

RÉSUMÉ DIGEST

ACT 219 (HB 443)

2022 Regular Session

Magee

Existing law provides that the purpose of imposing financial obligations on an offender who is convicted of a criminal offense is to hold the offender accountable for his action, to compensate victims for any actual pecuniary loss or costs incurred in connection with a criminal prosecution, to defray the cost of court operations, and to provide services to offenders and victims.

Existing law further provides that these financial obligations should not create a barrier to the offender's successful rehabilitation and reentry into society, that financial obligations that cause undue hardship on the offender should be waived, modified, or forgiven, and that creating a payment plan for the offender that is based upon the ability to pay results in financial obligations that the offender is able to comply with and often results in more money collected.

Existing law provides a definition for "financial obligations".

Existing law provides that prior to ordering the imposition or enforcement of any financial obligations, the court shall determine whether payment in full of the aggregate amount of all the financial obligations to be imposed upon the defendant would cause substantial financial hardship to the defendant or his dependents.

New law requires the court to conduct a hearing to determine if the financial obligation would cause a substantial financial hardship on the defendant. Authorizes the court to delay the hearing up to 90 days in order for the parties to submit evidence.

Prior law provided that the defendant may not waive the judicial determination of a substantial financial hardship.

New law authorizes the defendant or the court to waive the judicial determination, and also provides that if the court waives the hearing on its own motion, the court shall provide reasons, entered upon the record, for its determination.

Existing law provides that if the court determines that payment in full of the aggregate amount of all financial obligations imposed upon the defendant would cause substantial financial hardship to the defendant or his dependents, the court shall either waive all or a portion of the financial obligations or order a payment plan that requires the defendant to make a monthly payment to fulfill the financial obligations.

New law provides an exception by requiring the consent of the victim before waiving any award of restitution owed to the victim.

Prior law provided that the amount of each monthly payment for the payment plan shall be equal to the defendant's average gross daily income for an eight-hour work day.

New law requires the amount of each monthly payment for the payment plan to be determined by the court after considering all relevant factors including but not limited to the defendant's average gross daily income for an eight-hour work day.

Existing law provides that if, after the initial determination of the defendant's ability to fulfill his financial obligations, the defendant's circumstances and ability to pay his financial obligations change, the defendant or his attorney may file a motion with the court to reevaluate the defendant's circumstances, and authorizes the court to waive or modify the defendant's obligation.

New law authorizes the state to file a motion to reevaluate the defendant's ability to fulfill his financial obligations.

Prior law provided that if a defendant was ordered to make monthly payments under a payment plan established pursuant to existing law, the defendant's outstanding financial obligations resulting from his criminal conviction were forgiven and considered paid-in-full if the defendant made consistent monthly payments for either 12 consecutive months or

consistent monthly payments for half of the defendant's term of supervision, whichever was longer.

New law repeals prior law.

Prior law provided that if, at the termination or end of the defendant's term of supervision, any restitution ordered by the court remained outstanding, the balance of the unpaid restitution shall be reduced to a civil money judgment in favor of the person to whom restitution is owed, and provides that the obligation may be enforced in the same manner as provided for the execution of judgments pursuant to the Code of Civil Procedure.

New law specifies that the defendant's obligation may be enforced in the same manner as provided for the execution of judgments in the Code of Civil Procedure.

Effective August 1, 2022.

(Amends C.Cr.P. Art. 875.1)