

Department of Legislative Services  
 Maryland General Assembly  
 2018 Session

FISCAL AND POLICY NOTE  
 Third Reader - Revised

House Bill 1448  
 Judiciary

(Delegate Vallario)

Judicial Proceedings

Clerks of the Courts - Traffic Fines - Installment Payments

This bill allows the District Court or a circuit court to authorize the clerk of the court to approve an individual installment plan agreement for a defendant whose driver’s license or driving privilege may be (or is) suspended for failure to pay a fine for one or more traffic offenses, including one or more citations for a violation of specified parking ordinances. A defendant who is sentenced to pay one or more fines that total at least \$300 and certifies inability to pay the fine (or fines) may apply to the clerk of the court to make installment payments.

Fiscal Summary

**State Effect:** General fund expenditures increase by approximately \$140,200 in FY 2019 only for reprogramming costs. General fund revenues decline negligibly each year due to payment plans potentially spanning more than one fiscal year. Interest income also declines, potentially minimally.

| (in dollars)   | FY 2019     | FY 2020 | FY 2021 | FY 2022 | FY 2023 |
|----------------|-------------|---------|---------|---------|---------|
| Revenues       | \$0         | \$0     | \$0     | \$0     | \$0     |
| GF Expenditure | 140,200     | 0       | 0       | 0       | 0       |
| Net Effect     | (\$140,200) | \$0     | \$0     | \$0     | \$0     |

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** The bill is not anticipated to materially affect local government revenues or circuit court finances or operations.

**Small Business Effect:** Minimal.

## Analysis

**Bill Summary:** The installment plan agreement must (1) require that the defendant make installment payments of 10% per month on the total amount of the fine or fines covered by the agreement; (2) specify the offenses and citations to which the agreement applies; and (3) state whether the defendant's driver's license or driving privileges are currently suspended for failure to pay the fine or fines to which the agreement applies. As a condition of an installment plan agreement, the defendant must notify the clerk of the court of any change of address during the term of the agreement.

The clerk of the court must promptly (1) notify the Motor Vehicle Administration (MVA), by sending a copy of the installment payment agreement, if the driver's license or driving privilege of the defendant is currently suspended for failure to pay a fine for one or more traffic offenses to which the agreement applies; (2) notify MVA of the failure of the defendant to pay a fine in accordance with an installment plan agreement; and (3) send a copy of the notices sent to MVA to the defendant.

The requirements relating to applying for an installment plan agreement, the terms of the agreement, and the duty of the clerk of court to provide notices must be posted in the clerk's office and on the website of the court.

If a defendant's application for installment payments is granted by the clerk of the court, MVA may not suspend (or continue to suspend) the driver's license or driving privileges of the defendant under § 26-204 or § 27-103 of the Transportation Article for the violations specified in the installment plan agreement unless the defendant subsequently fails to make an installment payment. The clerk of the court must notify MVA if a defendant fails to make a payment.

### **Current Law:**

#### *Compliance with Traffic Citations; Powers of the Court on Noncompliance*

Generally, a person must comply with a traffic citation by appearing in person or paying the applicable fine. If a person fails to comply, then, upon receipt of a notice of noncompliance from the District Court or a circuit court, MVA must notify the person that the person's driving privileges will be suspended unless, within 15 days of the date on which the notice is mailed, the person (1) pays the fine on the original charge as provided for in the original citations or (2) posts bond or a penalty deposit and requests a new date for a trial or a hearing on sentencing and disposition.

If a person fails to pay the fine or post the bond or penalty, then MVA may suspend the driving privileges of the person.

### *Nonpayment of Fines and Suspension of License*

If a person fined under the Maryland Vehicle Law (or under a federal traffic law or regulation for a violation occurring in Maryland) does not pay the fine as directed, the court may certify the failure to pay to MVA. After providing the person with 10 days advance written notice, MVA may suspend the driving privileges or license of the person until the fine has been paid.

### *Parking Ordinances and Regulations*

Generally, any political subdivision of the State may adopt ordinances or regulations that (1) regulate the parking of vehicles; (2) authorize the impounding of vehicles parked in violation of the ordinances or regulations; (3) regulate the towing of vehicles from publicly owned and privately owned parking lots; and (4) authorize the issuance of a citation by an officer for a violation of an ordinance or regulation adopted regulation. The person receiving a citation must either (1) pay for the parking violation directly to the political subdivision (or State agency) serving the citation or (2) elect to stand trial for the violation.

### *Payment of Fine in Court*

When a court imposes a fine, the court may order the defendant to pay the fine at the time of sentencing or in specified installments at designated intervals. If a fine is payable in installments, the court may order that the payments be made to a probation agency or officer. The probation agency or officer must report to the court a failure to comply with the order. In addition, if a court sentences a defendant to probation, the court may make payment of a fine a condition of the sentence.

### *Inability to Pay*

A defendant who is unable to pay a fine ordered by a court may apply to the court for a reduction of the fine. The court may investigate the reasons for the failure or inability to pay the fine, including the defendant's financial and family situation and whether nonpayment of the fine is contumacious or is due to indigence.

After an investigation, the court (1) may order that the individual be committed to a correctional facility; (2) may reduce the fine to an amount that the court determines the defendant is able to pay; or (3) subject to specified limitations, may direct that the individual be imprisoned until payment of the fine or the part of the fine that is undischarged after a pro rata credit for time served instead of payment.

**Background:** According to the Administrative Office of the Courts, a fine resulting from a traffic disposition is usually payable immediately, unless a judge orders it paid within a

specified period of time or in installments. However, deferments are only ordered when a defendant appears in court; deferments cannot be requested if a defendant does not appear for a trial or waiver hearing.

A judge may also order payments deferred and paid through a probation agency or officer who must report to the court a failure to comply with the order. If a court sentences a defendant to probation, the court may make the payment of a fine a condition of the sentence. A deferred payment is considered delinquent if payment is not received by the due date. If an individual does not pay the fine in accordance with the court's directive, the court certifies the failure to pay to MVA. Upon receipt of the certification (and after 10 days advance written notice), MVA suspends the driving privileges or driver's license of the person until the fine has been paid.

**State Fiscal Effect:** The Administrative Office of the Courts advises that 1,591 hours of reprogramming changes are necessary in order to implement the bill. Thus, general fund expenditures increase by \$140,180 in fiscal 2019 only in order to implement the bill. MVA advises that it can implement the bill with existing resources.

The effect on revenues is generally expected to be minimal given that payment must be completed within 10 months. However, general fund revenues may decline negligibly due to any payment plans that span more than one fiscal year. In addition, because the State is expected to receive fine revenues over a longer period of time than under current law, interest income may decrease minimally.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Maryland Department of Transportation; Department of Legislative Services

**Fiscal Note History:** First Reader - March 6, 2018  
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