



**Sub. H.B. 271\***

124th General Assembly

(As Reported by S. Judiciary on Criminal Justice)

**Reps. Stapleton, Carey, Hagan, Kearns, Schaffer, Carmichael, Latta, Schmidt, Fessler, Sullivan, Distel, Allen, Redfern, Womer Benjamin, Willamowski, Seitz, Faber, Hoops, R. Miller, Flowers, Salerno, Lendrum, Schneider, Metzger, Setzer, Calvert, Coates, Niehaus, G. Smith, Hughes, Gilb, Wilson, Otterman, Patton, Latell, Cirelli, DeBose, Key, Hartnett, Barrett, Roman, D. Miller, Sferra, Webster, Manning**

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**BILL SUMMARY**

- Requires the judge or magistrate, at the time of sentencing a person for any criminal offense, to notify the defendant that: (1) if the defendant fails to pay a judgment rendered against the defendant for the costs of prosecution in the criminal action or to timely make payments toward that judgment, the court may order the defendant to perform community service not exceeding 40 hours per month until the judgment is paid or the defendant is in compliance with an approved payment schedule, and (2) if the court orders the defendant to perform the community service, the defendant will receive credit upon the judgment in the manner provided in the bill and described in the third succeeding dot point, and each hour of community service performed will reduce the judgment by that amount.
- Requires a judge or magistrate who has reason to believe that an offender has failed to pay a judgment or timely make payments as described in the preceding dot point to hold a hearing to determine whether to order the offender to perform community service for the failure to pay the judgment or to timely make the payments.

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\* *This analysis was prepared before the report of the Senate Judiciary Criminal Justice Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- Permits a judge or magistrate who holds a hearing as described in the preceding dot point, and who determines after the hearing that the defendant has failed to pay a judgment or timely make payments as described in the second preceding dot point and that community service is appropriate, to impose community service not exceeding 40 hours per month upon the offender until the judgment is paid on until the offender is in compliance with the approved payment schedule.
- Specifies that, if a judge or magistrate orders the defendant to perform community service under the provision described in the preceding dot point, the defendant must receive credit upon the judgment at the "specified hourly credit rate" per hour of community service performed, and each hour of community service performed reduces the judgment by that amount.
- Defines "specified hourly credit rate" for purposes of its provisions as the wage rate that is specified in 26 U.S.C.A. under the federal Fair Labor Standards Act of 1938, that then is in effect, and that an employer subject to that provision must pay per hour to each of the employer's employees who is subject to that provision (i.e., the general federal minimum wage).

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## CONTENT AND OPERATION

### *Judgment for costs and jury fees*

#### *Existing law*

Existing law requires the judge or magistrate in all criminal cases, including violations of ordinances, to include in the sentence the costs of prosecution and to render a judgment against the offender for those costs. If a jury has been sworn at the trial of a case, the fees of the jurors must be included in the costs, which must be paid to the public treasury from which the jurors were paid. (R.C. 2947.23.)

#### *Operation of the bill*

Under the bill, at the time of sentencing, the judge or magistrate must notify the defendant of both of the following: (1) if the defendant fails to pay a judgment for criminal costs rendered under the existing provision or fails to timely make payments towards that judgment under a payment schedule approved by the court, the court may order the defendant to perform community service. The judge or magistrate may order an amount of community service of not more than 40 hours per month until the judgment is paid or until the court is satisfied that the

defendant is in compliance with the payment schedule, and (2) if the court orders the defendant to perform the community service, the defendant will receive credit upon the judgment at the "specified hourly credit rate" (see below) per hour of community service performed, and each hour of community service performed will reduce the judgment by that amount.

The bill provides that, if a judge or magistrate has reason to believe that a defendant has failed to pay a judgment for criminal costs rendered under the existing provision or has failed to timely make payments towards that judgment under a payment schedule approved by the court, the judge or magistrate must hold a hearing to determine whether to order the offender to perform community service for that failure. The judge or magistrate must notify both the defendant and the prosecuting attorney of the place, time, and date of the hearing and must give each an opportunity to present evidence. If, after the hearing, the judge or magistrate determines that the defendant has failed to pay a judgment or timely make payments under the payment schedule and that imposition of community service for the failure is appropriate, the judge or magistrate may order the offender to perform community service in an amount of not more than 40 hours per month until the judgment is paid or until the judge or magistrate is satisfied that the offender is in compliance with the approved payment schedule.

If the judge or magistrate orders the defendant to perform community service under the provision described in the preceding paragraph, the defendant must receive credit upon the judgment at the "specified hourly credit rate" (see below) per hour of community service performed, and each hour of community service performed reduces the judgment by that amount. Except for the credit and reduction described in this paragraph, ordering an offender to perform community service under the provision described in the preceding paragraph does not lessen the amount of the judgment and does not preclude the state from taking any other action to execute the judgment.

As used in the bill, "specified hourly credit rate" means the wage rate that is specified in 26 U.S.C.A. 206(a)(1) under the federal Fair Labor Standards Act of 1938, that then is in effect, and that an employer subject to that provision must pay per hour to each of the employer's employees who is subject to that provision (i.e., the general federal minimum wage). (R.C. 2947.23.)

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-23-01	p. 454
Reported, H. Criminal Justice	04-24-02	pp. 1716-1717
Passed House (96-0)	05-15-02	pp. 1768-1769
Reported, S. Judiciary on Criminal Justice	----	----

H0271-RS.124/ss

