



SPONSOR: Rep. Lynn & Rep. Longhurst & Rep. Dorsey Walker & Rep. Minor-Brown & Rep. S. Moore & Sen. Brown
Reps. Baumbach, Brady, Carson, Chukwuocha, Griffith, Heffernan, K. Johnson, Kowalko, Morrison, Smyk, K. Williams, Wilson-Anton; Sens. Gay, Lockman, Lopez, S. McBride, Pinkney, Sokola, Sturgeon

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 244

AN ACT TO AMEND TITLE 10, TITLE 11, TITLE 21, AND TITLE 29 OF THE DELAWARE CODE RELATING TO FINES, FEES, COSTS, ASSESSMENTS, AND RESTITUTION.

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

1 Section 1. Amend § 1002, Title 10 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 1002. Delinquent child not criminal; prosecution limited.

4 (c) Except as provided under § 1009(c)(4) of this title, the Court may not order a child or the child's parent,
5 guardian, or custodian to pay any of the following:

6 (1) A fine.

7 (2) A fee.

8 (3) A cost.

9 (4) A sum of money to cover the support of the child if placed in a secure or non-secure detention or
10 residential placement facility operated by the Department of Services for Children, Youth, and Their Families.

11 Section 2. Amend § 1007, Title 10 of the Delaware Code by making deletions as shown by strike through and
12 insertions as shown by underline as follows:

13 § 1007. Disposition of child pending adjudication; payment for care.

14 ~~(h) In any instance in which a person responsible for the custody and care of a child refuses to take custody~~
15 ~~pending adjudication of that child, the Family Court may order the person legally liable therefore to pay for the child's~~
16 ~~care during the period of placement outside the person's own home. [Repealed.]~~

17 Section 3. Amend § 1007C, Title 10 of the Delaware Code by making deletions as shown by strike through and
18 insertions as shown by underline as follows:

19 § 1007C. Appointment of counsel for juveniles.

20 (b) If a juvenile is not represented by counsel at ~~his or her~~the juvenile's initial Family Court appearance, the Court
21 shall order the Chief Defender to assign counsel to represent the juvenile.

22 (e) Compensation for the services of appointed counsel may not be assessed against the juvenile, or the juvenile's
23 parent, guardian, or custodian in a delinquency or criminal proceeding.

24 Section 4. Amend § 1009, Title 10 of the Delaware Code by making deletions as shown by strike through and
25 insertions as shown by underline as follows:

26 § 1009. Adjudication; disposition following adjudication; commitment to custody of Department of Services for
27 Children, Youth and Their Families; effect.

28 (c) Following an adjudication in which the Court declares that a child is delinquent, it may:

29 (4) Fine a ~~child;~~ child for a Title 21 offense or order community service hours in lieu of a fine for a Title 21
30 offense;

31 (f) Following adjudication or election by the juvenile in lieu of trial ~~pursuant to~~under § 4177B of Title 21, the
32 Court must order the Motor Vehicle Division of the Department of Transportation after an adjudication of delinquency in
33 violation of § 4177 of Title 21, or election by the juvenile in lieu of trial ~~pursuant to~~under § 4177B of Title 21 to:

34 (4) ~~Any person whose driver's license has been revoked and to whom a conditional/restricted license has been~~
35 ~~issued, under this chapter, and who drives any motor vehicle upon the highways of this State contrary to the conditions~~
36 ~~placed upon such conditional/restricted license during the period of such conditional/restricted license, upon conviction~~
37 ~~thereof, shall be fined not less than \$25 or more than \$200. [Repealed.]~~

38 Section 5. Amend § 4101, Title 11 of the Delaware Code by making deletions as shown by strike through and
39 insertions as shown by underline as follows:

40 § 4101. Payment of fines, ~~costs and restitution upon~~ fees, costs, assessments, and restitution on conviction.

41 (a) On conviction ~~upon~~on indictment or information for any crime or offense, ~~all the costs shall be paid by the~~
42 ~~party convicted.~~ a defendant must pay all costs imposed by a court.

43 (b) ~~Immediately upon imposition by a court, including a justice of the peace, of any sentence to pay a fine, costs,~~
44 ~~restitution or all 3, the same shall be a judgment against the convicted person for the full amount of the fine, costs,~~
45 ~~restitution or all 3, assessed by the sentence. Such judgment shall be immediately executable, enforceable and/or~~
46 ~~transferable by the State or by the victim to whom such restitution is ordered in the same manner as other judgments of the~~
47 ~~court. If not paid promptly upon its imposition or in accordance with the terms of the order of the court, or immediately if~~
48 ~~so requested by the State, the clerk or Prothonotary shall cause the judgment to be entered upon the civil judgment docket~~
49 ~~of the court; provided, however, that where a stay of execution is otherwise permitted by law such a stay shall not be~~

50 granted as a matter of right but only within the discretion of the court. If the court imposing any sentence to pay a fine,
51 costs, restitution or all 3 has no civil docket for the entry of a judgment, then such court may immediately transfer such
52 judgment to the civil judgment docket of an appropriate court, as shall be determined by the court imposing such sentence.
53 Judgments docketed pursuant to this subsection shall be exempt from the provisions of § 4711 of Title 10 which mandate
54 the expiration of judgments, and which require the renewal of such judgments.

55 (1) When a court sentence includes a fine, fee, cost, assessment, or restitution, the full amount imposed
56 becomes a judgment against the defendant immediately on sentencing.

57 (2) A judgment under this subsection is executable, enforceable, or transferable by the State in the same
58 manner as other judgments of the court.

59 (3) If not paid promptly on its imposition or in accordance with the terms of the order of the court, or
60 immediately if so requested by the State, the clerk or Prothonotary may cause the judgment to be entered on the civil
61 judgment docket of the court. If a stay of execution is otherwise permitted by law, the stay may not be granted as a
62 matter of right but only within the discretion of the court.

63 (4) If the court imposing a sentence to pay a fine, fee, cost, assessment, or restitution does not have a civil
64 docket for the entry of a judgment, then the court may immediately transfer the judgment to the civil judgment docket
65 of an appropriate court, as determined by the court imposing the sentence.

66 (5) Judgments docketed under this subsection are exempt from the provisions of § 4711 of Title 10, which
67 mandate the expiration of judgments and require the renewal of judgments.

68 Section 6. Amend § 4104, Title 11 of the Delaware Code by making deletions as shown by strike through and
69 insertions as shown by underline as follows:

70 § 4104. ~~Fines, costs or restitution; how collected; holding operator's license as security for payment.~~ Fines, fees,
71 costs, assessments, or restitution; how collected; suspending driver's license for nonpayment prohibited.

72 ~~(a)(1) When a court imposes a fine, costs fee, cost, assessment, or restitution upon on a defendant, the court of~~
73 ~~justice of the peace may direct as follows:~~ may order any of the following:

74 ~~(1)a.~~ (1)a. That the defendant pay the entire amount at the time sentence is ~~imposed;~~ imposed.

75 ~~(2)b.~~ (2)b. That the defendant pay a specified portion of the fine, ~~costs fee, cost, assessment,~~ or restitution at
76 designated periodic intervals, and in such case may direct that the fine, costs or restitution be remitted to a
77 probation officer who shall report to the court, at such periods as the court may direct, any failure to comply with
78 the orders; or intervals.

79 ~~(3)(2) Where~~ If the defendant is sentenced to a period of probation as well as to pay a fine, costs or restitution
80 that fee, cost, or assessment, the court may not make the payment of the fines, costs or restitution shall be fine, fee,
81 cost, or assessment a condition of the probation.

82 (3)a. A court may not impose an additional fee for any of the following:

83 1. The payment of a fine, fee, cost, assessment, or restitution that is made at designated periodic
84 intervals.

85 2. A late payment of a fine, fee, cost, assessment, or restitution.

86 3. Supervision by probation of the payment of a fine, fee, cost, assessment, or restitution.

87 b. A court may not charge interest for a payment of a fine, fee, cost, assessment, or restitution that is
88 made late or at designated periodic intervals.

89 (4) A court may not charge a penalty, assessment, or fee to a defendant for a capias issued due to the
90 defendant's nonpayment of a fine, fee, cost, assessment, or restitution.

91 (b) Any court, including a justice of the peace, may, in its discretion, permit any person sentenced to pay a fine
92 upon conviction of crime, in lieu of the payment of the fine ordered, to execute a bond acknowledging the amount of the
93 fine imposed upon the person as a debt due and owing to this State and binding the person unto this State in an amount
94 equal to 10 times the fine imposed. The bond shall be so conditioned that, should the amount of the fine imposed be paid to
95 this State on or before the tenth day next following the day on which the fine is imposed, then in that event the bond shall
96 be null and void. The bond shall contain a warrant of attorney authorizing the Prothonotary or any attorney of record in this
97 State or elsewhere to appear in any court, including a justice of the peace, and confess judgment against the person so
98 bound. Upon execution of the bond the convicted person shall be required to list on the reverse thereof all motor vehicles
99 and real property owned by the person or in which the person has any title or interest with a description and the location
100 thereof. (1) Notwithstanding any law or court rule to the contrary, the court may waive, suspend, or modify payment of any
101 fine, fee, cost, or assessment, including a fine, fee, cost, or assessment that is otherwise deemed mandatory or not subject to
102 waiver or suspension.

103 (2) A defendant's ability or inability to pay a fine, fee, cost, or assessment may not influence a court's
104 decision whether to impose a custodial or probationary sentence.

105 (3) A court shall advise a defendant on the record or in writing of the financial obligations and the possible
106 sanctions for noncompliance.

107 ~~(c)(1) Any court may, in its discretion, direct any person~~ A court may direct a defendant sentenced to pay a ~~fine or~~
108 ~~restitution upon~~ fine, fee, cost, assessment, or restitution on conviction of a crime, who is employed within this State or by a

109 Delaware resident or employer, to execute an assignment of a specified periodic sum not to exceed $\frac{1}{3}$ of the person's total
110 earnings, ~~which assignment shall direct the person's one-fourth of the defendant's total earnings. The assignment must~~
111 direct the defendant's employer to withhold and remit that amount to this State up to the total of the fine, costs and fee,
112 cost, assessment, or restitution imposed.

113 (2) An assignment of earnings executed ~~in accordance with~~ under this subsection ~~shall be binding upon~~ is
114 binding on an employer in the same manner as an attachment of wages pursuant to under Title 10, except that an
115 assignment ~~need~~ must be filed only once with the ~~employer who~~ defendant's employer. The defendant's employer shall
116 make the withholding and remittances until the full amount is paid. An amount of total earnings consistent with federal
117 law may be assigned. ~~An employer shall take no~~ A defendant's employer may not take an action against an employee
118 who has executed an assignment, and the penalty imposed ~~upon an employee on a defendant~~ solely because of an
119 assignment under this subsection ~~shall~~ must be in accordance with the manner set forth for attachments.

120 (d) For purposes of ensuring the payment of ~~finer, restitution~~ a fine, fee, cost, assessment, or restitution and the
121 enforcement of any orders imposed under this section, the court shall retain jurisdiction over ~~the convicted person a~~
122 defendant until ~~any fine or restitution imposed shall have been~~ the fine, fee, cost, assessment, or restitution is paid in full.
123 The court may write off the ~~finer, costs and restitution of any convicted person~~ fine, fee, cost, assessment, or restitution of a
124 defendant when the court receives evidence that ~~such person~~ the defendant is deceased.

125 (e) ~~Whenever any person lawfully possessed of an operator's license theretofore issued to the person by the~~
126 ~~Division of Motor Vehieles of the Department of Transportation of the State, or under the laws of any other state or~~
127 ~~territory, or of the District of Columbia, shall be arrested and charged with any violation of the traffic or criminal laws of~~
128 ~~this State, or of any political subdivision thereof, a court, as a condition of sentencing, may take and hold, as security for~~
129 ~~the payment of any fine, costs, restitution or Victims Compensation Fund assessment, the operator's license so issued to the~~
130 ~~defendant. The Division of Motor Vehicles of the Department of Transportation or a court may not suspend a defendant's~~
131 driver's license as a penalty for nonpayment of a fine, fee, cost, assessment, or restitution.

132 (1) A defendant whose driver's license was suspended before [the enactment date of this Act] only as a
133 penalty for nonpayment of a fine, fee, cost, assessment, or restitution is eligible for restoration of the defendant's
134 driving privileges.

135 (2) The Division of Motor Vehicles of the Department of Transportation shall develop policies and procedures
136 to implement the restoration of driving privileges under paragraph (e)(1) of this section within 6 months of [the
137 enactment date of this Act].

138 (3) A defendant who seeks to restore the defendant's driving privileges under paragraph (e)(1) of this section
139 is not required to pay a fee to do so.

140 (f) Any person whose operator's license has been deposited with a court, pursuant to subsection (e) of this section
141 above, shall be issued a receipt by the court taking said license upon a form substantially as set forth in this subsection, and
142 thereafter said person shall be permitted to operate a motor vehicle upon the highways of the State during the pendency of
143 the case in which the license was taken, unless the person's license or privilege to operate a motor vehicle is otherwise
144 revoked, suspended or cancelled.

145 _____ FORM OF RECEIPT

146 The operator's license of _____, license number _____ is held by the _____ Court, State of
147 Delaware, as security for the payment of a fine, costs, restitution or Victims Compensation Fund assessment in Case No.
148 _____ Please accept this receipt as a substitute for that license as provided by Title 11, § 4104(e), Delaware Code, as
149 amended. Payment is due by _____. This receipt is not valid after said date. Failure to appear will result in license
150 suspension. An attempt to secure, or the securing of, a duplicate operator's license during the period in which this court
151 holds an operator's license shall be considered as a contempt of court under 11 Del. C., § 1271(3).

152 _____

153 _____ Judge

154 _____ [Repealed.]

155 (g) The clerk of the court in which the sentence was imposed and for which a person's license was taken as
156 security, pursuant to subsection (e) of this section, shall immediately forward to the Division of Motor Vehicles of the State
157 the license if the person fails to pay by the date indicated in the receipt as prescribed by subsection (f) of this section above.
158 The Director of the Division of Motor Vehicles shall, upon receipt of a license so forwarded by the clerk, suspend the
159 operator's license and driving privileges of the defaulting driver until notified by the court that payment of the fine, costs,
160 restitution or Victims Compensation Fund assessment has been made. If the person be from another state or territory or the
161 District of Columbia of the United States, the Director of the Division of Motor Vehicles shall further advise the motor
162 vehicle administrator of the state, territory or the District of Columbia of this State's suspension and request that said
163 person's license to drive be suspended until the fine, costs, restitution or Victims Compensation Fund assessment have been
164 paid. [Repealed.]

165 (h) The clerk of the court in which the sentence was imposed and for which a person's operator's license was
166 taken as security, pursuant to subsection (e) of this section, shall immediately return the person's operator's license upon

167 ~~payment of the fine, costs, restitution or Victims Compensation Fund assessment within the period as prescribed by the~~
168 ~~sentencing judge and as reflected in the form set forth in subsection (f) of this section. [Repealed.]~~

169 Section 7. Amend § 4106, Title 11 of the Delaware Code by making deletions as shown by strike through and
170 insertions as shown by underline as follows:

171 § 4106. Restitution for property damage or loss.

172 (f) Except as provided under § 9014(c) of this title, restitution may not be ordered to an insurance provider on
173 behalf of a victim to recover the provider's losses due to a crime. An insurance provider may seek a civil judgement to
174 recover losses.

175 Section 8. Amend Subchapter I, Chapter 41, Title 11 of the Delaware Code by making deletions as shown by
176 strike through and insertions as shown by underline as follows:

177 § 4107. Annual report.

178 (a) The Administrative Office of the Courts shall prepare an annual report by February 15 on behalf of the
179 Superior Court, the Family Court, the Court of Common Pleas, the Justice of the Peace Court, and the Office of State
180 Courts Collection Enforcement.

181 (b) The report under subsection (a) of this section must include information on the following:

182 (1) Amount of each of the following collected by the Judiciary:

183 a. Fines.

184 b. Fees and costs.

185 c. Assessments.

186 d. Restitution.

187 (2) Amount of fines, fees, costs, or assessments retained by the Judiciary and as a percentage of the
188 Judiciary's budget.

189 (3) Amount of fines, fees, costs, assessments, or restitution distributed to the State, a municipality, or a
190 statutorily created fund.

191 (c) The report under subsection (a) of this section must be publicly available on the Administrative Office of the
192 Courts' website or published as part of the Judiciary's annual report.

193 (d) The Delaware Criminal Justice Information System shall prepare an annual report by February 15 detailing the
194 amount of fines, fees, costs, and assessments collected by entities other than the Judiciary. The report must be publicly
195 available on the Delaware Criminal Justice Information System's website.

196 (f) The reports by the Administrative Office of the Courts and the Delaware Criminal Justice Information System
197 must be submitted to the President Pro Tempore of the Senate and the Speaker of the House of Representatives, with copies
198 to all members of the General Assembly, the Governor, the Chief Justice, the Attorney General, the Chief Defender, the
199 Director and the Librarian of the Division of Research of Legislative Council, and the Delaware Public Archives.

200 Section 9. Amend § 6504, Title 11 of the Delaware Code by making deletions as shown by strike through and
201 insertions as shown by underline as follows:

202 § 6504. General powers and duties of the Department.

203 The Department, subject only to powers vested in the judicial and certain executive departments and officers of the
204 State, shall have the duties set forth in this chapter and the exclusive jurisdiction over the care, charge, custody, control,
205 management, administration and supervision of:

206 ~~(14) Collecting a fee as a condition of probation supervision. An offender sentenced to probation shall be~~
207 ~~charged a fixed fee of \$200 for each period of probation. If an offender is serving multiple sentences of probation~~
208 ~~simultaneously, the sentences shall be treated as 1 period of probation for the purposes of assessing and collecting the~~
209 ~~supervision fee. The Bureau Chief of Community Corrections shall develop policies and procedures with regard to~~
210 ~~determining an offender's ability to pay the fee. Such policies and procedures shall be applied on a consistent basis to~~
211 ~~all offenders, and shall be subject to approval by the Commissioner of Correction. In the event the Department~~
212 ~~determines an offender is unable to pay the fee due to lack of employment or other significant extenuating~~
213 ~~circumstances, such as an offender's responsibility to remit payment for victim compensation, restitution or child~~
214 ~~support, said inability shall not constitute a violation of supervision. The offender shall remain liable to pay the fee at~~
215 ~~such time as the Department determines offender is able to do so.~~[Repealed.]

216 Section 10. Amend § 2731, Title 21 of the Delaware Code by making deletions as shown by strike through and
217 insertions as shown by underline as follows:

218 § 2731. Duty of courts and police officers.

219 (a) Every court and police officer having jurisdiction over offenses committed under any law of this State
220 regulating the operation of motor vehicles on highways shall forward to the Department a record of the conviction of any
221 person in any court for a violation of any of such laws within 30 days of the disposition of the case and may recommend the
222 suspension of the driver's license of the person so convicted. The Department shall thereupon consider and act upon such
223 recommendation in such manner as it deems best.

224 ~~(b) The clerk or prothonotary of every court shall forward to the Department or its successor, a record of the name~~
225 ~~and address of each convicted person who shall have been sentenced to pay a fine, costs or both a fine and costs and who~~

226 has failed to pay at the time sentence was imposed or in accordance with an order of the court. Whenever a convicted
227 person who has not paid a fine, costs or both at the time sentence was imposed shall pay, the clerk or prothonotary shall
228 provide the convicted person with a receipt confirming that the fine, costs or both have been paid so that the receipt may be
229 presented to the Department, or its successor, as notice that the fine, costs or both have been paid. [Repealed.]

230 Section 11. Amend § 2732, Title 21 of the Delaware Code by making deletions as shown by strike through and
231 insertions as shown by underline as follows:

232 § 2732. Mandatory revocation or suspension of license or refusal to renew or issue a duplicate license.

233 (b) ~~Upon~~ On receiving a record of the failure of a convicted person to pay a fine, costs or both as described in §
234 ~~2731(b) of this title, or to timely complete a course of instruction pursuant to~~ under § 4175A or § 4177D of this title, the
235 Department or its successor, ~~shall:~~ shall do all of the following:

236 (1) If the convicted person is a resident of this State, forthwith suspend the convicted person's license until ~~the~~
237 ~~fine, costs or both have been paid, or the court finds that the person has completed the necessary course of instruction~~
238 ~~and paid all applicable fees; and~~ course fees.

239 (2) If the convicted person is a nonresident of this State, forthwith suspend the convicted person's driving
240 privileges in this State and immediately advise the Motor Vehicle Administrator of the state wherein the convicted
241 person is a resident that the convicted person has failed to pay a fine, costs or both, or to timely complete a course of
242 instruction ~~pursuant to~~ under § 4175A or § 4177D of this title, and requesting that the convicted person's license to
243 drive be suspended until ~~the fine, costs or both have been paid, or the court finds that the person has completed the~~
244 necessary course of instruction and paid all applicable course fees.

245 Section 12. Amend § 2751, Title 21 of the Delaware Code by making deletions as shown by strike through and
246 insertions as shown by underline as follows:

247 § 2751. Unlawful application for or use of license or identification card.

248 (r) *Penalty.* — Unless otherwise specifically provided for in Chapter 31 of this title, an individual who violates
249 this section shall be guilty of a class B misdemeanor and shall have that individual's driver's license ~~and/or~~ or driving
250 privileges suspended for a period to be set by the Court, not to exceed 6 months. The foregoing sentence notwithstanding,
251 an individual who violates subsection (d), (e), ~~(i) and/or~~ (i), or (j) of this section by possessing or displaying a driver's
252 license that has been suspended or revoked by application of the following statutes shall be guilty of a violation only,
253 provided that the judicial officer adjudicating the charge or charges brought under subsections (e) and (j) of this section has
254 made a factual finding that the defendant was reasonably unaware the driver's license that defendant possessed or displayed
255 had been suspended or revoked:

256 Title 4, § 904(f)
257 Title 11, § 2106(c)
258 ~~Title 11, § 4104(g)~~
259 ~~Title 14, § 2730(e)(7) [repealed]~~
260 ~~Title 14, § 4130(e)(1) [repealed]~~
261 Section 314(b) of this title
262 Section 709(j)(1) of this title
263 Section 2118(n)(1) of this title
264 Section 2703(d)(5) of this title
265 Section 2710(e)(5) of this title
266 Section 2724(b) of this title.
267 Section 13. Amend § 4607, Title 29 of the Delaware Code by making deletions as shown by strike through and
268 insertions as shown by underline as follows:
269 § 4607. Administrative fee assessment.
270 ~~(a) Each court of this State shall assess an administrative fee in the amount of \$100 against any defendant on~~
271 ~~whose behalf an appearance is made by the Office of Defense Services, or any other attorney who has been appointed by a~~
272 ~~court to represent the defendant in a criminal proceeding. This fee shall be payable even though the criminal proceedings do~~
273 ~~not result in conviction but are instead terminated by a guilty plea, nolle prosequi or order of the court.~~
274 ~~(b) Upon assessment of any administrative fee under this section, each defendant shall be directed to pay such~~
275 ~~assessment forthwith to the clerk of the court in which an entry of appearance by the Office of Defense Services or any~~
276 ~~other attorney who has been appointed by a court was entered.~~
277 ~~(c) A defendant's present inability, failure or refusal to pay an assessment made under this section shall not operate~~
278 ~~to disqualify a defendant from legal representation.~~
279 ~~(d) If a defendant is unable or fails to pay the administrative fee pursuant to this section, the court shall order the~~
280 ~~defendant to report to the Commissioner of the Department of Correction or a person designated by the Commissioner, for~~
281 ~~work for a number and schedule of hours necessary to discharge the fine, pursuant to § 4105(b) of Title 11.~~
282 ~~(e) In the event that any portion of an administrative fee assessed under this section shall remain unpaid at the time~~
283 ~~of sentencing, the sentencing judge shall make payment of the administrative fee an express condition of any sentence~~
284 ~~imposed.~~

285 (f) All moneys received in satisfaction of assessments under this section shall revert to the General Fund and the
286 clerk of each court shall regularly remit all moneys received to the State Treasurer.

287 (g) On or before the first day of November of each year, the courts of this State in which assessments are regularly
288 made under this section shall provide the State Auditor with a written report detailing the dollar value of assessments made
289 in the previous fiscal year, the amount collected in the previous fiscal year as well as the balance of unpaid assessments at
290 the open and close of the previous fiscal year. [Repealed.]

291 Section 14. The Criminal Legal System Imposed Debt Study Group (“Study Group”) is established to review
292 the impact of criminal justice imposed financial obligations on defendants and victims and make recommendations to
293 promote access, fairness, and transparency in the imposition and collection of criminal justice imposed financial
294 obligations.

295 (1) The Study Group is composed of the following voting members, or a designee appointed by a member
296 serving by virtue of position:

- 297 a. A member of the Senate, appointed by the President Pro Tempore of the Senate.
- 298 b. A member of the House of Representatives, appointed by the Speaker of the House of Representatives.
- 299 c. A representative from the Office of the Governor, appointed by the Governor.
- 300 d. The State Court Administrator.
- 301 e. The Chief Defender of the Office of Defense Services.
- 302 f. The Attorney General.
- 303 g. The Secretary of the Department of Safety and Homeland Security.
- 304 h. A member of a community group, appointed by the President Pro Tempore of the Senate.
- 305 i. A member of an impacted community, appointed by the Speaker of the House of
306 Representatives.

307 (2) The Study Group is composed of the following non-voting members, or a designee appointed by a
308 member serving by virtue of position:

- 309 a. A representative of the Superior Court, appointed by the President Judge.
- 310 b. A representative of the Court of Common Pleas, appointed by the Chief Judge.
- 311 c. A representative of the Family Court, appointed by the Chief Judge.
- 312 d. A representative of the Justice of the Peace Court, appointed by the Chief Magistrate.
- 313 e. The Director of the Office of the State Court Collections Enforcement.
- 314 f. The Director of the Judicial Information Center.

- 315 g. The Director of the Delaware Criminal Justice Information System.
- 316 h. The Director of the Office of Management and Budget.
- 317 i. The Controller General.
- 318 j. The Secretary of the Department of Technology & Information.
- 319 k. The Executive Director of the Statistical Analysis Center.
- 320 l. A representative of the Department of Correction, appointed by the Commissioner of the Department.
- 321 m. One member of a community group, appointed by the President Pro Tempore of the Senate.
- 322 n. One member of a community group, appointed by the Speaker of the House of Representatives.
- 323 (3) The member of the Senate appointed by the President Pro Tempore of the Senate is the Chair of the Study
- 324 Group and the member of the House of Representatives appointed by the Speaker of the House of Representatives is
- 325 the Vice Chair of the Study Group.
- 326 (4) The President Pro Tempore of the Senate shall notify the Chair of the Study Group of the Study Group's
- 327 creation and provide the Chair with a copy of the legislation creating the Study Group.
- 328 (5) Voting members who designate another individual to attend a meeting must provide the designation
- 329 in writing to the Chair. A designee has the same duties and powers as the member serving by virtue of the
- 330 member's position.
- 331 (6) The Chair of the Study Group shall guide the administration of the Study Group by, at a minimum, doing
- 332 all of the following:
- 333 a. Notifying the individuals listed in paragraphs (1) and (2) of this Section of the formation of the Study
- 334 Group and the need to appoint a member, if applicable.
- 335 b. Setting a date, time, and place for the initial organizational meeting.
- 336 c. Supervising the preparation and distribution of Study Group meeting notices, agendas, minutes,
- 337 correspondence, and reports.
- 338 d. Sending to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and
- 339 the Director of the Division of Research of Legislative Council, after the first meeting of the Study Group, a list of
- 340 the members of the Study Group and, if applicable, the person who appointed the member.
- 341 e. Providing meeting notices, agendas, and minutes to the Director of the Division of Research of
- 342 Legislative Council.
- 343 f. Creating 1 or more subcommittees as necessary to complete the Study Group's work.

344 g. Ensuring that the final report of the Study Group is submitted to the President Pro Tempore of
345 the Senate and the Speaker of the House of Representatives, with copies to all members of the General Assembly,
346 the Governor, the Chief Justice, the Attorney General, the Chief Defender, the Director and the Librarian of the
347 Division of Research of Legislative Council, and the Delaware Public Archives.

348 (7) The Study Group shall study and report its findings and recommendations on all of the following:

349 a. Review the appropriateness of the state's financial structure to support government and non-profit
350 functions with funds charged to court users, and make recommendations on a phased plan to reduce the
351 dependence on those funds.

352 b. Recommendations to improve criminal justice data reporting and analysis related to criminal justice
353 financial obligations.

354 c. The estimated fiscal impact if mandatory assessment of fines, fees, costs, and assessments are
355 eliminated. The Study Group should report on barriers that prevent such an analysis, as well as recommended
356 solutions.

357 d. Determine the appropriateness of existing criminal justice financial obligations and alternative
358 sanctions to hold a defendant accountable when a defendant is unable to pay.

359 e. Explore ways to improve and expand opportunities for community service or self-improvement
360 programs to count toward the payment of fines, fees, costs, and assessments.

361 (8) The Study Group shall include an analysis of all of the following for each recommendation made under
362 paragraph (7) of this Section:

363 a. National trends and current best practices in criminal justice financial obligations reform.

364 b. Benefits to the public and system.

365 b. Budgetary impacts.

366 c. Technology improvements required.

367 d. Process improvements required.

368 (9) The Study Group shall hold its first meeting no later than three months after this Act is enacted and shall
369 meet at least once each month thereafter until the Study Group submits its final report.

370 (10) The General Assembly shall provide reasonable and necessary support staff, including a legislative
371 attorney, and materials for the Study Group to carry out its mission.

372 (11) A quorum of the Study Group is a majority of its voting members.

373 (12) Official action by the Study Group, including making findings and recommendations, requires the
374 approval of a quorum of the Study Group.

375 (13) The Study Group may adopt rules necessary for its operation. If the Study Group does not adopt rules or
376 if the adopted rules do not govern a given situation, Mason's Manual of Legislative Procedure controls.

377 (14) The Chair and Vice Chair shall compile an interim and final report containing a summary of the
378 Study Group's work regarding the issues assigned to it under paragraph (7) of this Section, including any findings
379 and recommendations adopted by the Study Group. The Chair and Vice Chair shall submit all reports to the President
380 Pro Tempore of the Senate, the Speaker of the House of Representatives, the Director and the Librarian of the
381 Division of Research of Legislative Council, and the Delaware Public Archives. The interim report is due February 1,
382 2022, and the final report is due September 1, 2022.

383 (15) This Section expires on the date the Study Group submits the final report under paragraph (14) of this
384 Section.

385 Section 15. Sections 10 through 12, and 14 of this Act and § 4104(e) of Title 11 as contained in Section 6 of this
386 Act take effect immediately.

387 Section 16. Sections 1 through 5, 7 through 9, and 13 of this Act and § 4104(a) through (d) and (f) through (h) of
388 Title 11 as contained in Section 6 of this Act take effect 6 months after enactment of this Act.

SYNOPSIS

Recognizing the negative impact of criminal justice imposed financial obligations on defendants has led to reforms across the country to reduce the financial burdens that disproportionately impact the poor. This type of debt and the collateral consequences of suspending a driver's license negatively impacts the rehabilitation of those in the criminal justice system and pushes those without an ability to pay further into the system unnecessarily.

This Act does all of the following:

- (1) Prohibits a court from imposing a fine, fee, cost, or assessment on children without the means to pay them.
- (2) Provides the courts with the discretion to waive, modify, or suspend any fine, fee, cost, or assessment.
- (3) Prohibits a court or the Department of Transportation from suspending a driver's license for nonpayment of a fine, fee cost, assessment, or restitution and 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.
- (4) 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. Nothing in this Act precludes the court from filing contempt charges against defendants who willfully fail to pay their fines.
- (5) Requires the Judiciary and the Delaware Criminal Justice Information System to report on the sum collected from fines, fees, costs, assessments, and restitution and make a public report of these totals.
- (6) Eliminates the Public Defender fee and the Probation Supervision fee. The collections from these fees currently go to the General Fund.
- (7) Creates the Criminal Legal System Imposed Debt Study Group to review the impact that court imposed financial obligations have on defendants and victims and make recommendations to promote access, fairness, and transparency in the imposition and collection of court imposed financial obligations.
- (8) Makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.