

CHAPTER 180

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

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

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

Consequences of nonpayment; summary collection.

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

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

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

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

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

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

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

(2) If the court finds that the person defaulted on payment of a court-imposed financial obligation, restitution, or child support or other support or maintenance ordered by a court without good cause and finds that the default was willful, the court may, in addition to the action required by paragraph (1) of this subsection a., impose a term of imprisonment or participation in a labor assistance program or enforced community service to achieve the objective of the court-imposed financial obligation, restitution, or child support or other support or maintenance ordered by a court. These options shall not reduce the amount owed by the person in default. The term of imprisonment or enforced community service or participation in a labor assistance program in such case shall be specified in the order of commitment. It need not be equated with any particular dollar amount but, in the case of a fine it shall not exceed one day for each \$50 of the fine nor shall it exceed a period of 90 consecutive days. In no case shall the total period of imprisonment in the case of a disorderly persons offense for both the sentence of imprisonment and for failure to pay a fine exceed six months.

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

following actions:

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

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

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

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

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

b. Upon any default in the payment of a fine, assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), monthly probation fee, a penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5), a penalty imposed pursuant to section 11 of P.L.2001, c.81 (C.2C:43-3.6), a penalty imposed pursuant to section 1 of P.L.2005, c.73 (C.2C:14-10), other financial penalties, restitution, or any installment thereof, execution may be levied and such other measures may be taken for collection of it or the unpaid balance thereof as are authorized for the collection of an unpaid civil judgment entered against the defendant in an action on a debt.

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

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

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

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

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

objective of the sentence.

h. As used in this section:

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

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

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

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

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

Incarceration for default on certain penalties, surcharges; other actions by court.

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

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

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

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

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

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

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

3. This act shall take effect immediately.

Approved January 13, 2014.