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H.646

Introduced by Representatives Chesnut-Tangerman of Middletown Springs,  
Buckholz of Hartford, Carr of Brandon, Fagan of Rutland City,  
Forguites of Springfield, Gonzalez of Winooski, Harrison of  
Chittenden, Shaw of Pittsford, Sheldon of Middlebury, Sullivan  
of Dorset, and Yantachka of Charlotte

Referred to Committee on

Date:

Subject: Judicial Bureau; civil fines; community service

Statement of purpose of bill as introduced: This bill proposes to allow for  
conversion of civil fines to community service when the defendant is unable  
to pay.

An act relating to providing for conversion of civil fines to community  
service

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 4 V.S.A. § 1109 is amended to read:

§ 1109. REMEDIES FOR FAILURE TO PAY; CONTEMPT

(a) Definitions. As used in this section:

1           (1) “Amount due” means all financial assessments contained in a  
2           Judicial Bureau judgment, including penalties, fines, surcharges, court costs,  
3           and any other assessment authorized by law.

4           (2) “Designated collection agency” means a collection agency  
5           designated by the Court Administrator.

6           (b) Late fees; suspensions for nonpayment of certain traffic violation  
7           judgments.

8           (1) A Judicial Bureau judgment shall provide notice that a \$30.00 fee  
9           shall be assessed for failure to pay within 30 days. If the defendant fails to pay  
10          the amount due within 30 days, the fee shall be added to the judgment amount  
11          and deposited in the Court Technology Special Fund established pursuant to  
12          section 27 of this title.

13          (2)(A) In the case of a judgment on a traffic violation for which the  
14          imposition of points against the person’s driving record is authorized by law,  
15          the judgment shall contain a notice that failure to pay or otherwise satisfy the  
16          amount due within 30 days ~~of~~ after the notice will result in suspension of the  
17          person’s operator’s license or privilege to operate; and that payment plan  
18          options are available. If the defendant fails to pay the amount due within  
19          30 days ~~of~~ after the notice, or by a later date as determined by a Judicial  
20          Bureau clerk or hearing officer, and the case is not pending on appeal, the  
21          Judicial Bureau shall provide electronic notice thereof to the Commissioner of

1 Motor Vehicles. After 20 days from the date of receiving the electronic notice,  
2 the Commissioner shall suspend the person's operator's license or privilege to  
3 operate for a period of 30 days or until the amount due is satisfied, whichever  
4 is earlier.

5 (B) At minimum, the Judicial Bureau shall offer a payment plan  
6 option that allows a person to avoid a suspension of his or her license or  
7 privilege to operate by paying ~~no~~ not more than \$30.00 per traffic violation  
8 judgment per month, and not to exceed \$100.00 per month if the person has  
9 four or more outstanding judgments.

10 (c)(1) Civil contempt proceedings. If an amount due remains unpaid for  
11 75 days after the Judicial Bureau provides the defendant with a notice of  
12 judgment, the Judicial Bureau may initiate civil contempt proceedings pursuant  
13 to this subsection.

14 (2) Notice of hearing. The Judicial Bureau shall provide notice by first  
15 class mail sent to the defendant's last known address that a contempt hearing  
16 will be held pursuant to this subsection, and that failure to appear at the  
17 contempt hearing may result in the sanctions listed in subdivision (3) of this  
18 subsection.

19 (3) Failure to appear. If the defendant fails to appear at the contempt  
20 hearing, the hearing officer may direct the clerk of the Judicial Bureau to do  
21 one or more of the following:

1           (A) cause the matter to be reported to one or more designated  
2 collection agencies; or

3           (B) refer the matter to the Criminal Division of the Superior Court for  
4 contempt proceedings.

5           (C) [Repealed.]

6           (4)(A) Hearing. The hearing shall be conducted in a summary manner.  
7 The hearing officer shall examine the defendant and any other witnesses and  
8 may require the defendant to produce documents relevant to the defendant's  
9 ability to pay the amount due. The State or municipality shall not be a party  
10 except with the permission of the hearing officer. The defendant may be  
11 represented by counsel at the defendant's own expense.

12           (B) Traffic violations; reduction of amount due. When the judgment  
13 is based upon a traffic violation, the hearing officer may reduce the amount  
14 due on the basis of the defendant's driving history, ability to pay, or service to  
15 the community; the collateral consequences of the violation; or the interests of  
16 justice. The hearing officer's decision on a motion to reduce the amount due  
17 shall not be subject to review or appeal except in the case of a violation of  
18 rights guaranteed under the Vermont or U.S. Constitution.

1           (5) Contempt.

2           (A) The hearing officer may conclude that the defendant is in  
3 contempt if the hearing officer states in written findings a factual basis for  
4 concluding that:

5           (i) the defendant knew or reasonably should have known that he or  
6 she owed an amount due on a Judicial Bureau judgment;

7           (ii) the defendant had the ability to pay all or any portion of the  
8 amount due; and

9           (iii) the defendant failed to pay all or any portion of the  
10 amount due.

11          (B) In the contempt order, the hearing officer may do one or more of  
12 the following:

13          (i) Set a date by which the defendant shall pay the amount due.

14          (ii) Assess an additional penalty not to exceed ten percent of the  
15 amount due.

16          (iii) [Repealed.]

17          (iv) Recommend that the Criminal Division of the Superior Court  
18 incarcerate the defendant until the amount due is paid. If incarceration is  
19 recommended pursuant to this subdivision (c)(5), the Judicial Bureau shall  
20 notify the Criminal Division of the Superior Court that contempt proceedings  
21 should be commenced against the defendant. The Criminal Division of the

1 Superior Court proceedings shall be de novo. If the defendant cannot afford  
2 counsel for the contempt proceedings in the Criminal Division of the Superior  
3 Court, the Defender General shall assign counsel at the Defender General's  
4 expense.

5 (d) Collections.

6 (1) If an amount due remains unpaid after the issuance of a notice of  
7 judgment, the Court Administrator may authorize the clerk of the Judicial  
8 Bureau to refer the matter to a designated collection agency.

9 (2) The Court Administrator or the Court Administrator's designee is  
10 authorized to contract with one or more collection agencies for the purpose of  
11 collecting unpaid Judicial Bureau judgments pursuant to 13 V.S.A. § 7171.

12 (e) Venue. For purposes of civil contempt proceedings, venue shall be  
13 statewide. No entry or motion fee shall be charged to a defendant who applies  
14 for a reduced judgment under subdivision (c)(4)(B) of this section.

15 (f) Third-party contract for collections. Notwithstanding 32 V.S.A. § 502,  
16 the Court Administrator is authorized to contract with a third party to collect  
17 fines, penalties, and fees by credit card, debit card, charge card, prepaid card,  
18 stored value card, and direct bank account withdrawals or transfers, as  
19 authorized by 32 V.S.A. § 583, and to add on and collect, or charge against  
20 collections, a processing charge in an amount approved by the Court  
21 Administrator.

1           (g) Conversion of civil fine to community service.

2           (1) A defendant who is not incarcerated may file a motion to convert all  
3           or part of a civil fine to community service. The court may grant the motion if  
4           the defendant establishes that he or she has made a good faith effort to pay the  
5           fine but is unable to do so.

6           (2) Community service performed pursuant to a motion granted under  
7           this subsection shall be:

8                   (A) credited against outstanding fines at the then-existing rate of the  
9           Vermont minimum wage;

10                   (B) monitored by an entity approved by the court, which shall report  
11           on the defendant's compliance status to the court; and

12                   (C) performed in the county where the offense occurred.

13           (3) A conversion of a fine to community service under this subsection  
14           shall:

15                   (A) not apply to surcharges, court costs, or other assessments; and

16                   (B) be in addition to the contempt procedures applicable under this  
17           section.

18           Sec. 2. EFFECTIVE DATE

19           This act shall take effect on July 1, 2018.