

ASSEMBLY, No. 2062

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

SYNOPSIS

Requires municipal court to reduce fine amounts set by municipal ordinance if violator is unable to pay.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning municipal fines and amending P.L.2009, c.317,
2 R.S.40:49-5, and P.L.1950, c.210.

3

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

6

7 1. Section 1 of P.L.2009, c.317 (C.2B:12-23.1) is amended to
8 read as follows:

9 1. a. Notwithstanding any other provision of law to the
10 contrary, if a municipal court finds that a person is indigent or a
11 participant in a government-based income maintenance program,
12 does not have the ability to pay a penalty in full on the date of the
13 hearing, or has failed to pay a previously imposed penalty, the court
14 **【may】** shall reduce or suspend the penalty, order the person to
15 perform community service in lieu of the payment of a penalty**【;】** ,
16 or **【,】** order the payment of the penalty in installments for a period
17 of time determined by the court. If a person defaults on any
18 payment and a municipal court finds that the defendant is indigent
19 or a participant in a government-based income maintenance
20 program or does not have the ability to pay, the court **【may】** shall:

21 (1) reduce the penalty, suspend the penalty, or modify the
22 installment plan;

23 (2) order that credit be given against the amount owed for each
24 day of confinement, if the court finds that the person has served jail
25 time for the default;

26 (3) revoke any unpaid portion of the penalty, if the court finds
27 that the circumstances that warranted the imposition have changed
28 or that it would be unjust to require payment;

29 (4) order the person to perform community service in lieu of
30 payment of the penalty; or

31 (5) impose any other alternative permitted by law in lieu of
32 payment of the penalty.

33 b. For the purposes of this section, "penalty" means any fine,
34 statutorily-mandated assessment, surcharge or other financial
35 penalty imposed by a municipal court, except restitution or a
36 surcharge assessed pursuant to subsection f. of section 1 of
37 P.L.2000, c.75 (C.39:4-97.2).

38 (cf: P.L.2013, c.255, s.1)

39

40 2. R.S.40:49-5 is amended to read as follows:

41 40:49-5. The governing body may prescribe penalties for the
42 violation of ordinances it may have authority to pass, by one or
43 more of the following: imprisonment in the county jail or in any
44 place provided by the municipality for the detention of prisoners,

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 for any term not exceeding 90 days; or by a fine not exceeding
2 \$2,000; or by a period of community service not exceeding 90 days.

3 The governing body may prescribe that for the violation of any
4 particular ordinance at least a minimum penalty shall be imposed
5 which shall consist of a fine which may be fixed at an amount not
6 exceeding \$100.

7 The governing body may prescribe that for the violation of an
8 ordinance pertaining to unlawful solid waste disposal at least a
9 minimum penalty shall be imposed which shall consist of a fine
10 which may be fixed at an amount not exceeding \$2,500 or a
11 maximum penalty by a fine not exceeding \$10,000.

12 The court before which any person is convicted of violating any
13 ordinance of a municipality shall have power to impose any fine,
14 term of imprisonment, or period of community service not less than
15 the minimum and not exceeding the maximum fixed in such
16 ordinance, however, the court may reduce the amount of a fine
17 below the minimum penalty amount prescribed by ordinance if the
18 court finds, pursuant to section 1 of P.L.2009, c.317 (C.2B:12-
19 23.1), that the person is indigent or a participant in a government-
20 based income maintenance program, does not have the ability to
21 pay the penalty in full on the date of the hearing, or has failed to
22 pay a previously imposed penalty.

23 Any person who is convicted of violating an ordinance within
24 one year of the date of a previous violation of the same ordinance
25 and who was fined for the previous violation, shall be sentenced by
26 a court to an additional fine as a repeat offender. The additional
27 fine imposed by the court upon a person for a repeated offense shall
28 not be less than the minimum or exceed the maximum fine fixed for
29 a violation of the ordinance, but shall be calculated separately from
30 the fine imposed for the violation of the ordinance, however, the
31 court may reduce the amount of the additional fine below the
32 minimum penalty amount prescribed by ordinance if the court finds,
33 pursuant to section 1 of P.L.2009, c.317 (C.2B:12-23.1), that the
34 person is indigent or a participant in a government-based income
35 maintenance program, does not have the ability to pay the penalty
36 in full on the date of the hearing, or has failed to pay a previously
37 imposed penalty.

38 Any municipality which chooses not to impose an additional fine
39 upon a person for a repeated violation of any municipal ordinance
40 may waive the additional fine by ordinance or resolution.

41 Any person convicted of the violation of any ordinance may, in
42 the discretion of the court by which he was convicted, and in
43 default of the payment of any fine imposed therefor, be imprisoned
44 in the county jail or place of detention provided by the municipality,
45 for any term not exceeding 90 days, or be required to perform
46 community service for a period not exceeding 90 days.

47 Any municipality that chooses to impose a fine in an amount
48 greater than \$1,250 upon an owner for violations of housing or

1 zoning codes shall provide a 30-day period in which the owner shall
2 be afforded the opportunity to cure or abate the condition and shall
3 also be afforded an opportunity for a hearing before a court of
4 competent jurisdiction for an independent determination concerning
5 the violation. Subsequent to the expiration of the 30-day period, a
6 fine greater than \$1,250 may be imposed if a court has not
7 determined otherwise or, upon reinspection of the property, it is
8 determined that the abatement has not been substantially completed.
9 (cf: P.L.2005, c.269, s.1)

10
11 3. Section 2-4 of P.L.1950, c.210 (C.40:69A-29) is amended to
12 read as follows:

13 2-4. Each municipality governed by an optional form of
14 government pursuant to this act shall, subject to the provisions of
15 this act or other general laws, have full power to:

16 (a) Organize and regulate its internal affairs, and to establish,
17 alter, and abolish offices, positions and employments and to define
18 the functions, powers and duties thereof and fix their terms, tenure
19 and compensation;

20 (b) Adopt and enforce local police ordinances of all kinds and
21 impose one or more of the following penalties: fines not exceeding
22 \$2,000 or imprisonment for any term not exceeding 90 days, or a
23 period of community service not exceeding 90 days for the violation
24 thereof; prescribe that for the violation of particular ordinances at
25 least a minimum penalty shall be imposed which shall consist of a
26 fine which may be fixed at an amount not exceeding \$100;
27 prescribe that for the violation of an ordinance pertaining to
28 unlawful solid waste disposal at least a minimum penalty shall be
29 imposed which shall consist of a fine which may be fixed at an
30 amount not exceeding \$2,500 or a maximum penalty by a fine not
31 exceeding \$10,000; to construct, acquire, operate or maintain any
32 and all public improvements, projects or enterprises for any public
33 purpose, subject to referendum requirements otherwise imposed by
34 law, and to exercise all powers of local government in such manner
35 as its governing body may determine;

36 (c) Sue and be sued, to have a corporate seal, to contract and be
37 contracted with, to buy, sell, lease, hold and dispose of real and
38 personal property, to appropriate and expend moneys, and to adopt,
39 amend and repeal such ordinances and resolutions as may be
40 required for the good government thereof;

41 (d) Exercise powers of condemnation, borrowing and taxation in
42 the manner provided by general law.

43 The court before which any person is convicted of violating any
44 ordinance of a municipality shall have power to impose any fine,
45 term of imprisonment, or period of community service not less than
46 the minimum and not exceeding the maximum fixed in such
47 ordinance, however, the court may reduce the amount of a fine
48 below the minimum penalty amount prescribed by ordinance if the

1 court finds, pursuant to section 1 of P.L.2009, c.317 (C.2B:12-
2 23.1), that the person is indigent or a participant in a government-
3 based income maintenance program, does not have the ability to
4 pay the penalty in full on the date of the hearing, or has failed to
5 pay a previously imposed penalty.

6 Any person who is convicted of violating an ordinance within
7 one year of the date of a previous violation of the same ordinance
8 and who was fined for the previous violation, shall be sentenced by
9 a court to an additional fine as a repeat offender. The additional
10 fine imposed by the court upon a person for a repeated offense shall
11 not be less than the minimum or exceed the maximum fine fixed for
12 a violation of the ordinance, but shall be calculated separately from
13 the fine imposed for the violation of the ordinance, however, the
14 court may reduce the amount of the additional fine below the
15 minimum penalty amount prescribed by ordinance if the court finds,
16 pursuant to section 1 of P.L.2009, c.317 (C.2B:12-23.1), that the
17 person is indigent or a participant in a government-based income
18 maintenance program, does not have the ability to pay the penalty
19 in full on the date of the hearing, or has failed to pay a previously
20 imposed penalty.

21 Any municipality which chooses not to impose an additional fine
22 upon a person for a repeated violation of any municipal ordinance
23 may waive the additional fine by ordinance or resolution.

24 Any municipality that chooses to impose a fine in an amount
25 greater than \$1,250 upon an owner for violations of housing or
26 zoning codes shall provide a 30-day period in which the owner shall
27 be afforded the opportunity to cure or abate the condition and shall
28 also be afforded an opportunity for a hearing before a court of
29 competent jurisdiction for an independent determination concerning
30 the violation. Subsequent to the expiration of the 30-day period, a
31 fine greater than \$1,250 may be imposed if a court has not
32 determined otherwise or, upon reinspection of the property, it is
33 determined that the abatement has not been substantially completed.
34 (cf: P.L.2005, c.269, s.2)

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36 4. This act shall take effect immediately.
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39 STATEMENT

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41 This bill would require municipal courts to take into account the
42 ability of a defendant to pay a fine for violating a municipal
43 ordinance before imposing a fine, and to either: reduce the amount
44 or suspend payment of the fine, order the person to perform
45 community service instead of paying the fine; or allow the
46 defendant to pay the fine in installments over time.

47 While current law allows a court, which finds that a defendant is
48 unable to pay a fine in full on the court date, to impose community

1 service instead of a fine, or to allow the defendant to make
2 installment payments over time, a municipal court is not currently
3 authorized to reduce the amount of a fine or suspend the fine on the
4 court date. Under current law, after a defendant has defaulted on a
5 payment the municipal court may reduce the fine, suspend the fine,
6 or modify the terms of a previously ordered installment plan.

7 This bill is based upon a recommendation set forth in the 2019
8 report of the New Jersey Reentry Services Commission and is
9 consistent with findings and recommendations contained in the
10 report of the New Jersey Supreme Court Committee on Municipal
11 Court Operations, Fines, and Fees. According to the Reentry
12 Services Commission report, New Jersey's excessive use of fines on
13 defendants can be overwhelming for low-income and poor
14 defendants, and initiatives that incorporate an individual's ability to
15 pay in the assessment of fines will promote successful reentry of
16 persons returning to civilian life from incarceration.