

ASSEMBLY, No. 191

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman LINDA S. CARTER

District 22 (Middlesex, Somerset and Union)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Assemblyman WILLIAM W. SPEARMAN

District 5 (Camden and Gloucester)

SYNOPSIS

Increases amount of credit for incarceration resulting from default of court-imposed financial obligation or motor vehicle penalty.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning fines, assessments, fees, and penalties and
2 amending N.J.S.2C:46-2 and R.S.39:5-36.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. N.J.S.2C:46-2 is amended to read as follows:

8 2C:46-2. Consequences of Nonpayment; Summary Collection.

9 a. When a defendant sentenced to pay an assessment imposed
10 pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a penalty
11 imposed pursuant to section 11 of P.L.2001, c.81 (C.2C:43-3.6), a
12 penalty imposed pursuant to section 1 of P.L.2005, c.73 (C.2C:14-
13 10), monthly probation fee, fine, a penalty imposed pursuant to
14 section 1 of P.L.1999, c.295 (C.2C:43-3.5), other court-imposed
15 financial obligations or to make restitution or pay child support or
16 other support or maintenance ordered by a court defaults in the
17 payment thereof or of any installment, upon the motion of the
18 person authorized by law to collect the payment, the motion of the
19 prosecutor, the motion of the victim entitled to payment of
20 restitution, the motion of the Victims of Crime Compensation
21 Office, the motion of the State or county Office of Victim and
22 Witness Advocacy or upon its own motion, the court shall recall
23 him, or issue a summons or a warrant of arrest for his appearance.
24 The court shall afford the person notice and an opportunity to be
25 heard on the issue of default. Failure to make any payment when
26 due shall be considered a default. The standard of proof shall be by
27 a preponderance of the evidence, and the burden of establishing
28 good cause for a default shall be on the person who has defaulted.

29 (1) If the court finds that the person has defaulted without good
30 cause, the court shall:

31 (a) Order the suspension of the driver's license or the
32 nonresident reciprocity driving privilege of the person; and

33 (b) Prohibit the person from obtaining a driver's license or
34 exercising reciprocity driving privileges until the person has made
35 all past due payments; and

36 (c) Notify the Chief Administrator of the New Jersey Motor
37 Vehicle Commission of the action taken; and

38 (d) Take such other actions as may be authorized by law.

39 (2) If the court finds that the person defaulted on payment of a
40 court-imposed financial obligation, restitution, or child support or
41 other support or maintenance ordered by a court without good cause
42 and finds that the default was willful, the court may, in addition to
43 the action required by paragraph (1) of this subsection a., impose a
44 term of imprisonment or participation in a labor assistance program
45 or enforced community service to achieve the objective of the

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 court-imposed financial obligation, restitution, or child support or
2 other support or maintenance ordered by a court. These options
3 shall not reduce the amount owed by the person in default. The
4 term of imprisonment or enforced community service or
5 participation in a labor assistance program in such case shall be
6 specified in the order of commitment. It need not be equated with
7 any particular dollar amount but, in the case of a fine it shall not
8 exceed one day for each \$50 of the fine nor shall it exceed a period
9 of 90 consecutive days. In no case shall the total period of
10 imprisonment in the case of a disorderly persons offense for both
11 the sentence of imprisonment and for failure to pay a fine exceed
12 six months.

13 (3) Except where incarceration is ordered pursuant to paragraph
14 (2) of this subsection a., if the court finds that the person has
15 defaulted the court may take one or more of the following actions:

16 (a) the court shall take appropriate action to modify or establish
17 a reasonable schedule for payment;

18 (b) in the case of a fine, if the court finds that the circumstances
19 that warranted the fine have changed or that it would be unjust to
20 require payment, the court may revoke or suspend the fine or the
21 unpaid portion of the fine; or

22 (c) if the defendant has served jail time for default on a court-
23 imposed financial obligation, the court may order that credit for
24 each day of confinement be given against the amount owed. The
25 amount of the credit shall be determined at the discretion of the
26 court but shall be not less than ~~【\$50】~~ \$90 for each day of
27 confinement served.

28 (4) When failure to pay an assessment imposed pursuant to
29 section 2 of P.L.1979, c.396 (C.2C:43-3.1), monthly probation fee,
30 restitution, a penalty imposed pursuant to section 1 of P.L.1999,
31 c.295 (C.2C:43-3.5), a penalty imposed pursuant to section 11 of
32 P.L.2001, c.81 (C.2C:43-3.6), a penalty imposed pursuant to section
33 1 of P.L.2005, c.73 (C.2C:14-10), or other financial penalties or to
34 perform enforced community service or to participate in a labor
35 assistance program is determined to be willful, the failure to do so
36 shall be considered to be contumacious.

37 (5) When a fine, assessment imposed pursuant to section 2 of
38 P.L.1979, c.396 (C.2C:43-3.1), other financial penalty or restitution
39 is imposed on a corporation, it is the duty of the person or persons
40 authorized to make disbursements from the assets of the corporation
41 or association to pay it from such assets and their failure so to do
42 may be held to be contumacious.

43 b. Upon any default in the payment of a fine, assessment
44 imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1),
45 monthly probation fee, a penalty imposed pursuant to section 1 of
46 P.L.1999, c.295 (C.2C:43-3.5), a penalty imposed pursuant to
47 section 11 of P.L.2001, c.81 (C.2C:43-3.6), a penalty imposed
48 pursuant to section 1 of P.L.2005, c.73 (C.2C:14-10), other
49 financial penalties, restitution, or any installment thereof, execution
50 may be levied and such other measures may be taken for collection

1 of it or the unpaid balance thereof as are authorized for the
2 collection of an unpaid civil judgment entered against the defendant
3 in an action on a debt.

4 c. Upon any default in the payment of restitution or any
5 installment thereof, the victim entitled to the payment may institute
6 summary collection proceedings authorized by subsection b. of this
7 section.

8 d. Upon any default in the payment of an assessment imposed
9 pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or any
10 installment thereof, the Victims of Crime Compensation Office or
11 the party responsible for collection may institute summary
12 collection proceedings authorized by subsection b. of this section.

13 e. When a defendant sentenced to make restitution to a public
14 entity other than the Victims of Crime Compensation Office,
15 defaults in the payment thereof or any installment, the court may, in
16 lieu of other modification of the sentence, order the defendant to
17 perform work in a labor assistance program or enforced community
18 service program.

19 f. If a defendant ordered to participate in a labor assistance
20 program or enforced community service program fails to report for
21 work or to perform the assigned work, the comprehensive
22 enforcement hearing officer may revoke the work order and impose
23 any sentence permitted as a consequence of the original conviction.

24 g. If a defendant ordered to participate in a labor assistance
25 program or an enforced community service program pays all
26 outstanding assessments, the comprehensive enforcement hearing
27 officer may review the work order, and modify the same to reflect
28 the objective of the sentence.

29 h. As used in this section:

30 (1) "Comprehensive enforcement program" means the program
31 established pursuant to the "Comprehensive Enforcement Program
32 Fund Act," sections 1 through 9 of P.L.1995, c.9 (C.2B:19-1 et
33 seq.).

34 (2) The terms "labor assistance program" and "enforced
35 community service" have the same meaning as those terms are
36 defined in section 5 of the "Comprehensive Enforcement Program
37 Fund Act," P.L.1995, c.9 (C.2B:19-5).

38 (3) "Public entity" means the State, any county, municipality,
39 district, public authority, public agency and any other political
40 subdivision or public body in the State.

41 (4) "Court-imposed financial obligation" means any fine,
42 statutorily-mandated assessment, surcharge, or other financial
43 penalty imposed by a court, but does not include restitution or child
44 support or other support or maintenance ordered by a court.

45 (cf: P.L.2013, c.180, s.1)

1 2. R.S.39:5-36 is amended to read as follows:

2 39:5-36 a. The court may incarcerate in the county jail or
3 workhouse of the county where the offense was committed any
4 person upon whom a penalty or surcharge pursuant to subsection f.
5 of section 1 of P.L.2000, c.75 (C.39:4-97.2) has been imposed for a
6 violation of any of the provisions of this subtitle where the court
7 finds that the person defaulted on payment of the penalty or
8 surcharge pursuant to subsection f. of section 1 of P.L.2000, c.75
9 (C.39:4-97.2) without good cause and that the default was willful.
10 Incarceration ordered under this subsection shall not reduce the
11 amount owed by the person in default. In no case shall such
12 incarceration exceed one day for each \$50 of the penalty or
13 surcharge so imposed, nor shall such incarceration exceed a period
14 of 90 consecutive days.

15 b. Except where incarceration is ordered pursuant to subsection
16 a. of this section, if the court finds that the person has defaulted on
17 the payment of a penalty the court may take one or more of the
18 following actions:

19 (1) the court shall take appropriate action to modify or establish
20 a reasonable schedule for payment;

21 (2) if the court finds that the circumstances that warranted the
22 penalty have changed or that it would be unjust to require payment,
23 the court may revoke or suspend the penalty or the unpaid portion
24 of the penalty; or

25 (3) if the defendant has served jail time for default on a penalty,
26 the court may order that credit for each day of confinement be given
27 against the amount owed. The amount of the credit shall be
28 determined at the discretion of the court but shall be not less than
29 **【\$50】** \$90 for each day of confinement served.

30 When such person shall have been confined for a sufficient
31 number of days to establish credits equal to the aggregate amount of
32 such penalties and costs, and is not held by reason of any other
33 sentence or commitment, he shall be discharged from such
34 imprisonment by the officer in charge of the county jail or
35 workhouse.

36 c. For the purposes of this section, "penalty" means any fine,
37 statutorily-mandated assessment, surcharge, or other financial
38 penalty imposed by a court pursuant to this subtitle, but does not
39 include a surcharge imposed pursuant to subsection f. of section 1
40 of P.L.2000, c.75 (C.39:4-97.2).

41 (cf: P.L.2013, c.180, s.2)

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43 3. This act shall take effect immediately.

A191 CARTER, REYNOLDS-JACKSON

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STATEMENT

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This bill increases the amount of credit that the court may give a person in default of a court imposed financial obligation or motor vehicle penalty when the person is incarcerated for the default.

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Under current law, the court is authorized to credit a person who is in default of a court-imposed financial obligation or a motor vehicle penalty when the person has been incarcerated for the default. Currently, the court may order that a credit of at least \$50 for each day of confinement be given against the amount owed.

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The provisions of this bill increase the amount of the credit that may be given from \$50 to \$90 for each day of confinement.

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This bill is based upon a recommendation contained in the June 2018 Report of the Supreme Court Committee on Municipal Court Operations, Fines, and Fees.