect, or charge against collections, a
6 processing charge in an amount approved by the ~~court administrator~~ Court
7 Administrator.

8 Sec. 3. 23 V.S.A. § 674 is amended to read:

9 § 674. OPERATING AFTER SUSPENSION OR REVOCATION OF
10 LICENSE; PENALTY; REMOVAL OF REGISTRATION PLATES;
11 TOWING

12 (a)(1) Except as provided in section 676 of this title, a person whose license
13 or privilege to operate a motor vehicle has been suspended or revoked for a
14 violation of this section or ~~subsections~~ subsection 1091(b), 1094(b), or 1128(b)
15 or (c) of this title and who operates or attempts to operate a motor vehicle upon
16 a public highway before the suspension period imposed for the violation has
17 expired shall be imprisoned not more than two years or fined not more than
18 \$5,000.00, or both.

19 (2) A person who violates section 676 of this title for the sixth or
20 subsequent time shall, if the five prior offenses occurred after July 1, 2003, be
21 imprisoned not more than two years or fined not more than \$5,000.00, or both.

1 (3) Violations of section 676 of this title that occurred prior to the date a
2 person successfully completes the driving with license suspended diversion
3 program or prior to the date that a person pays the amount due to the Judicial
4 Bureau in accordance with subsection 2307(b) of this chapter shall not be
5 counted as prior offenses under subdivision (2) of this subsection.

6 (b) Except as authorized in section 1213 of this title, a person whose
7 license or privilege to operate a motor vehicle has been suspended or revoked
8 for a violation of section 1201 of this title or has been suspended under section
9 1205 of this title and who operates or attempts to operate a motor vehicle upon
10 a public highway before reinstatement of the license shall be imprisoned not
11 more than two years or fined not more than \$5,000.00, or both. The sentence
12 shall be subject to the following mandatory minimum terms:

13 * * *

14 Sec. 4. 23 V.S.A. § 2307 is amended to read:

15 § 2307. REMEDIES FOR FAILURE TO PAY TRAFFIC VIOLATIONS

16 ~~As used in this section,~~

17 (a) ~~“Amount due”~~ Definition. As used in this section, “amount due” means
18 all financial assessments contained in a Judicial Bureau judgment, including
19 penalties, fines, surcharges, court costs, and any other assessment authorized
20 by law.

1 (b) Notice of risk of suspension. A judgment for a traffic violation shall
2 contain a notice that failure to pay or otherwise satisfy the amount due within
3 30 days of the notice will result in suspension of the person's operator's license
4 or privilege to operate, and the denial, if the person is the sole registrant, of the
5 person's application for renewal of a motor vehicle registration, until the
6 amount due is paid or otherwise satisfied. If the defendant fails to pay the
7 amount due within 30 days of the notice, or by a date as determined by a
8 judicial officer, and the case is not pending on appeal, the Judicial Bureau shall
9 provide electronic notice thereof to the Commissioner of Motor Vehicles ~~who,~~
10 ~~after.~~ After 20 days from the date of receiving the electronic notice, the
11 Commissioner shall:

12 (1) ~~suspend~~ Suspend the person's operator's license or privilege to
13 operate for a period of 120 days. However, the person shall become eligible
14 for reinstatement prior to expiration of the 120 days if the amount due is paid
15 or otherwise satisfied.

16 (2) ~~and deny, if the person is the sole registrant,~~ Deny the person's
17 application for renewal of a motor vehicle registration, if the person is the sole
18 registrant, until the amount due is paid or otherwise satisfied.

19 (c) During proceedings conducted pursuant to 4 V.S.A. § 1109, the hearing
20 officer may apply the following mitigation remedies when the judgment is
21 based upon a traffic violation. The hearing officer also may apply the

1 remedies with or without a hearing when acting on a motion to approve a
2 proposed DLS Diversion Program contract and related payment plan pursuant
3 to 2012 Acts and Resolves No. 147, Sec. 2. Notwithstanding any other law, no
4 entry fee shall be required and venue shall be statewide for motions to approve.

5 (1) The hearing officer may waive the reinstatement fee required by
6 section 675 of this title or reduce the amount due on the basis of:

7 (A) the defendant's driving history, ability to pay, or service to the
8 community;

9 (B) the collateral consequences of the violation; or

10 (C) the interests of justice.

11 (2) The hearing officer may specify a date by which the defendant shall
12 pay the amount due and may notify the Commissioner of Motor Vehicles to
13 reinstate the defendant's operator's license or privilege subject to payment of
14 the amount due by the specified date. If the defendant fails to pay the amount
15 due by the specified date, the Judicial Bureau may notify the Commissioner to
16 suspend the defendant's operator's license or privilege. A license may be
17 reinstated under this subdivision only if the defendant's license is suspended
18 solely for failure to pay a judgment of the Judicial Bureau.

19 (3) The judicial officer shall have sole discretion to determine mitigation
20 remedies pursuant to this subdivision, and the judicial officer's determination

1 shall not be subject to review or appeal in any court, tribunal, or administrative
2 office.

3 Sec. 5. EFFECTIVE DATE

4 This act shall take effect on July 1, 2014.