



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2238

by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-9-3

from Ch. 38, par. 1005-9-3

Amends the Unified Code of Corrections. Allows State's Attorneys, municipal attorneys, and attorneys retained under the Unified Code of Corrections to authorize the immobilization of motor vehicles belonging to persons that have defaulted on the payment of a fine, fee, cost, penalty, assessment, order of restitution, judgment order of bond forfeiture, judgment order of forfeiture, or other amount specified by law, or any installment thereof imposed by a court for a violation of the Illinois Vehicle Code or a similar provision of a local ordinance. Requires the owner to be notified of the impending immobilization and their right to a hearing to challenge the validity of the immobilization. Allows costs associated with the immobilization, towing, and storage of the vehicle to be assessed to the owner, as well as any other fees authorized by this Section. Makes removing the device or assisting in the removal of the device without authorization a petty offense, and allows costs associated with this tampering to be assessed to the owner. Requires the owner to pay the amount owed or agreed upon by the attorney authorizing the impoundment within 24 hours or the vehicle shall be impounded. Requires the owner of a vehicle impounded under this Section to retrieve the vehicle from the impound lot within 21 days or the car will be disposed of in accordance with Section 4-208 of the Illinois Vehicle Code.

LRB098 08149 MLW 38242 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

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

4 Section 5. The Unified Code of Corrections is amended by
5 changing Section 5-9-3 as follows:

6 (730 ILCS 5/5-9-3) (from Ch. 38, par. 1005-9-3)
7 Sec. 5-9-3. Default.

8 (a) An offender who defaults in the payment of a fine or
9 any installment of that fine may be held in contempt and
10 imprisoned for nonpayment. The court may issue a summons for
11 his appearance or a warrant of arrest.

12 (b) Unless the offender shows that his default was not due
13 to his intentional refusal to pay, or not due to a failure on
14 his part to make a good faith effort to pay, the court may
15 order the offender imprisoned for a term not to exceed 6 months
16 if the fine was for a felony, or 30 days if the fine was for a
17 misdemeanor, a petty offense or a business offense. Payment of
18 the fine at any time will entitle the offender to be released,
19 but imprisonment under this Section shall not satisfy the
20 payment of the fine.

21 (c) If it appears that the default in the payment of a fine
22 is not intentional under paragraph (b) of this Section, the
23 court may enter an order allowing the offender additional time

1 for payment, reducing the amount of the fine or of each
2 installment, or revoking the fine or the unpaid portion.

3 (d) When a fine is imposed on a corporation or
4 unincorporated organization or association, it is the duty of
5 the person or persons authorized to make disbursement of
6 assets, and their superiors, to pay the fine from assets of the
7 corporation or unincorporated organization or association. The
8 failure of such persons to do so shall render them subject to
9 proceedings under paragraphs (a) and (b) of this Section.

10 (e) A default in the payment of a fine, fee, cost, order of
11 restitution, judgment of bond forfeiture, judgment order of
12 forfeiture, or any installment thereof may be collected by any
13 and all means authorized for the collection of money judgments.
14 The State's Attorney of the county in which the fine, fee,
15 cost, order of restitution, judgment of bond forfeiture, or
16 judgment order of forfeiture was imposed may retain attorneys
17 and private collection agents for the purpose of collecting any
18 default in payment of any fine, fee, cost, order of
19 restitution, judgment of bond forfeiture, judgment order of
20 forfeiture, or installment thereof. An additional fee of 30% of
21 the delinquent amount is to be charged to the offender for any
22 amount of the fine, fee, cost, restitution, or judgment of bond
23 forfeiture or installment of the fine, fee, cost, restitution,
24 or judgment of bond forfeiture that remains unpaid after the
25 time fixed for payment of the fine, fee, cost, restitution, or
26 judgment of bond forfeiture by the court. The additional fee

1 shall be payable to the State's Attorney in order to compensate
2 the State's Attorney for costs incurred in collecting the
3 delinquent amount. The State's Attorney may enter into
4 agreements assigning any portion of the fee to the retained
5 attorneys or the private collection agent retained by the
6 State's Attorney. Any agreement between the State's Attorney
7 and the retained attorneys or collection agents shall require
8 the approval of the Circuit Clerk of that county. A default in
9 payment of a fine, fee, cost, restitution, or judgment of bond
10 forfeiture shall draw interest at the rate of 9% per annum.

11 (f) Immobilization of motor vehicles for default in
12 payment.

13 (1) For purposes of this subsection, "immobilization"
14 means the placement of a restraint device in such a manner
15 as to prevent movement or operation of a motor vehicle.

16 (2) A State's Attorney, municipal attorney, or an
17 attorney retained under this Section may authorize the
18 immobilization of a motor vehicle when the registered owner
19 defaults on the payment of a fine, fee, cost, penalty,
20 assessment, order of restitution, judgment order of bond
21 forfeiture, judgment order of forfeiture, or other amount
22 specified by law and imposed by a court for a violation of
23 Article VII of Chapter 3, Article I or Article III of
24 Chapter 6, Article VI of Chapter 7, or Chapter 11 of the
25 Illinois Vehicle Code or a similar provision of a local
26 ordinance.

1 (3) At least 24 hours prior to the immobilization of a
2 motor vehicle, a notice of immobilization must be affixed
3 to the motor vehicle in a conspicuous place. This
4 notification shall include:

5 (A) the name of the registered owner of the motor
6 vehicle;

7 (B) instructions for payment including the
8 deadline to avoid immobilization; and

9 (C) information regarding the registered owner's
10 right to a hearing to challenge the validity of the
11 immobilization, including the court of jurisdiction of
12 the hearing.

13 (4) The registered owner of an immobilized motor
14 vehicle may secure the release of the vehicle by paying the
15 amount owed or other amount authorized by the State's
16 Attorney, municipal attorney, or private attorney retained
17 under this Section plus the cost of immobilization, towing,
18 storage of the vehicle, costs arising from tampering with
19 the immobilization device, and any fee imposed under
20 subsection (e) of this Section.

21 (5) If the restraint is not released within 24 hours,
22 the vehicle may be towed and impounded. Within 10 days
23 after a vehicle has been impounded a notice of impoundment
24 shall be sent by the State's Attorney, municipal attorney,
25 or private attorney retained under this Section to the
26 address of the registered owner as listed with the

1 Secretary of State, and to any lienholder of record. If the
2 vehicle is not claimed within 21 days of the notice, the
3 vehicle may be disposed of in the manner provided in
4 Section 4-208 of the Illinois Vehicle Code; however, the
5 registered owner may request, and shall receive, one
6 extension of 15 days.

7 (6) A person shall not disable or damage a vehicle
8 immobilization device, or relocate or tow a motor vehicle
9 restrained by a vehicle immobilization device without the
10 approval of the jurisdiction owed the default. A person who
11 violates this subsection and any person who assists another
12 in violating this subsection is guilty of a petty offense.

13 (Source: P.A. 95-514, eff. 1-1-08; 95-606, eff. 6-1-08; 95-876,
14 eff. 8-21-08.)