

The Just Criminal Justice Group, LLC



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April 28, 2026

Representative Carol Hagan McEntee
Chair, House Judiciary Committee
The Statehouse
Providence, RI 02903

RE: House Bill No. 7558

BY Potter, Ajello, Dawson, Batista, Felix, Stewart, J. Lombardi

ENTITLED, AN ACT RELATING TO MOTOR AND OTHER VEHICLES -- SUSPENSION OR REVOCATION OF LICENSES -- VIOLATIONS {LC4601/1} (Repeals the section of law relating to suspension of operator licenses for failure to pay fines.)

Dear Chairperson McEntee and Members of the House Judiciary Committee:

I write in strong support of the legislation referenced here. It continues and is consistent with efforts made over the last several years by both the Rhode Island General Assembly and Judiciary. These efforts have resulted in sensible policies that enhance our system of justice. They do so by removing sanctions, including incarceration, that are imposed not as a punishment for bad conduct, but solely because the defendant is poor and unable to pay. The legislation discussed here does just that by repealing that section of law relating to suspension of operator licenses for failure to pay fines, a measure that is counterproductive because it interferes with a driver's ability to stay and remain employed.

Thankfully, the days when poor people were detained for failure to pay are over. More recently, the courts have improved and made more efficient the ways in which court ordered restitution to victims of crime is assessed and collected. The time is therefore ripe for the next step – the removal of license suspension as a sanction for failure to pay fines.

A summary of both the Rhode Island General Assembly and Judiciary's' prior efforts in this area are attached in APPENDIX 1 and APPENDIX 2, respectively.

Thank you.

Respectfully Submitted,



Michael A. DiLauro, Esq.

CC: House Judiciary Committee

APPENDIX 1: Summary of legislation passed by the General Assembly in 2022 regarding the assessment, collection, and waiver of court costs in criminal cases.

COURT COSTS

- *Chapters 200, 201.* This legislation was introduced at the request of The Judiciary. Among other things it codifies and standardizes procedures for the non-assessment and waiver of court costs, and fees, including non-assessment of probation fees in cases where the defendant receives a jail sentence of 30 days or more. It also allows the District and Superior Courts to establish additional criteria and/or procedures for ability to pay determinations and makes waiver mandatory in cases of indigency. Most important, in order to make the law in this area more effective and 'user friendly' ('users' being both judges and lawyers) it re-writes, re-organizes, and strengthens almost all of the statutory reforms enacted in 2008.

Salient provisions and amendments:

➤ Section 12-18.1-3 of the General Laws in Chapter 12-18.1 entitled "Probation and Parole Support Act":

- Provides costs shall not be assessed when the defendant is sentenced to prison for thirty (30) days or more on any count, multiple counts, or multiple charges and shall be remitted if a defendant subsequently serves thirty (30) days or more on a violation.
- When multiple counts / charges are disposed of simultaneously, the judge shall have the authority to suspend the obligation of the defendant to pay anything above one (1) count.
- If a defendant is indigent, or demonstrates a limited or inability to pay, in accordance with the standards and procedures contained in §§ 12-20-10 and 12-21-20, the court costs contemplated by this section may be waived or reduced.
- Section 12-20-10 of the General Laws in Chapter 12-20 entitled "Costs":

- The payment of court costs, assessments, and fees in criminal cases shall be remitted, upon application or sworn testimony, presented during sentencing or anytime thereafter.

- The following shall be prima facie evidence of the defendant's indigency: 1) Temporary assistance to needy families 2) Social security including supplemental security income and state supplemental payments program 3) Public assistance 4) Disability insurance 5) Food stamps.

- The Superior and District Courts may establish additional criteria and/or procedures for the determination of an ability to pay and for the administration of this section.

- If a defendant is not indigent, the payment of court costs, assessments, and fees in criminal cases may, upon sworn testimony or application during sentencing or anytime thereafter, be remitted in whole or in part by any judicial officer of the Superior or District Court pursuant to a determination of limited or inability to pay based upon the standards set forth in this section, or any other considerations the court may deem appropriate.

- In making its assessment of a defendant's limited or inability to pay, the court may consider the defendant's good faith efforts to pay, and/or his or her outstanding court orders for payments in the amount of one hundred dollars (\$100) or more for any of the following: 1) Restitution payments to the victims of crime 2) Child support payments 3) Payments for any counseling required as a condition of the sentence imposed 4) Fines imposed as part of the sentence.

- Notwithstanding any other provision of law, this section shall not limit the court's inherent power to remit any fine, court costs, fees, assessments or other costs of prosecution, provided no order of restitution shall be suspended by the court.

➤ Section 12-21-20 of the General Laws in Chapter 12-21 entitled "Recovery of Fines, Penalties, and Forfeitures":

- If a defendant is determined to be indigent by the standards set forth in § 12-20-10(a) following the defendant's sworn testimony or by submission of a financial assessment instrument, all court costs, assessments, and fees shall be waived.

- The financial assessment instrument shall be created by the court 1) based upon sound and generally accepted accounting principles 2) may be modified by the court from time to time 3) include any and all relevant information relating to the defendant's present ability to pay 4) be certified or made by the defendant under oath.

- Non-indigent defendants claiming a limited or inability to pay court costs, assessments, and fees may request the court waive court costs, assessments, and fees upon submission of a completed financial assessment instrument.
- Upon submission of a completed financial assessment instrument, a defendant may during sentencing or any time after the disposition of the matter request an ability to pay determination to seek the remission or reduction of any fines, court costs, assessments, fees and other costs of prosecution, or changes to the terms of a payment schedule

APPENDIX 2: Summary of recent Rhode Island Supreme Court decisions regarding the collection of restitution ordered to victims of crime as a condition of probation.

State v. Neufville, 323 A.3d 130 (R.I. 2024); State v. Alicea, 316 A.3d 1177 (R.I. 2024)

Dilatory conduct in the assessment and collection of court ordered restitution while a defendant is on probation is discouraged. Instead, a prompt, meaningful, and accurate assessment of the defendant's ability to pay should take place when the court shapes it's the restitution ordered as part of probation.