



**151st GENERAL ASSEMBLY
FISCAL NOTE**

BILL:	HOUSE BILL NO. 244
SPONSOR:	Representative Lynn
DESCRIPTION:	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.

Assumptions:

1. This Act becomes effective upon signature by Governor.
2. This Act provides for the following:
 - a. prohibits a court from imposing a fine, fee, cost, or assessment on a juvenile defendant without the means to pay;
 - b. provides the courts with the discretion to waive, modify, or suspend any fine, fee, cost, or assessment even if otherwise deemed mandatory by Delaware Code;
 - c. prohibits a court or the Department of Transportation (DelDOT) 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. eliminates the Public Defender fee and the Probation Supervision fee;
 - g. requires the Judiciary and the Delaware Criminal Justice Information System (DELJIS) to report on the sum collected from fines, fees, costs, assessments, and restitution and make a public report of these totals; and
 - h. creates the Criminal Legal System Imposed Debt Study Group to review the impact that 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. Presently, if the Judiciary does not suspend fines and court costs, collections for these costs go to the General Fund. Delaware Code has other established fines, fees, and costs or assessments made upon defendants that presently cannot be suspended by the courts. Some of these funds are distributed to 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 (TTF). The total revenue loss for these funds is indeterminable as amounts are subject to the number of fees waived and the likelihood of that individual's ability to pay.
 - a. According to the 2019 Annual Report of the Delaware Judiciary, in Fiscal Year 2019, the Judiciary receipted \$11,675,228 in General Fund revenue and \$2,830,278 in revenue submitted to counties and municipalities. The amount that will be waived, suspended, or modified, and that which may be paid is unknown. The full revenue loss may not be seen immediately, as the oldest fees and fines are paid off first, therefore there may be some current assessments that would not be impacted until future years.

- i. The Judiciary estimates that for every 10% reduction in the assessment and/or collection of fines and fees, the approximate General Fund revenue loss to the State would be \$1,309,000 and \$189,000 to municipalities.
 - ii. Future years may see a reduction in Voluntary Assessment Center (VAC) collections as the courts or DelDOT, Division of Motor Vehicles (DMV) would be prohibited from suspending a driver's license as a penalty for nonpayment. The Judiciary estimates that every 10% reduction in VAC collections results in a \$1,000,000 revenue loss.
4. Upon enactment, the Judiciary estimates a minimum General Fund revenue loss annually of \$1,678,800 due to the provisions of this Act that prohibit and eliminate the following fines or fees and is as follows:
 - a. \$7,500 associated with fines assessed among juvenile defendants;
 - b. \$75,600 associated with fees assessed for the cancellation of a warrant issued due to nonpayment;
 - c. \$320,000 by eliminating the Public Defender fee;
 - d. \$792,700 by eliminating the Probation Supervision fee;
 - e. \$220,000 by eliminating late fees for the VAC;
 - f. \$216,000 by eliminating the kiosk convenience fee; and
 - g. \$47,000 by eliminating the Justice of the Peace Court e-payment convenience fee.
5. This Act prohibits a court or DMV from suspending a driver's license as a penalty for nonpayment of a fine, fee, cost, or assessment and from charging a fee to do so. Presently, the DMV charges a \$50 reinstatement fee when a defendant's license has been suspended as a penalty due to nonpayment. In Fiscal Year 2018, the DMV issued 12,861 suspensions, resulting in \$643,050 in reinstatement fees receipted to the TTF. It is estimated that future year revenue losses to the TTF could average \$700,000 annually.
6. This Act would require various programming and system modifications among the Judicial Information Center, DELJIS, and the DMV to ensure compliance. It is estimated that these coding changes would cost approximately \$100,000 in one-time programming expenses.

Cost:

	<u>One-Time</u>	<u>General Fund Revenue Loss</u>	<u>Transportation Trust Fund Revenue Loss</u>
Fiscal Year 2022:	\$100,000	Minimum \$1,678,800	\$700,000
Fiscal Year 2023:		Minimum \$1,678,800	\$700,000
Fiscal Year 2024:		Minimum \$1,678,800	\$700,000

Prepared by Jason R. Smith
Office of the Controller General