

§1711. Default

1. Return to court upon default. A convicted person who has been sentenced to pay a fine and who fails to pay part or all of that fine is in default and must be returned to court to explain the failure to pay the fine.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Court authorized to conduct default hearing. A convicted person who has defaulted on the payment of a fine and is required to be returned to a court pursuant to a warrant may be returned to the court that issued the warrant or to the court having jurisdiction over the area where the warrant was executed. Either court is authorized to conduct the default hearing pursuant to subsection 4.

For purposes of this subsection, "convicted person" includes an individual or individuals authorized to make disbursements from the assets of a convicted organization.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Reporting of default; motion to revoke probation, revoke administrative release or enforce payment. A probation officer having knowledge of a default in payment of a fine by a convicted person shall report the default to the office of the attorney for the State. An attorney for the State having knowledge of a default in payment of a fine by a convicted person shall report the default to the court. If the fine was a condition of probation, the attorney for the State may file a motion to enforce payment of the fine or, with the written consent of the probation officer, a motion to revoke probation under section 1811. If the fine was a requirement of administrative release, the attorney for the State may file a motion to enforce payment of the fine or a motion to revoke administrative release under section 1855. If the fine was not a condition of probation or a requirement of administrative release, the attorney for the State may file a motion to enforce payment of the fine.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Procedure for motion to enforce payment. Either the attorney for the State or the court may initiate a motion to enforce payment of a fine. Notification for the hearing on the motion must be sent by regular mail to the convicted person's last known address. If the person does not appear for the hearing after proper notification has been sent, the court may issue a bench warrant. A court need not bring a motion to enforce payment of a fine nor notify the person by regular mail of the date of the hearing if at the time of sentence imposition the court's order to pay the fine and accompanying warnings to the person comply with Title 14, section 3141, subsection 3 or 4; in this case, if the person fails to appear as directed by the court's fine order, the court may issue a bench warrant.

A. Unless the person shows by a preponderance of the evidence that the default was not attributable to an intentional or knowing refusal to obey the court's order or to a failure on the person's part to make a good faith effort to obtain the funds required for the payment, the court shall find that the default was unexcused and may:

(1) Commit the person to the custody of the sheriff until all or a specified part of the fine is paid. The length of confinement in a county jail for unexcused default must be specified in the court's order and may not exceed 6 months. A person committed for nonpayment of a fine is given credit toward the payment of the fine for each day of confinement that the person is in custody at the rate specified in the court's order, which may not be less than \$25 or more than \$100 of unpaid fine for each day of confinement. The person is also given credit for each day that the person is detained as the result of an arrest warrant issued pursuant to this section. A person is responsible for paying any fine remaining after receiving credit for confinement and detention. A default on the remaining fine is also governed by this section; or

(2) If the unexcused default relates to a fine imposed for a Class C, Class D or Class E crime, as authorized by this subchapter, order the person to perform a specified number of hours of community service work for the benefit of the State, a county, a municipality, a school

administrative district or other public entity, a charitable institution or other entity approved by the court until all or a specified part of the fine is paid. The number of hours of community service work must be specified in the court's order and the person must receive a credit against the unpaid fine at a rate equal to the current hourly minimum wage. A person ordered to perform community service work pursuant to this subparagraph is given credit toward the payment of the fine for each 8-hour day of community service work performed. The person is also given credit toward the payment of the fine for each day that the person is detained as a result of an arrest warrant issued pursuant to this section at a rate specified in the court's order that is up to \$100 of unpaid fine per day of confinement. A person who fails to complete the work in the manner ordered by the court must be returned to the court to explain the failure. A person is responsible for paying any fine remaining after receiving credit for any detention and for community service work performed. A default on the remaining fine is also governed by this section.

The Department of Corrections is not responsible for supervision of community service work performed pursuant to this subparagraph. [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. If it appears that the default is excusable, the court may give the person additional time for payment, may reduce the amount of each installment or may permit the person to perform community service work at the rate authorized by paragraph A, subparagraph (2), supervised by the sheriff of the county in which the court that assessed the fine is located or by a community confinement monitoring agency with which that sheriff has contracted under Title 30-A, section 1659-A. [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. If the court commits a person to the custody of the sheriff for nonpayment of a fine pursuant to paragraph A, subparagraph (1), the court may authorize, at the time of its order only, participation of the person in a project under Title 30-A, section 1606 with the agreement of the sheriff of the county jail where the person is committed. The person must be given credit according to Title 30-A, section 1606, subsection 2. [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. The confinement ordered under paragraph A, subparagraph (1) must be nonconcurrent with any judgment of conviction involving a term of imprisonment. [PL 2019, c. 113, Pt. A, §2 (NEW).]
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Levy of execution or other civil measures authorized; consequence of levy of execution.

Upon any default, the court may order execution to be levied and may order other measures authorized for the collection of unpaid civil judgments to be taken to collect the unpaid fine. A levy of execution does not discharge a convicted person confined to a county jail or performing community service work under subsection 4 for unexcused default until the full amount of the fine has been collected or credited. [PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Payment of fine imposed on organization; consequence of failure.

When a fine is imposed on an organization, the individual or individuals authorized to make disbursements from the assets of the organization shall pay the fine from the organization's assets. Failure to do so may subject the individual or individuals to court action pursuant to this section. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

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