

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 897

(Senator Smith)

Judicial Proceedings

Courts and Judicial Proceedings - Court Fines - Payment

This bill establishes that an individual installment plan agreement may be approved for a defendant who is required to pay one or more court-ordered fines of any type (not just traffic fines). The bill alters other statutory provisions governing a defendant's payment of a court-ordered fine.

Fiscal Summary

State Effect: General fund expenditures for the Judiciary increase by \$98,900 in FY 2023 for one-time programming costs; general fund expenditures also increase, potentially significantly, for additional staff, as discussed below. The overall effect on State revenues cannot be reliably quantified, as discussed below.

Local Effect: Local revenues may be impacted, as discussed below. Expenditures are not anticipated to be materially affected.

Small Business Effect: None.

Analysis

Bill Summary/Current Law:

Defendants' Failure or Inability to Pay a Fine

Under current law, a defendant who is unable to pay a fine ordered by a court may apply to the court for a reduction of the fine. If a defendant fails or is unable to pay a fine as ordered, the court *may* investigate the reasons for the failure to pay, including the

defendant's financial and family situation and whether nonpayment of the fine is contumacious or is due to indigence. Following any investigation, the court may (1) order that the individual be committed to a correctional facility; (2) reduce the fine to an amount that the court determines the defendant is able to pay; or (3) direct that the individual be imprisoned until the fine (or part of the fine) is paid, subject to specified limitations governing the period of imprisonment.

The bill establishes that if a defendant fails or is unable to pay a fine as ordered by a court, the court *must* investigate the reasons for the failure or inability to pay the fine. The bill further alters the above provisions by (1) specifying that a court may order that the individual be committed to a correctional facility *if the court finds that the nonpayment of the fine is contumacious and is not due to indigence* and (2) repealing the general provision authorizing the court to direct that an individual be imprisoned until the fine (or part of the fine) is paid.

In addition, the bill specifies that the court may authorize the clerk of the court to approve an individual installment plan agreement for the payment of a fine, in accordance with § 7-504.1 of the Courts and Judicial Proceedings Article.

Individual Installment Plan Agreements (Section 7-504.1 of the Courts and Judicial Proceedings Article)

Currently, under § 7-504.1, the District Court or a circuit court may authorize the clerk of the court to approve an individual installment plan agreement for the payment of court-ordered fines, for a defendant who is required to pay a fine for one or more traffic offenses, as specified. The bill expands this provision to authorize an installment plan agreement for the payment of one or more court-ordered fines *of any type*.

Under current law, an installment plan agreement under § 7-504.1 must (1) require that the defendant make installment payments on the total amount of the fine or fines covered by the agreement and (2) specify the offenses and citations to which the agreement applies. The bill adds that an installment plan agreement must require reasonable installment payments based on the defendant's ability to pay, as determined by the court. The bill does not alter other existing provisions requiring a defendant to inform the clerk of the court of any change of address during the term of the agreement, and that authorize the clerk of the court to take specified collection or processing actions to dispose of an unpaid outstanding fine.

State Fiscal Effect: The bill is expected to have a significant operational and fiscal impact on the Judiciary beginning in fiscal 2023, including one-time programming costs of \$98,872 in fiscal 2023.

The Judiciary advises that, in fiscal 2021, there were a total of 9,063 installment payment plans implemented in the District Court for *traffic fines*, as authorized under current law. In fiscal 2020, there were a total of 1,848 installment payment plans implemented in the District Court for traffic fines; in fiscal 2019, there were a total of 1,401 installment payment plans implemented in the District Court for traffic fines. The Judiciary further advises that expanding availability of installment payment plans to fines of *any type* (not just traffic fines) is likely to significantly increase the number of individuals requesting an installment plan, with a corresponding increase in the workload of clerks (in the District Court as well as circuit courts) to process, track, and maintain payment plans and perform other associated tasks (such as reviewing requests for completeness and eligibility, creating invoices, making referrals to the Central Collection Unit (CCU), tracking payment plans across multiple jurisdictions, *etc.*). The Judiciary notes that, to a certain extent, the processing of installment plans is handled manually.

The Judiciary estimates that the bill necessitates 49.5 additional clerks to satisfy the bill's requirements. General fund expenditures for the Judiciary associated with these positions are estimated at approximately \$3.0 million in fiscal 2023, increasing to more than \$3.7 million by fiscal 2027. The Judiciary also notes that it did not receive any additional resources following the enactment of Chapters 149 and 150 of 2020, which expanded the usage of installment plans in traffic-related cases.

The Department of Legislative Services (DLS) acknowledges that the high volume of potential cases, due to the expansion of installment payment plan eligibility for *all types* of court-ordered fines, has a significant impact on the Judiciary. However, it is unable to independently verify the precise need for staff that can be attributed *solely* to the implementation of this bill. However, DLS agrees with the overall assessment that the bill's implementation requires significant resources in order to ensure that fines can be imposed and collected appropriately under the expanded eligibility for installment plans. For each clerk required to implement the bill's requirements, general fund expenditures increase by approximately \$59,000 in fiscal 2023, which accounts for the bill's October 1, 2022 effective date, and by approximately \$72,000 annually thereafter. *For illustrative purposes only*, costs associated with 12 additional District Court clerks (1 clerk in each district) and 5 additional circuit court clerks (1 in each of the 5 large circuit courts) are approximately \$1.2 million annually.

To the extent that judges issue fewer or smaller fines under the bill, or longer installment plan periods, revenues collected by the Judiciary may decrease or be delayed relative to current law. On the other hand, to the extent that more defendants are able to pay fines (either due to smaller fines or the availability of an installment plan), revenues may increase. The precise impact on State revenues is indeterminable at this time.

The bill is not anticipated to materially affect incarceration costs or the workload of CCU.

Local Fiscal Effect: Similar to the effect on State revenues discussed above, local fine revenues for cases in the circuit courts may be impacted. The bill is not anticipated to materially affect local incarceration costs.

Additional Information

Prior Introductions: SB 124 of 2021, a similar bill, was referred to the Senate Judicial Proceedings Committee but was withdrawn prior to a hearing.

Designated Cross File: None.

Information Source(s): Harford, Montgomery, Talbot, and Wicomico counties; Judiciary (Administrative Office of the Courts); Department of Budget and Management; Department of Public Safety and Correctional Services; Department of Legislative Services

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