

HOUSE BILL ANALYSIS

HB 1521

Title: An act relating to failure to appear and failure to pay financial obligations in courts of limited jurisdiction.

Brief Description: Abolishing the crime of failure to appear.

Sponsors: Representatives Lovick, Barlean, O'Brien, Ballasiotes, Edwards, D. Schmidt, Haigh, Delvin, Santos, Regala, Ericksen, Lantz, Sullivan, Reardon, Miloscia and Thomas.

Brief Summary of Bill

- Limits the power of courts of limited jurisdiction to order jail time for nonpayment of court-ordered financial obligations.
- Decriminalizes failure to respond to a notice of infraction and failure to appear at a requested hearing with respect to non-traffic infractions.

HOUSE COMMITTEE ON JUDICIARY

Staff: Bill Perry (786-7123).

Background:

If a person is convicted of a misdemeanor or gross misdemeanor crime, placed on probation and ordered to pay a fine, and then fails to pay the fine, the person may be charged with violation of probation and a warrant may be issued for the person's arrest. Criminal charges may also be brought against a person who fails to respond to a notice of a non-traffic civil infraction or fails to appear after requesting a hearing on such an infraction.

In some courts of limited jurisdiction, there are very large numbers of outstanding warrants for arrest for failure to respond or appear on an infraction, and for failure to pay a court-ordered financial obligation.

Court-Ordered Financial Obligations:

A person convicted of a crime may be ordered by the court to pay a variety of costs as well as whatever fine may be imposed for the offense. These obligations constitute an enforceable judgement which are collectible as are other debts and may be referred

to a collection agency. Within constitutional and statutory limits, failure to pay such an obligation may be charged as a crime.

In courts of limited jurisdiction, after a conviction the court may defer sentencing and place the defendant on "probation." Conditions of that probation may include payment of financial obligations. If the "probationer" fails to pay those obligations, the deferral of the sentence may be revoked, the person may be charged with failure to comply with the terms of the deferral, and a warrant may be issued for his or her arrest.

Civil Infractions:

Infractions are offenses that do not carry the possibility of incarceration as punishment. As a result, they are not considered criminal for purposes of procedural protections such as a defendant's right to a jury trial, or right to counsel.

Over the years, the Legislature has changed many relatively minor crimes to civil infractions, and has created many new offenses that it designates as infractions rather than crimes. The principle initial "decriminalization" of offenses occurred with traffic crimes. Now many former traffic crimes, such as speeding, are traffic infractions. The Legislature has also created specific civil infractions in the natural resources area and a general procedural statute for other kinds of civil infractions that may be created. When a person is given a notice of an infraction, he or she must sign the notice. Failure to sign the notice is a misdemeanor. After receipt of a notice of infraction, the person has three choices in responding to the notice. First, the person may respond by simply paying the fine associated with the infraction. Second, the person may respond by asking for a hearing in which to offer mitigating reasons why he or she should not be forced to pay the fine, or should pay only a reduced fine. Third, the person may respond to the notice by demanding a hearing to contest the infraction.

When the traffic infraction law was enacted in 1979, failing to respond in one of these three ways was made a misdemeanor. However, in 1993 the Legislature repealed the crime of failing to respond to a traffic infraction. Instead, failure to respond to a traffic infraction now results in the loss of driving privileges. Failing to sign a notice of infraction remains a crime.

The non-traffic infraction laws still make it a crime to fail to respond to a notice of infraction.

Summary of Bill:

The power of courts to compel compliance with their orders is restricted, and the crimes of failure to respond or appear on an infraction are eliminated.

District and municipal courts' powers are limited in two ways:

- A court may not allow a probationer to serve jail time in lieu of paying a financial obligation; and
- A court dealing with a probationer who fails to pay a financial obligation must impose the maximum fine and turn the judgment over to a collection agency, but this provision does not apply to cases involving violence or driving under the influence.

The crimes of failure to respond to a notice of infraction and failure to appear at a requested hearing with respect to non-traffic infractions are eliminated.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Office of Program Research