

No. 1990-181

AN ACT

HB 1038

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for collection of money in criminal actions.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 42 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:

§ 9728. Collection of restitution, reparation, fees, costs, fines and penalties.

(a) General rule.—All restitution, reparation, fees, costs, fines and penalties shall be collectible in any manner provided by law. However, such restitution, reparation, fees, costs, fines and penalties are part of a criminal action or proceeding and shall not be deemed debts. A sentence or pretrial disposition order for restitution, reparation, fees, costs, fines or penalties shall, together with interest and any additional costs that may accrue, be a judgment in favor of the probation department upon the person or the property of the person sentenced or subject to the pretrial disposition order.

(b) Procedure.—The county probation department or other appropriate governmental agency shall, upon sentencing or pretrial disposition, transmit to the prothonotary of the respective county certified copies of all judgments for restitution, reparation, fees, costs, fines and penalties, and it shall be the duty of each prothonotary to enter and docket the same of record in his office and to index the same as judgments are indexed, without requiring the payment of costs as a condition precedent to the entry thereof. The total amount for which the person is liable pursuant to this section may be entered as a judgment upon the person or the property of the person sentenced, regardless of whether the amount has been ordered to be paid in installments.

(c) Period of time.—Notwithstanding 18 Pa.C.S. § 1106(c)(2) (relating to restitution for injuries to person or property), the period of time during which such judgments shall have full effect may exceed the maximum term of imprisonment to which the offender could have been sentenced for the crimes of which he was convicted.

(d) Priority.—Notwithstanding any other statutory provisions in this or any other title, any lien obtained under this section shall maintain its priority indefinitely and no writ of revival need be filed.

(e) Preservation of assets subject to restitution.—Upon application of the Commonwealth, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond or take any other action to preserve the availability of property which may be necessary to satisfy an anticipated restitution order under this section:

(1) upon the filing of a criminal complaint, information or indictment charging a criminal violation for which restitution may be ordered and alleging that the property with respect to which the order is sought appears to be necessary to satisfy such restitution order and judgment; and

(2) if, after notice to persons appearing to have an interest in the property and an opportunity for a hearing, the court determines that:

(i) there is a substantial probability that:

(A) the Commonwealth will prevail on the underlying criminal charges;

(B) restitution will be ordered exceeding \$10,000 in value;

(C) the property appears to be necessary to satisfy such restitution order; and

(D) failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court or otherwise made unavailable for payment of the anticipated restitution order; and

(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered.

(f) Temporary restraining order.—A temporary restraining order under subsection (e) may be entered upon application of the Commonwealth without notice or opportunity for a hearing, whether or not a complaint, information or indictment has been filed with respect to the property, if the Commonwealth demonstrates that there is probable cause to believe that the property with respect to which the order is sought appears to be necessary to satisfy an anticipated restitution order under this section and that provision of notice will jeopardize the availability of the property to satisfy such restitution order and judgment. Such a temporary order shall expire not more than ten days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this subsection shall be held at the earliest possible time and prior to the expiration of the temporary order.

(g) Costs, etc.—Any sheriff's costs, filing fees and costs of the county probation department or other appropriate governmental agency shall be borne by the defendant and shall be collected by the county probation department or other appropriate governmental agency along with the total amount of the judgment and remitted to the appropriate agencies at the time of or prior to satisfaction of judgment.

(h) Effect on contempt proceedings.—This section shall not affect contempt proceedings mandated by 18 Pa.C.S. § 1106(f).

Section 2. This act shall take effect in 60 days.

APPROVED—The 17th day of December, A. D. 1990.

ROBERT P. CASEY