SPONSOR: Rep. Dorsey Walker & Sen. Brown
Reps. Baumbach, Harris, K. Johnson, Lynn, Morrison, Phillips, Romer, Griffith, Chukwuocha, Wilson-Anton; Sens. Gay, Lockman, S. McBride, Pinkney, Townsend

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 391

AN ACT TO AMEND TITLE 10, TITLE 11, AND TITLE 21 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 § 8505, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8505. ~~Court security assessment.~~[Repealed.]

~~(a) All state courts shall assess as part of court costs a supplemental court security assessment not to exceed $10 on each initial civil filing and on each criminal, traffic or delinquency charge for which there is a conviction or finding of delinquency or responsibility, or voluntary assessment paid.~~

~~(b) Court security assessment funding shall be deposited in a Court Security Fund and maintained separately from the General Fund of the State. This fund shall provide supplemental funding for personnel, equipment and/or training expenses related to judicial branch security.~~

~~(c) The Chief Justice shall submit a court security needs plan each fiscal year which shall be approved by the Office of Management and Budget and Controller General.~~

~~(d) The funds shall be distributed each fiscal year and shall be based upon the court security needs plan as approved by the Office of Management and Budget and the Controller General. If the plan includes additional funding for Capitol Police, the Capitol Police shall use that funding solely for the uses specified in the court security plan.~~

~~(e) There shall be no fee increases to the court security assessment pursuant to this section unless authorized by a further act of the General Assembly.~~

~~(f) The court security fund shall be supplemental to existing court security funding and nothing in this section shall diminish current ongoing budgetary and personnel allocations for judicial branch security services.~~

Section 2. Amend § 4101, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

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

(d) ~~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 $1.00 imposed and collected by the courts for crimes or offenses as defined in § 233 of this title. When a fine, penalty or forfeiture is suspended, in whole or in part, the penalty assessment 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 "Videophone Fund," which is hereby created. This fund is to be administered by the Criminal Justice Council. Funds shall be utilized to cover line charges, maintenance costs and purchase and upgrade of videophone systems used by state and local agencies in the criminal justice system.~~

~~(2) For each fiscal year, if the balance in the Videophone Fund exceeds $250,000, said funds shall be transferred to the General Fund of the State of Delaware on June 30. The Criminal Justice Council shall submit a detailed spending plan for the use of the videophone funds to the Director of the Office of Management and Budget and Controller General no later than September 30 of each fiscal year. No funds shall be expended until the plan is approved by the Director of the Office of Management and Budget and the Controller General.~~

~~(3) The courts may expunge the record of any videophone assessment which remains uncollected for a period in excess of 3 years.~~[Repealed.]

Section 3. Amend § 9418, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9418. ~~Victims' Rights Fund.~~[Repealed.]

~~All fines collected under Chapter 48 of Title 21 shall be deposited into a Victims' Rights Fund established within the State Treasurer's Office. Proceeds of this Fund are to be used for the establishment of necessary infrastructure and systems development in support of victim notification initiatives.~~

Section 4. Amend § 4802, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4802. Driver requirements; exceptions; sales requirements; working condition of system.

(g) ~~(1)~~ Failure to comply with this section shall be considered as an aggravating circumstance for sentencing purposes for persons convicted of violations of other provisions of this title.

~~(2) a. Any person who is found to have violated this section in connection with the prosecution of a violation of any other provision of this title shall in addition to any fine, and at the same time as any fine is assessed to the~~

~~defendant, be levied for credit to the Victim's Rights Fund an additional penalty assessment of 40% not to exceed $20 of every fine, penalty or forfeiture imposed or collected by the court for the offense under this title. Where there are multiple offenses under this title involved, the penalty assessment pursuant to this section shall be based upon a total fine for all offenses but not to exceed a total additional penalty assessment of $20. When a fine, penalty or forfeiture is suspended in whole or in part the additional penalty assessment shall not be suspended.~~

~~b. The assessment imposed herein shall be in addition to the penalty assessment imposed by § 9016(a) of Title 11.~~

(h)~~c.~~ Where there is no other violation of this title in addition to a violation of this section, a civil penalty of $25 shall be imposed. The failure to wear a seat belt by more than 1 person in the same vehicle at the same time, as required by this section, shall be treated as a single civil violation. Justice of the Peace Court shall have jurisdiction over actions involving this civil penalty.

(i)~~(h)~~ No motor vehicle points shall be assessed against any person for failing to comply with subsection (a) of this section and there shall be no entry made on the person's driving record for failing to comply with subsection (a) of this section.

(j)~~(i)~~ Failure to wear or use an occupant protection system shall not be considered as evidence of either comparative or contributory negligence in any civil suit or insurance claim adjudication arising out of any motor vehicle accident, nor shall failure to wear or use an occupant protection system be admissible as evidence in the trial of any civil action or insurance claim adjudication.

(k)~~(j)~~ Notwithstanding any law to the contrary, any police officer is authorized to make an administrative stop for purposes of enforcing this section, upon reasonable and articulable suspicion that a violation of this section has occurred.

Section 5. 30 days after the effective dates of this Act, any outstanding balances owed on the repealed fees shall be discharged.

Section 6. Section 1 of this Act takes effect on the date of publication in the Register of Regulations of a notice by the Controller General that $3,180,100 in General Fund moneys were appropriated to the Judicial Branch, which is the Judicial Branch's full spending authority of Appropriated Special Funds from the Court Security Fee repealed by this Act. The Controller General shall provide notice to the Registrar of Regulations that the moneys were appropriated.

Section 7. Sections 2 through 5 of this Act take effect immediately.

SYNOPSIS

Delaware relies on fees imposed as surcharges by the criminal legal system to generate revenue for government services. These criminal fees can be an unstable revenue generator, especially when there are recessions, pandemics, or other major economic events. This Act repeals three fees that currently fund videophone systems used by state and local agencies, personnel, equipment, and training expenses related to judicial branch security, and victim notification initiatives. 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 intends to eliminate any outstanding balances owed on these fees.