



**150th GENERAL ASSEMBLY
FISCAL NOTE**

BILL:	SENATE BILL NO. 39
SPONSOR:	Senator Brown
DESCRIPTION:	AN ACT TO AMEND TITLE 10, TITLE 11, AND TITLE 21 OF THE DELAWARE CODE RELATING TO FINES, FEES, COSTS, PENALTIES, AND FORFEITURES.

Assumptions:

1. This Act becomes effective upon signature by the Governor.
2. This Act provides for the following:
 - a. permits a court, before imposing a fine, fee, cost, or assessment, to consider either an adult or juvenile defendant's ability to pay the fine, fee, cost, or assessment;
 - b. provides the courts with discretion to waive, modify, or suspend costs, assessments, fines, and fees even if otherwise deemed mandatory by Delaware Code;
 - c. prohibits a court or the Department of Transportation from suspending a driver's license for nonpayment of a fine, fee, cost, assessment, or restitution;
 - d. prohibits a court from charging a penalty, assessment, or fee to a defendant for the cancellation of a warrant issued due to the defendant's nonpayment of a fine, fee, cost, assessment, or restitution;
 - e. prohibits a court from imposing an additional fee on a defendant for payments that are made at designated periodic intervals or late, or when probation is ordered to supervise a defendant's payment;
 - f. enables the court to be able to order a defendant to report at any time to the Commissioner of the Department of Correction, or a person designated by the Commissioner, to work for a number of hours necessary to discharge the fine, fee, costs, or assessment imposed upon conviction of a crime and the defendant is unable or fails to pay;
 - g. requires state, county, and municipal law enforcement agencies and volunteer ambulance companies to calculate and make a public report of the total sum they receive from fines, fees, costs, assessments, and restitution;
 - h. creates the Criminal Legal System Imposed Debt Study Group to review the impact court-imposed financial obligations have on defendants and survivors of crime and make recommendations to promote access, fairness, and transparency in the imposition and collection of court-imposed financial obligations.
3. If the Judiciary does not suspend fines and courts costs, collections from these criminal fees and fines go to the General Fund. Delaware Code has established a number of other fines, fees, costs, or assessments made upon defendants that presently cannot be suspended by the Court. Some of these funds include the Victims Compensation Fund, the DELJIS Fund, the Videophone Fund, the Court Security Fund, the Fund to Combat Violent Crime, the Ambulance Fund, and the Transportation Trust Fund. The total revenue loss for these funds is indeterminable.

4. This Act would allow the Court to be able to order a defendant into a minimum wage credit program should it be determined that a defendant is in default of their payment or unable to pay. The Judiciary believes it would need a minimum of 26.0 FTEs to be distributed state-wide between Superior Court, Court of Common Pleas, Family Court, Justice of the Peace Court, and the Administrative Office of the Courts in anticipation of the increase in work referrals for the new responsibilities associated with the minimum wage credit program. The Courts will be required to establish guidelines for the private and non-profit sector programming, monitoring and verifying the completion of the programs, determining the credits, and applying the credits to fees and fines.
 - a. The 26.0 FTE positions would be as follows:
 - 6.0 FTE Accountants
 - 19.0 FTE Judicial Case Processors
 - 1.0 FTE Management Analyst III
 - b. The total recurring cost for these positions is \$1,707,314 which includes salaries, health insurance, and other employment costs.
 - c. An additional one-time operating expense of \$67,500 is estimated for computers, software, furniture, and other related startup costs for these positions.
5. The Judiciary would be expected to increase services to the public by providing aggregate statewide fee and fine balances at any court payment center. This will require significant reprogramming efforts, training for court employees, and the printing of information for the public. The Courts estimate that one-time funding of \$3,000 will be needed for training, approximately \$30,000 in one-time computer programming expenses, and approximately \$20,000 recurring cost for additional printers, paper, and printer supplies.
6. This Act would require the Delaware Justice Information System (DELJIS) to make programming and system modifications to ensure compliance. DELJIS will require specialized staff to make these coding changes and estimates that it would cost approximately \$30,000 in one-time programming expenses.
7. This Act would require the Department of Correction to make significant programming and system modifications to its Delaware Automated Correction System (DACS) to ensure compliance. The Department estimates this to be a one-time cost of \$100,000. Additionally, the Department has identified a need for 3.0 FTE Social Service Specialist II's, one for each county, in anticipation of the increase in work referrals associated with the minimum wage credit program.
 - a. The total recurring cost for these positions is \$159,763 which includes salaries, health insurance, and other employment costs.
 - b. An additional one-time operating expense of \$7,500 is estimated for computers, software, furniture, and other related startup costs for these positions.
8. This Act prohibits a court or the Department of Transportation, Division of Motor Vehicles (DMV) from suspending a driver's license for nonpayment of a fine, fee, cost, or assessment and from charging a penalty, assessment, or fee after July 1, 2020. Presently, the DMV charges a \$50 reinstatement fee when a defendant's license has been suspended due to failure to pay a fine, fee, cost, or assessment. All license reinstatement fees are receipted to the Transportation Trust Fund (TTF). The number of suspensions issued and the collection of the reinstatement fee for the past three fiscal years are as follows:

	FY 2017	FY 2018	FY 2019 <i>(as of June 14, 2019)</i>
Failure to Pay Number of Suspensions Issued	21,865	20,679	15,697
Total Reinstatement Fees (\$50)	\$1,093,250	\$1,033,950	\$784,850

FY 2019 numbers are as of June 14, 2019, leaving two weeks remaining with no expectation that the numbers will dramatically increase. Based on the totals above, a three year average of the total reinstatement fees collected is \$970,683, which would be the estimated revenue loss to the TTF.

9. In Fiscal Year 2018, the Judiciary collected approximately \$23 million in criminal fees, fines, costs, and assessments, most of which the Court is required to assess by statute. The amount that will be waived, modified, or credited, and which would have otherwise been paid is unknown. It is important to note that the full revenue loss may not be seen immediately, as oldest fees and fines are paid off first, and therefore there may be some current assessments which would not be impacted until future years.
10. Lastly, this Act would require the Courts to waive fines and fees after 10 years, tolled by an intervening period of time of incarceration in another jurisdiction. While the Courts would be able to waive fees and fines after 10 years with an unknown revenue impact, the Judiciary would not know the incarceration time from outside jurisdictions that would be needed to calculate the proper date.

<u>Cost:</u>	<u>Recurring</u>	<u>One-Time</u>	<u>General Fund Revenue Loss</u>	<u>Transportation Trust Fund Revenue Loss</u>
Fiscal Year 2020:	\$1,887,077	\$238,000	Indeterminable	\$0
Fiscal Year 2021:	\$1,887,077		Indeterminable	Estimated \$970,683
Fiscal Year 2022:	\$1,887,077		Indeterminable	Estimated \$970,683

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