

State of Arizona
Senate
Fifty-second Legislature
First Regular Session
2015

SENATE BILL 1116

AN ACT

AMENDING SECTION 13-810, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-824; AMENDING SECTION 28-1389, ARIZONA REVISED STATUTES; RELATING TO RESTITUTION AND FINES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-810, Arizona Revised Statutes, is amended to
3 read:

4 13-810. Consequences of nonpayment of fines, fees, restitution
5 or incarceration costs

6 A. In addition to any other remedy provided by law, including a writ
7 of execution or other civil enforcement, if a defendant who is sentenced to
8 pay a fine, a fee or incarceration costs defaults in the payment of the fine,
9 fee or incarceration costs or of any installment as ordered, the clerk of the
10 court imposing the fine, fee or incarceration costs shall notify the
11 prosecutor and the sentencing court. The court, on motion of the prosecuting
12 attorney or on its own motion, shall require the defendant to show cause why
13 the defendant's default should not be treated as contempt and may issue a
14 summons or a warrant of arrest for the defendant's appearance.

15 B. In addition to any other remedy provided by law, including a writ
16 of execution or other civil enforcement, if a defendant who is ordered to pay
17 restitution defaults in the payment of the restitution or of any installment
18 as ordered, the clerk of the court that imposed the restitution shall notify
19 the prosecutor and the sentencing court on a monthly basis. The court, on
20 motion of the prosecuting attorney, on petition of any person entitled to
21 restitution pursuant to a court order or on its own motion, shall require the
22 defendant to show cause why the defendant's default should not be treated as
23 contempt and may issue a summons or a warrant of arrest for the defendant's
24 appearance.

25 C. At any hearing on the order to show cause the court, the
26 prosecuting attorney or a person entitled to restitution may examine the
27 defendant under oath concerning the defendant's financial condition,
28 employment and assets or on any other matter relating to the defendant's
29 ability to pay restitution.

30 D. If the court finds that the defendant has wilfully failed to pay a
31 fine, a fee, restitution or incarceration costs or finds that the defendant
32 has intentionally refused to make a good faith effort to obtain the monies
33 required for the payment, the court shall find that the default constitutes
34 contempt and may do one of the following:

35 1. Order the defendant incarcerated in the county jail until the fine,
36 fee, restitution or incarceration costs, or a specified part of the fine,
37 fee, restitution or incarceration costs, is paid.

38 2. Revoke the defendant's probation, parole or community supervision
39 and sentence the defendant to prison pursuant to law.

40 3. Enter an order pursuant to section 13-812. The levy or execution
41 for the collection of a fine, a fee, restitution or incarceration costs does
42 not discharge a defendant who is incarcerated for nonpayment of the fine,
43 fee, restitution or incarceration costs until the amount of the fine, fee,
44 restitution or incarceration costs is collected.

45 4. **ORDER THE DEFENDANT TO PERFORM COMMUNITY RESTITUTION.**

1 E. If the court finds that the default is not wilful and that the
2 defendant cannot pay despite sufficient good faith efforts to obtain the
3 monies, the court may take any lawful action including:

4 1. Modify the manner in which the restitution, fine, fee or
5 incarceration costs are to be paid.

6 2. Enter any reasonable order that would assure compliance with the
7 order to pay.

8 3. Enter an order pursuant to section 13-812. The levy or execution
9 for the collection of a fine, a fee, restitution or incarceration costs does
10 not discharge a defendant incarcerated for nonpayment of the fine, fee,
11 restitution or incarceration costs until the amount of the fine, fee,
12 restitution or incarceration costs is collected.

13 F. If a fine, a fee, restitution or incarceration costs are imposed on
14 an enterprise it is the duty of the person or persons authorized to make
15 disbursement from the assets of the enterprise to pay them from those assets,
16 and their failure to do so shall be held a contempt unless they make the
17 showing required in subsection A or B of this section.

18 Sec. 2. Title 13, chapter 8, Arizona Revised Statutes, is amended by
19 adding section 13-824, to read:

20 13-824. Community restitution in lieu of fines, fees or
21 incarceration costs

22 NOTWITHSTANDING ANY OTHER LAW, IN A MUNICIPAL OR JUSTICE COURT, IF A
23 DEFENDANT IS SENTENCED TO PAY A FINE, A FEE, ASSESSMENT OR INCARCERATION
24 COSTS AND THE COURT FINDS THE DEFENDANT IS UNABLE TO PAY ALL OR PART OF THE
25 FINE, FEE, ASSESSMENT OR INCARCERATION COSTS, THE COURT MAY ORDER THE
26 DEFENDANT TO PERFORM COMMUNITY RESTITUTION IN LIEU OF THE PAYMENT FOR ALL OR
27 PART OF THE FINE, FEE, ASSESSMENT OR INCARCERATION COSTS. THE AMOUNT OF
28 COMMUNITY RESTITUTION SHALL BE EQUIVALENT TO THE AMOUNT OF THE FINE, FEE OR
29 INCARCERATION COSTS BY CREDITING ANY SERVICE PERFORMED AT A RATE OF TEN
30 DOLLARS PER HOUR.

31 Sec. 3. Section 28-1389, Arizona Revised Statutes, is amended to read:

32 28-1389. Waiver of fine, surcharge or assessment

33 ~~Notwithstanding any other law,~~ The court shall not waive a fine or
34 assessment imposed pursuant to this article or a surcharge imposed pursuant
35 to section 12-116.01 or 12-116.02 for a conviction of an offense listed in
36 this article.

37 Sec. 4. Effective date

38 This act is effective from and after December 31, 2015.