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DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 282

AN ACT TO AMEND TITLE 11 AND TITLE 16 OF THE DELAWARE CODE RELATING TO THE ELIMINATION OF CERTAIN FEES.

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

Section 1. Amend § 4101(i), Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 4101. Payment of fines, fees, costs, assessments, and restitution on conviction.

(i) ~~Prior to any fine, penalty or forfeiture being assessed a criminal defendant or any child adjudicated delinquent, the Attorney General or other prosecuting agency shall notify the court if the victim was 62 years of age or older. In addition to, and at the same time as, any fine, penalty or forfeiture is assessed to any criminal defendant or any child adjudicated delinquent, there shall be levied an additional penalty of \$100 imposed and collected by the courts for crimes or offenses in Chapter 5 of Title 11 where the victim was 62 years of age or older. When a fine, penalty or forfeiture is suspended, in whole or in part, the penalty assessment under this subsection shall not be suspended.~~

~~(1) Upon collection of the penalty assessment, the same shall be paid over to the prothonotary or clerk of courts, as the case may be, who shall collect the same and transmit it to the State Treasury to be deposited in a separate account for the administration of this subsection, which account shall be designated the "Senior Trust Fund", which is hereby created. The Fund is to be administered by the Director of the Division of Services for Aging and Adults with Physical Disabilities. The Fund shall be utilized in providing assistance for new or expanded programs on or after October 1, 2012, for the senior population. The Senior Trust Fund must be used to support the direct provision of aging services by community based service organizations.~~

~~(2) [Repealed.]~~

Section 2. Amend § 4359, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

20 § 4359. Short title; ~~Service fee.~~

21 This subchapter may be cited as the Interstate Compact for Adult Offender Supervision. ~~Any probationee who~~
22 ~~applies under this Compact for interstate transfer into or from the State of Delaware shall pay to the Department of~~
23 ~~Correction a service fee of \$50 to defray costs under the Compact.~~

24 Section 3. Amend § 4802A(a), Title 16 of the Delaware Code by making deletions as shown by strike through and
25 insertions as shown by underline as follows:

26 §4802A. ~~Source of funds.~~ [Repealed.]

27 (a) ~~In addition to and at the same time as any fine is assessed to any criminal defendant, or juvenile adjudicated~~
28 ~~delinquent for any violations of §§ 4751-4758, 4761 or 4771-4774 of this title or § 4177 of Title 21, there shall be levied an~~
29 ~~additional penalty, in addition to the penalty assessment as provided in § 9016 of Title 11, of 15% of every fine, penalty~~
30 ~~and forfeiture imposed and collected by the courts for such criminal offenses. When a fine, penalty or forfeiture is~~
31 ~~suspended in whole or in part, the penalty assessment shall not be suspended.~~

32 (b) ~~Upon collection of the penalty assessment, the same shall be paid over to the agency, Prothonotary or clerk of~~
33 ~~the court as the case may be, who shall collect it and transmit it to the State Treasurer to be deposited in a separate account~~
34 ~~designated “Substance Abuse Rehabilitation, Treatment, Education and Prevention Fund.”~~

35 Section 4. Upon the effective date of this bill, any outstanding balances owed on the repealed fees shall be
36 discharged.

SYNOPSIS

This Act repeals the Senior Trust Fund Fee, the Interstate Compact Fee, and the Substance Abuse, Rehabilitation, Treatment, Education and Prevention Fund Fee imposed on criminal defendants. The elimination of these fees was recommended by the Criminal Legal System Imposed Debt Study Group created by House Bill 244, as amended by House Amendment No 2, of the 151st General Assembly, in its December 7, 2023 report. The Criminal Legal System Imposed Debt Study Group also recommended replacement of lost revenue for affected agencies as needed with General Funds. In repealing these fees, the General Assembly also intends to eliminate any outstanding balances owed on these fees.

Author: Senator Brown