

SENATE, No. 1560

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



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

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
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 the
23 defendant, or issue a summons or a warrant of arrest for the
24 defendant's appearance. The court shall afford the person notice
25 and an opportunity to be heard on the issue of default. Failure to
26 make any payment when due shall be considered a default. The
27 standard of proof shall be by a preponderance of the evidence, and
28 the burden of establishing good cause for a default shall be on the
29 person who has defaulted.

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

32 (a) order the suspension of the driver's license or the
33 nonresident reciprocity driving privilege of the person; or

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

37 (c) take any other actions authorized by law.

38 The court shall notify the Chief Administrator of the New Jersey
39 Motor Vehicle Commission of the action taken pursuant to this
40 paragraph.

41 (2) If the court finds that the person defaulted on payment of a
42 court-imposed financial obligation, restitution, or child support or
43 other support or maintenance ordered by a court without good cause
44 and finds that the default was willful, the court may, in addition to
45 the action authorized by paragraph (1) of subsection a. of this

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

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

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

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

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

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

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

45 b. Upon any default in the payment of a fine, assessment
46 imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1),
47 monthly probation fee, a penalty imposed pursuant to section 1 of
48 P.L.1999, c.295 (C.2C:43-3.5), a penalty imposed pursuant to

1 section 11 of P.L.2001, c.81 (C.2C:43-3.6), a penalty imposed
2 pursuant to section 1 of P.L.2005, c.73 (C.2C:14-10), other
3 financial penalties, restitution, or any installment thereof, execution
4 may be levied and such other measures may be taken for collection
5 of it or the unpaid balance thereof as are authorized for the
6 collection of an unpaid civil judgment entered against the defendant
7 in an action on a debt.

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

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

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

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

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

33 h. As used in this section:

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

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

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

45 (4) "Court-imposed financial obligation" means any fine,
46 statutorily-mandated assessment, surcharge, or other financial

1 penalty imposed by a court, but does not include restitution or child
2 support or other support or maintenance ordered by a court.

3 (cf: P.L.2019, c.276, s.7)

4
5 2. R.S.39:5-36 is amended to read as follows:

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

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

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

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

29 (3) if the defendant has served jail time for default on a penalty,
30 the court may order that credit for each day of confinement be given
31 against the amount owed. The amount of the credit shall be
32 determined at the discretion of the court but shall be not less than
33 **【\$50】** \$90 for each day of confinement served.

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

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

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

46
47 3. This act shall take effect immediately.

S1560 SCUTARI

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STATEMENT

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.

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.

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

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.