



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2441

Introduced 1/18/2006, by Sen. John J. Millner

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-9-3

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

Amends the Unified Code of Corrections. Provides that the court shall impose as part of every sentence imposed on an offender that should any fine or installment of any fine remain unpaid after the time fixed for payment of the fine by the court, an additional late charge of 25% of the unpaid fine shall be charged to the offender. Provides that each county shall establish a County Fine Recovery Fund. Provides that the additional late charges collected by the clerk of the circuit court shall be disbursed to the treasurer for the deposit into this Fund. Provides that the fees deposited in this Fund shall be used jointly by the State's Attorney and the circuit clerk pursuant to an agreement for any purpose associated with collecting fines, fees, costs, and additional late charges. Provides that these funds shall be in addition to any allocations made pursuant to existing law.

LRB094 17710 RLC 53009 b

FISCAL NOTE ACT
MAY APPLY

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
24 for payment, reducing the amount of the fine or of each
25 installment, or revoking the fine or the unpaid portion.

26 (d) When a fine is imposed on a corporation or
27 unincorporated organization or association, it is the duty of
28 the person or persons authorized to make disbursement of
29 assets, and their superiors, to pay the fine from assets of the
30 corporation or unincorporated organization or association. The
31 failure of such persons to do so shall render them subject to
32 proceedings under paragraphs (a) and (b) of this Section.

1 (e) A default in the payment of a fine or any installment
2 may be collected by any and all means authorized for the
3 collection of money judgments. The State's Attorney of the
4 county in which the fine was imposed may retain attorneys and
5 private collection agents for the purpose of collecting any
6 default in payment of any fine or installment of that fine. The
7 court shall impose as part of every sentence imposed on an
8 offender that should any fine or installment of any fine remain
9 unpaid after the time fixed for payment of the fine by the
10 court, an additional late charge of 25% of the unpaid fine
11 shall be charged to the offender. The additional late charge
12 shall be collected by the circuit clerk and disbursed to the
13 county treasurer to be held in a Fine Recovery Fund after all
14 other fines, fees, and costs have been paid by the offender.

15 (f) The State's Attorney, or private collection agents or
16 attorneys under contract with the State's Attorney, may collect
17 the additional late charge as provided in subsection (e) from
18 an offender. The fine and additional late charges shall be
19 delivered to the circuit clerk by the State's Attorney or
20 private collection agent or attorneys. The State's Attorney may
21 allow that the additional late charge and fines be paid
22 directly to a private entity that administers the collection
23 under a contract with the State's Attorney.

24 (g) (1) The private collection agent or attorneys, under
25 contract with the State's Attorney shall be required to
26 maintain adequate general liability and errors and omissions
27 insurance of \$2,000,000 per occurrence as well as adequate
28 coverage for potential loss resulting from employee
29 dishonesty. The State's Attorney may require a surety bond
30 payable to the State's Attorney if in the State's Attorney's
31 opinion it is determined that the private collection agent or
32 attorney is not adequately insured or funded.

33 (2) (A) Each private collection agent or attorney that has a
34 contract with the State's Attorney to conduct collection
35 activities shall maintain a separate bank account in which all
36 moneys received from the offenders shall be deposited, referred

1 to as a "Trust Account". Money received shall be posted and
2 deposited in the Trust Account within 5 business days after
3 receipt by the private collection agent or attorney.

4 (B) The trust account shall be established in a bank,
5 savings and loan association, or other recognized depository
6 which is federally or State insured or otherwise secured as
7 defined by rule. All moneys deposited shall be sent to the
8 circuit court clerk within 5 business days. If the account is
9 interest bearing, the private collection agent or attorney
10 shall pay any interest earned to the treasurer of the county
11 for whom the State's Attorney serves.

12 (C) Each private collection agent or attorney shall keep on
13 file the name of the bank, savings and loan association, or
14 other recognized depository in which this trust account is
15 maintained. The private collection agent or attorney, within 30
16 days of the time of a change of depository or person authorized
17 to make withdrawal, shall update its files to reflect that
18 change. An examination and audit of a private agent's or
19 attorney's trust accounts may be made by the State's Attorney
20 as the State's Attorney deems appropriate. A trust account
21 financial report shall be submitted annually on forms
22 acceptable to the State's Attorney.

23 (h) Each county shall establish a County Fine Recovery
24 Fund. The additional late charges collected by the clerk of the
25 circuit court shall be disbursed to the treasurer for the
26 deposit into this Fund. The fees deposited in this Fund shall
27 be used jointly by the State's Attorney and the circuit clerk
28 pursuant to an agreement for any purpose associated with
29 collecting fines, fees, costs, and additional late charges.
30 These funds shall be in addition to any allocations made
31 pursuant to existing law. ~~The fees and costs incurred by the~~
32 ~~State's Attorney in any such collection and the fees and~~
33 ~~charges of attorneys and private collection agents retained by~~
34 ~~the State's Attorney for those purposes shall be charged to the~~
35 ~~offender.~~

36 (Source: P.A. 93-693, eff. 1-1-05.)