

HB3893



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3893

Introduced 10/17/2019, by Rep. La Shawn K. Ford

SYNOPSIS AS INTRODUCED:

705 ILCS 135/5-10

Amends the Criminal and Traffic Assessment Act. Provides that before the court orders an assessment, the court shall make a determination of the defendant's ability to pay the assessment. Provides that if the court determines that the defendant is unable to pay the assessment, the court may reduce the assessment or waive the assessment in the court's discretion.

LRB101 13486 RLC 62336 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning courts.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal and Traffic Assessment Act is
5 amended by changing Section 5-10 as follows:

6 (705 ILCS 135/5-10)

7 (This Section may contain text from a Public Act with a
8 delayed effective date)

9 (Section scheduled to be repealed on January 1, 2021)

10 Sec. 5-10. Schedules; payment.

11 (a) In each case, the court shall order an assessment at
12 the time of sentencing, as set forth in this Act, for a
13 defendant to pay in addition to any fine, restitution, or
14 forfeiture ordered by the court when the defendant is convicted
15 of, pleads guilty to, or is placed on court supervision for a
16 violation of a statute of this State or a similar local
17 ordinance. The court may order a fine, restitution, or
18 forfeiture on any violation that is being sentenced but shall
19 order only one assessment from the Schedule of Assessments 1
20 through 13 of this Act for all sentenced violations in a case,
21 that being the schedule applicable to the highest classified
22 offense violation that is being sentenced, plus any conditional
23 assessments under Section 15-70 of this Act applicable to any

1 sentenced violation in the case.

2 (b) Before the court orders an assessment, the court shall
3 make a determination of the defendant's ability to pay the
4 assessment. If the court determines that the defendant is
5 unable to pay the assessment, the court may reduce the
6 assessment or waive the assessment in the court's discretion.

7 If the court finds that the schedule of assessments will cause
8 an undue burden on any victim in a case or if the court orders
9 community service or some other punishment in place of the
10 applicable schedule of assessments, the court may reduce the
11 amount set forth in the applicable schedule of assessments or
12 not order the applicable schedule of assessments. If the court
13 reduces the amount set forth in the applicable schedule of
14 assessments, then all recipients of the funds collected will
15 receive a prorated amount to reflect the reduction.

16 (c) The court may order the assessments to be paid
17 forthwith or within a specified period of time or in
18 installments.

19 (c-3) Excluding any ordered conditional assessment, if the
20 assessment is not paid within the period of probation,
21 conditional discharge, or supervision to which the defendant
22 was originally sentenced, the court may extend the period of
23 probation, conditional discharge, or supervision under Section
24 5-6-2 or 5-6-3.1 of the Unified Code of Corrections, as
25 applicable, until the assessment is paid or until successful
26 completion of public or community service set forth in

1 subsection (b) of Section 5-20 of this Act or the successful
2 completion of the substance abuse intervention or treatment
3 program set forth in subsection (c-5) of this Section.

4 (c-5) Excluding any ordered conditional assessment, the
5 court may suspend the collection of the assessment; provided,
6 the defendant agrees to enter a substance abuse intervention or
7 treatment program approved by the court; and further provided
8 that the defendant agrees to pay for all or some portion of the
9 costs associated with the intervention or treatment program. In
10 this case, the collection of the assessment shall be suspended
11 during the defendant's participation in the approved
12 intervention or treatment program. Upon successful completion
13 of the program, the defendant may apply to the court to reduce
14 the assessment imposed under this Section by any amount
15 actually paid by the defendant for his or her participation in
16 the program. The court shall not reduce the assessment under
17 this subsection unless the defendant establishes to the
18 satisfaction of the court that he or she has successfully
19 completed the intervention or treatment program. If the
20 defendant's participation is for any reason terminated before
21 his or her successful completion of the intervention or
22 treatment program, collection of the entire assessment imposed
23 under this Act shall be enforced. Nothing in this Section shall
24 be deemed to affect or suspend any other fines, restitution
25 costs, forfeitures, or assessments imposed under this or any
26 other Act.

1 (d) Except as provided in Section 5-15 of this Act, the
2 defendant shall pay to the clerk of the court and the clerk
3 shall remit the assessment to the appropriate entity as set
4 forth in the ordered schedule of assessments within one month
5 of its receipt.

6 (e) Unless a court ordered payment schedule is implemented
7 or the assessment requirements of this Act are waived under a
8 court order, the clerk of the circuit court may add to any
9 unpaid assessments under this Act a delinquency amount equal to
10 5% of the unpaid assessments that remain unpaid after 30 days,
11 10% of the unpaid assessments that remain unpaid after 60 days,
12 and 15% of the unpaid assessments that remain unpaid after 90
13 days. Notice to those parties may be made by signage posting or
14 publication. The additional delinquency amounts collected
15 under this Section shall be deposited into the Circuit Clerk
16 Operations and Administration Fund and used to defray
17 additional administrative costs incurred by the clerk of the
18 circuit court in collecting unpaid assessments.

19 (Source: P.A. 100-987, eff. 7-1-19; 100-1161, eff. 7-1-19.)