

CHAPTER 254
FORMERLY
SENATE BILL NO. 210

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO DEFAULT IN PAYMENT OF A FINE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 4105, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4105. Default in payment of fine; inability to pay.

(b)(1) Where a person sentenced to pay a fine, costs, restitution or all 3, on conviction of a crime is unable or fails to pay such fine, costs, restitution or all 3, at the time of imposition of sentence or in accordance with the terms of payment set by the court, the court may order the person to report at any time to the Commissioner of the Department of Correction, or a person designated by the Commissioner, for work for a number and schedule of hours necessary to discharge the fine, costs or restitution imposed.

(2) For purposes of this section, the hourly rate shall be established in accordance with the then prevailing federal minimum wage, and shall be used in computing the amount credited to any person discharging fines, costs and restitution.

(3) In cases involving Justices of the Peace Courts, the Chief Magistrate thereof shall establish guidelines for the number of hours of work which may be assigned and the Courts shall adhere to said guidelines.

(4) The Department may approve public work assignments for convicted persons in accordance with subsection (c) of this section, whereupon the Commissioner, or a person designated by the Commissioner, may assign the convicted person to work under the supervision of any state, county or municipal agency on any project or assignment specifically certified for that purpose.

(5) The Department of Correction shall not compensate any convicted person assigned to work under the supervision of any state, county or municipal agency but shall credit such person with the number of hours of satisfactory service.

(6) When the number of such hours equals the number of hours imposed by the court, the Department shall certify this fact to the appropriate court, and the court shall proceed as if the fines, costs and restitution had been paid in cash. Fines, costs and restitution successfully worked off ~~in the above manner~~ under this subsection shall not be considered as receivables of the court, but the records shall show the hours worked.

(7) Failure to comply with an order of the court made pursuant to this section shall be punishable as civil contempt and all courts shall have the power to punish as a civil contempt any convicted person who fails to comply with such an order.

(8) In the event a person serves all or part of a sentence of incarceration for contempt of court in accordance with this subsection, the length of the sentence being in the court's discretion and based upon the amount of the outstanding fines and costs, the court shall cancel all or part of the fines and costs. The amount of fines and costs cancelled shall be commensurate with the amount of the time served.

(9) For any offense in which the penalty is civil, a court may order a person to report to the Commissioner of the Department of Correction, or a person designated by the Commissioner, for work under this subsection and consistent with the procedures of this subsection until the civil penalties and costs are discharged. Notwithstanding paragraph (b)(7) of this section, a person's failure to participate in work ordered under this paragraph(b)(9) of this section is not punishable as contempt of court. A person's failure to participate in work ordered under this paragraph(b)(9) of this section may result in the transfer of the judgment to the Office of State Court Collections Enforcement to be collected according to § 4104 of this title.

Approved June 09, 2016