Office of the Registrar of Regulations,
Legislative Council,
State of Delaware

CHAPTER 239
FORMERLY
HOUSE BILL NO. 240
AS AMENDED BY
HOUSE AMENDMENT NO. 1
AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO FINES, COSTS, PENALTIES AND FORFEITURES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §4101, Title 11 of the Delaware Code by making insertions as shown by underlining as follows:

§4101. Payment of fines, costs and restitution upon conviction.

(a) On conviction upon indictment or information for any crime or offense, all the costs shall be paid by the party convicted.

(b) Immediately upon imposition by a court, including a justice of the peace, of any sentence to pay a fine, costs, restitution or all 3, the same shall be a judgment against the convicted person for the full amount of the fine, costs, restitution or all 3, assessed by the sentence. Such judgment shall be immediately executable, enforceable and/or transferable by the State or by the victim to whom such restitution is ordered in the same manner as other judgments of the court. If not paid promptly upon its imposition or in accordance with the terms of the order of the court, or immediately if so requested by the State, the clerk or Prothonotary shall cause the judgment to be entered upon the civil judgment docket of the court; provided, however, that where a stay of execution is otherwise permitted by law such a stay shall not be granted as a matter of right but only within the discretion of the court. If the court imposing any sentence to pay a fine, costs, restitution or all 3 has no civil docket for the entry of a judgment, then such court may immediately transfer such judgment to the civil judgment docket of an appropriate court, as shall be determined by the court imposing such sentence. Judgments docketed pursuant to this subsection shall be exempt from the provisions of §4711 of Title 10 which mandate the expiration of judgments, and which require the renewal of such judgments.

(c) The provisions of this section are cumulative and shall not impair any judgment given upon any conviction.

(d) In addition to, and at the same time as, any fine, penalty or forfeiture is assessed to any criminal defendant or any child adjudicated delinquent, there shall be levied an additional penalty of $1.00 imposed and collected by the courts for crimes or offenses as defined in §233 of this title. When a fine, penalty or forfeiture is suspended, in whole or in part, the penalty assessment shall not be suspended.

(1) Upon collection of the penalty assessment, the same shall be paid over to the Prothonotary or clerk of courts, as the case may be, who shall collect the same and transmit it to the State Treasury to be deposited in a separate account for the administration of this subsection, which account shall be designated the "Videophone Fund," which is hereby created. This fund is to be administered by the Criminal Justice Council. Funds shall be utilized to cover line charges, maintenance costs and purchase and upgrade of videophone systems used by state and local agencies in the criminal justice system.

(2) For each fiscal year, if the balance in the Videophone Fund exceeds $250,000, said funds shall be transferred to the General Fund of the State of Delaware on June 30. The Criminal Justice Council shall submit a detailed spending plan for the use of the videophone funds to the Director of the Office of Management and Budget and Controller General no later than September 30 of each fiscal year. No funds shall be expended until the plan is approved by the Director of the Office of Management and Budget and the Controller General.

(3) The courts may expunge the record of any videophone assessment which remains uncollected for a period in excess of 3 years.

(e) (1) If any school teacher or administrator who holds a license or certificate under Title 14 or who is a teacher or administrator in a charter school but is exempt from licensing under §507(c) of Title 14 or is a teacher or administrator employed by any state agency or under contract to a state agency is convicted of a violation of §904(c) of Title 4 as a felony offense in this title, any offense in Chapter 47 of Title 16, and/or any offense in the Delaware Code that is a crime against a child, or a similar statute of another state, commonwealth or the District of Columbia, the court shall forward a copy of the conviction data to the employing school district's superintendent, school person-in-charge or state agency head.

(2) If the arrest and conviction occurs outside the State of Delaware, the teacher or administrator shall notify the superintendent, school person-in-charge or state agency head by providing copies of the conviction documents and sentence.

A teacher or administrator who fails to comply with paragraph (e)(2) of this section shall be guilty of a violation.

(f) In addition to, and at the same time as, any fine, penalty or forfeiture is assessed to any criminal or traffic defendant or any child adjudicated delinquent, there shall be levied an additional penalty of $1.00 imposed and collected by the courts for crimes or offenses as defined in §233 of this title. When a fine, penalty or forfeiture is suspended, in whole or in part, the penalty assessment shall not be suspended.

(1) Upon collection of the penalty assessment, the same shall be paid over to the prothonotary or Clerk of Courts, as the case may be, who shall collect the same and transmit it to the State Treasury to be deposited in a separate account for the administration of this subsection, which account shall be designated the "DELJIS Fund",

which is hereby created. The Fund is to be administered by the DELJIS Director. Funds shall be utilized to cover line charges, maintenance costs and upgrading of software and hardware that comprise the system known as the Criminal Justice Information System (CJIS) utilized by state and local law-enforcement agencies in addition to all agencies designated as "Criminal Justice Agencies".

(2) For each fiscal year, if the balance in the DELJIS Fund exceeds $250,000, said funds shall be transferred to the General Fund of the State on June 30. The DELJIS Director shall submit a detailed spending plan for the use of the DELJIS funds to the State Budget Director and Controller General no later than September 30 of each fiscal year. No funds shall be expended until the plan is approved by the State Budget Director and the Controller General.

(g) (1) In addition to, and at the same time as any fine, penalty or forfeiture is assessed to a criminal defendant, recipient of a civil offense, or any child adjudicated delinquent, there shall be levied an additional surcharge of 50% of the fine for the Transportation Trust Fund imposed and collected for any violations of Title 21.

(2) For fiscal years ending prior to July 1, 2008, no more than $1.5 million of the surcharge collected under this Section shall be deposited into the Transportation Trust Fund. Any amount in excess of $1.5 million collected prior to July 1, 2008, shall be deposited into the General Fund.

(3) If a fine or penalty is waived in whole or in part, the court may, in its discretion, waive up to the same percentage of the assessment.

(h) In addition to, and at the same time as, any fine or other penalty is assessed to any criminal or traffic defendant or any child adjudicated delinquent, there shall be levied an additional penalty of $15 imposed and collected by the courts for each crime and offense as defined in § 233 of this title. When a fine or other penalty is suspended in whole or in part, the penalty assessment may not be suspended.

(1) Upon collection of the penalty assessment, the assessment must be paid over to the prothonotary or clerk of courts, as the case may be, who shall collect the same and transmit it to the State Treasury to be deposited in a separate account for the administration of this subsection, which account shall be designated the "Fund to Combat Violent Crimes", which is hereby created.

(2) One-half of the Fund, but no more than $2,125,000 per year, shall be distributed to the Department of Safety and Homeland Security for use in connection with initiatives to combat violent crime. Funds distributed to the Department of Safety and Homeland Security hereunder may be used to cover salaries, overtime and other salary costs, expenses, equipment, and supplies for state troopers and other personnel.

(3) One-half of the Fund, but no more than $2,125,000 per year, shall be distributed to local law-enforcement agencies for use in connection with initiatives to combat violent crime. Funds may be used to cover overtime, expenses, equipment and supplies, and as otherwise set forth in paragraph (h)(6) of this section.

(4) The Fund to Combat Violent Crimes Committee shall administer the moneys distributable to local law-enforcement agencies hereunder. The Committee shall be comprised of 5 members, namely the Secretary of the Department of Safety and Homeland Security, the Superintendent of the Delaware State Police, the Attorney General, the President of the Delaware Police Chiefs Council and the President of the Delaware State Lodge of the Fraternal Order of Police, or the respective designees of such members. The Secretary of the Department of Safety and Homeland Security shall be the chairperson of the Committee.

a. All local law-enforcement agencies seeking funds hereunder shall submit a yearly request for funding to the Committee. Such request shall include, without limitation:

1. A detailed description of how the requested funds will be used by the local law-enforcement agency to combat violent crime;

2. The amount of any and all funds received by said local law-enforcement agency from the Fund during the previous 5 fiscal years; and

3. The name of the local law-enforcement agency requesting said funds and the name of the individual in such agency who shall be responsible for keeping accurate records as to the use of said funds.

b. In addition, prior to receiving any funds hereunder in any fiscal year, all local law-enforcement agencies shall certify in writing to the Committee that:

1. Funds received from the Fund to Combat Violent Crimes will supplement, not supplant, any non-state funding to local law-enforcement agencies that would otherwise be available for activities funded under this paragraph;

2. The award of any funds hereunder shall not guarantee that funding shall be available to the same extent in future fiscal years;

3. The responsibility for any future decrease in funding shall be borne by the local law-enforcement agency, not the State.

c. The Committee may require such additional information from local law-enforcement agencies, and may otherwise adopt such procedures and forms, as shall be necessary for the effective administration of this paragraph.

(5) If a majority of the Committee determines that all of the funds requested by a local law-enforcement agency will be used for purposes permitted hereunder, the Committee shall authorize payment to each local law-enforcement agency as follows:

a. Each full-time local law-enforcement agency shall receive $15,000 per year and each part-time local law-enforcement agency shall receive $7,500 per year.

b. All funds in excess of the amounts set forth above shall be distributed to local law-enforcement agencies on a pro rata basis, based upon the local law-enforcement agency's actual strength of full-time sworn officers.

(6) Local law-enforcement agencies shall not be permitted to use moneys hereunder to cover salaries or other salary costs, except overtime, unless the Committee:

a. Determines that sufficient funding is available from the Fund to Combat Violent Crimes to support such expenditures on a long-term basis; and

b. Issues a written opinion to that effect, signed by all of the members of the Committee and provided to the Governor and the chair and co-chair of the Joint Finance Committee, no earlier than June 30, 2012.

(7) Any funds granted to a local law-enforcement agency pursuant to paragraphs (h)(5) and (6) of this section that are not fully expended within 12 months of receipt thereof must be returned by the agency to the Fund to Combat Violent Crimes within 60 days, unless the agency has requested and has received an authorization in writing for an extension of up to 120 days by the Committee.

(8) Notwithstanding anything to the contrary herein, no more than $4.25 million of the funds collected under this paragraph in each fiscal year shall be deposited into the Fund to Combat Violent Crimes. Any amount in excess of $4.25 million in each fiscal year shall be deposited into the General Fund.

(9) For purposes of this section:

a. "Full-time local law-enforcement agency" shall mean any local law-enforcement agency providing continuous, 24-hour coverage to a county or municipality.

b. "Fund" shall mean the Fund to Combat Violent Crimes.

c. "Initiative to combat violent crime" means any initiative, plan, proposal, operation or strategy designed to reduce the prevalence of 1 more offenses classified as a "violent felonies" pursuant to §4201(c) of this title.

d. "Local law-enforcement agency" means any county or municipal police department within this State, but does not include any county sheriff's office.

e. "Part-time local law-enforcement agency" shall mean any local law-enforcement agency providing less than continuous, 24-hour coverage to a county or municipality.

(i) Prior to any fine, penalty or forfeiture being assessed a criminal defendant or any child adjudicated delinquent, the Attorney General or other prosecuting agency shall notify the Court if the victim was 62 years of age or older. In addition to, and at the same time as, any fine, penalty or forfeiture is assessed to any criminal defendant or any child adjudicated delinquent, there shall be levied an additional penalty of $100.00 imposed and collected by the courts for crimes or offenses in Chapter 5 of Title 11 where the victim was 62 years of age or older. When a fine, penalty or forfeiture is suspended, in whole or in part, the penalty assessment under this subsection shall not be suspended.

(1) Upon collection of the penalty assessment, the same shall be paid over to the Prothonotary or Clerk of Courts, as the case may be, who shall collect the same and transmit it to the State Treasury to be deposited in a separate account for the administration of this subsection, which account shall be designated the "Senior Trust Fund", which is hereby created. The Fund is to be administered by the Director of the Division of Services for Aging and Adults with Physical Disabilities. The Fund shall be utilized in providing assistance for new or expanded programs on or after October 1, 2012 for the senior population. The Senior Trust Fund must be used to support the direct provision of aging services by community based service organizations.

(2) The Director of the Division of Services for Aging and Adults with Physical Disabilities shall submit a spending plan for providing assistance for new or expanded programs for the senior population to the Director of the Office of Management and Budget and Controller General no later than September 30 of each fiscal year. No funds shall be expended until the plan is approved by the Director of the Office of Management and Budget and the Controller General.

Section 2. This Act shall take effect on October 1, 2012.

Approved May 10, 2012