

Hall of the House of Representatives
93rd General Assembly - Regular Session, 2021
Amendment Form

Subtitle of House Bill No. 1673

CONCERNING A DEFENDANT'S ABILITY OR INABILITY TO PAY A FINE OR FEE.

Amendment No. 1 to House Bill 1673

Amend House Bill No. 1673 as originally introduced:

Add Representative M. Hodges as a cosponsor of the bill

AND

Delete SECTION 2 in its entirety and substitute the following:

"SECTION 2. Arkansas Code § 16-13-702 is amended to read as follows:
16-13-702. Imposition of fine – Ability-to-pay inquiry – Immediate payment generally required.

(a)(1)(A) Notwithstanding any other mandatory sentencing requirement under law, a fine shall not be imposed in a district court before an ability-to-pay inquiry is conducted by the district court unless the defendant waives the ability-to-pay inquiry and demonstrates that he or she is able to pay under subdivision (a)(1)(B) of this section.

(B) A defendant may waive the ability-to-pay inquiry and demonstrate that he or she is able to pay the fine by entering a plea of guilty or nolo contendere and paying as a bond an amount equal to the fine in lieu of appearing in district court as authorized by law.

(2) If a district court determines that a defendant is not able to pay the fine, the district court may reduce the amount of the fine to an amount that the defendant is able to pay or allow the defendant to perform community service at an hourly rate not less than the state minimum wage as credit against the fine or complete an educational program in lieu of paying the fine.

(3) If the district court determines that the defendant is able to pay the fine but that requiring the defendant to make immediate payment in full would cause a severe and undue hardship for the defendant and the defendant's dependents, the court may authorize payment of the fine by means of installment payments in accordance with § 16-13-704 if the court also finds that the defendant is able to pay any installment fees that are required by law.

~~(a)(1) When a court has imposed a fine, as described in § 16-13-701, the imposition of such a fine constitutes~~



(b)(1) Except when a court has authorized installment payments in accordance with § 16-13-704, the imposition of a fine constitutes an order to pay the full amount of the fine in accordance with this subchapter.

~~(2) Following imposition of the fine~~ When the full amount of a fine is due following the imposition of a fine, the court shall inform the defendant that full payment of the fine is due immediately and shall inquire of the defendant what arrangements he or she has made to comply with the court's order to pay the fine.

(3) Without utilizing the provisions of § 16-13-704, the court may allow the defendant a period of time, not to extend beyond the time of the close of the clerk's office on the following day, within which to return to the court and tender payment of the fine.

(4)(A)(i) If the defendant fails to appear as directed, the court shall issue an order of arrest.

(ii) The arrest order shall be carried out by the sheriff.

(B) The court may also, upon the defendant's failure to appear, utilize any of the enforcement mechanisms authorized by this subchapter.

~~(5)(A) If the defendant claims an inability to pay the fine, the court shall inquire into the defendant's ability to pay and shall make a determination of the defendant's financial ability to pay the fine.~~

~~(B) If the court finds that the defendant has the financial ability to make immediate payment of the fine in full, the court shall order him or her to pay the fine.~~

~~(C) Failure or refusal to pay as ordered by the court shall subject the defendant to imprisonment, as provided in § 16-13-703.~~

~~(b)(1)(c)(1)~~ When a corporation is sentenced to pay a fine or costs, it is the duty of the person authorized to make disbursement from the assets of the corporation to pay the fine or costs.

(2) If such disbursements require approval of the board of directors, it is the duty of the board to authorize disbursements to pay the fine or costs.

(3) Failure to comply with the duties imposed by this subsection shall render the person or directors subject to imprisonment under § 16-13-703."

AND

Page 4, delete lines 6 through 16, and substitute the following:

"(c)(1) Unless the defendant shows that his or her default was not attributable to a purposeful refusal to obey the sentence of the court or to a failure on his or her part to make a good-faith effort to obtain the funds required for payment, the court may order the defendant imprisoned in the county jail or other authorized institution designated by the court until the fine or specified part thereof is paid."

AND

Page 4, delete lines 28 through 33, and substitute the following:

"(4) If the court rejects a defendant's claim that his or her default was not attributable to a purposeful refusal to obey the sentence of the court or to a failure on his or her part to make a good-faith effort to obtain the funds required for payment of the fine, the docket shall include a written explanation of the basis for the determination of the court."

The Amendment was read
By: Representative A. Collins
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Chief Clerk