

2022 -- H 7192

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO CRIMINAL PROCEDURE -- COSTS

Introduced By: Representatives Knight, Ajello, Batista, Kislak, Alzate, Felix, McEntee,  
Caldwell, Kazarian, and McGaw

Date Introduced: January 26, 2022

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 12-20-10 of the General Laws in Chapter 12-20 entitled "Costs" is  
2 hereby amended to read as follows:

3 ~~12-20-10. Remission of costs -- Prohibition against remitting restitution to victims of~~  
4 ~~crime -- Ability to pay -- Indigency~~ Remission of costs -- Prohibition against remitting  
5 restitution to victims of crime -- Ability to pay -- Indigency -- Enactment of the "SCARCE  
6 Act".

7 (a) In order to recognize:

8 (1) The scarcity of resources and opportunities for successful rehabilitation of those  
9 involved in the criminal justice system long after they have paid their debt to society; and

10 (2) A situation worsened by the onerous, excessive, and mandatory court costs, fees, fines,  
11 and assessments that are imposed as a result, this act shall be known as the "Sensible Court  
12 Assessment, Review, and Costs Extinguishment Act" or the "SCARCE Act."

13 (b) The legislative intent of the "SCARCE Act" is to:

14 (1) Provide for the uniform, consistent, and sensible application of any and all laws  
15 pertaining to court costs, fees, fines, and assessments;

16 (2) Eliminate their negative impact on the ability of offenders to successfully achieve their  
17 rehabilitation and to re-enter society as productive members; and

18 (3) Make waiver, exemptions, and eventual extinguishment of the rule rather than the  
19 exception in all courts.

1 (c) The general assembly finds as follows:

2 (1) In contrast to court ordered restitution to victims of crime which in the sound exercise  
3 of judicial discretion should be available as a sentencing option in order to make victims whole,  
4 criminal justice fees have no formal punitive or public safety function. Instead, they undermine  
5 public safety because the debt they cause can limit access to employment, housing, education, and  
6 public benefits, creating additional barriers to successful rehabilitation and productive reentry into  
7 society.

8 (2) Research put before and accepted by the general assembly in 2008 which resulted in  
9 the passage of comprehensive yet largely ineffectual reforms in the assessment and collection of  
10 court costs, fees, fines, and assessments show that criminal justice fees are difficult to collect and  
11 typically cost the state almost as much or more than they end up collecting in revenue. Indeed,  
12 court costs, fees, fines, and assessments are both an ineffectual, inefficient, and possibly  
13 unconstitutional way of raising revenue for the state, especially in the case of fees and assessments  
14 that are earmarked for "the general fund" or incorporated as "general revenues".

15 (3) The use of criminal justice fees has been argued by some to be unconstitutional.  
16 Recently, the United States Supreme Court held in *Timbs v. Indiana* that the Eighth Amendment's  
17 protection against excessive fines is "fundamental to our scheme of ordered liberty with deep roots  
18 in our history and tradition." Others have argued that using the criminal justice system to raise  
19 money for the state is not only misplaced, inefficient, and wrong, but may violate state  
20 constitutional provisions regarding separation of powers and the traditional roles of the legislative  
21 branch to set and the executive branch to collect taxes.

22 ~~(a)~~(d) The payment of costs in criminal cases may, upon application, be remitted by any  
23 justice of the superior court; provided, that any justice of a district court may, in his or her  
24 discretion, remit the costs in any criminal case pending in his or her court, or in the case of any  
25 prisoner sentenced by the court, and from which sentence no appeal has been taken.  
26 Notwithstanding any other provision of law, this section shall not limit the court's inherent power  
27 to remit any fine, fee, assessment or other costs of prosecution, provided no order of restitution  
28 shall be suspended by the court.

29 (e) Notwithstanding any provision of law to the contrary, including, but not limited to, the  
30 applicable provisions of §§ 12-18.1-3, 12-25-28, 21-28-4.01, 21-28-4.17, 21-28-4.17.1, 23-1-3, and  
31 31-27-2, any and all court costs, fees, fines, or assessments required by law in criminal cases:

32 (1) Shall not be assessed, ordered, or collected by the court when the defendant is sentenced  
33 to serve a prison term of incarceration of six (6) months or more in connection with the case in  
34 which the court costs, fines, or fees are otherwise required;

1           (2) Shall not be assessed, ordered, or collected by the court when the defendant is subject  
2 to a court order for restitution to victims of crime in the amount of two hundred and fifty dollars  
3 (\$250) or more in connection with the case in which the court costs, fines, or fees are otherwise  
4 required; and

5           (3) Any payment order and remaining balance shall be extinguished by operation of law  
6 three (3) years from the date that it was imposed.

7           ~~(b)(f)~~ For purposes of §§ 12-18.1-3(d), 12-21-20, 12-25-28(b), ~~21-28-4.01(e)(3)(iv)~~ 21-28-  
8 4.01(c)(4)(iii) and 21-28-4.17.1, the following conditions shall be prima facie evidence of the  
9 defendant's indigency and limited ability to pay:

10           (1) Qualification for and/or receipt of any of the following benefits or services by the  
11 defendant:

12           (i) temporary assistance to needy families

13           (ii) social security including supplemental security income and state supplemental  
14 payments program;

15           (iii) public assistance

16           (iv) disability insurance; or

17           (v) food stamps

18           (2) Despite the defendant's good faith efforts to pay, outstanding court orders for payment  
19 in the amount of one-hundred dollars (\$100) or more for any of the following:

20           (i) restitution payments to the victims of crime;

21           (ii) child support payments; or

22           (iii) payments for any counseling required as a condition of the sentence imposed  
23 including, but not limited to, substance abuse, mental health, and domestic violence.

24           (g) The provisions of the "SCARCE ACT" shall be inapplicable to court ordered restitution  
25 to victims of crime.

26           SECTION 2. This act shall take effect upon passage. The provisions shall be given  
27 prospective effect and retroactive effect for all offenses on or after January 1, 1985.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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1           This act would standardize and make uniform the applicability, assessment, collection,  
2 waiver, and ultimately the extinguishment of court costs, fees, fines and assessments required in  
3 connection with all criminal cases.

4           This act would take effect upon passage. The provisions would be given prospective effect  
5 and retroactive effect for all offenses on or after January 1, 1985.

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