

# HB0413



## 102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB0413

Introduced 2/8/2021, by Rep. La Shawn K. Ford

### SYNOPSIS AS INTRODUCED:

705 ILCS 135/5-10

Amends the Criminal and Traffic Assessment Act. Provides that before the court orders an assessment, the court shall make a determination of the defendant's ability to pay the assessment. Provides that if the court determines that the defendant is unable to pay the assessment, the court may reduce the assessment or waive the assessment in the court's discretion.

LRB102 10101 LNS 15422 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning courts.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal and Traffic Assessment Act is  
5 amended by changing Section 5-10 as follows:

6 (705 ILCS 135/5-10)

7 (Section scheduled to be repealed on January 1, 2022)

8 Sec. 5-10. Schedules; payment.

9 (a) In each case, the court shall order an assessment at  
10 the time of sentencing, as set forth in this Act, for a  
11 defendant to pay in addition to any fine, restitution, or  
12 forfeiture ordered by the court when the defendant is  
13 convicted of, pleads guilty to, or is placed on court  
14 supervision for a violation of a statute of this State or a  
15 similar local ordinance. The court may order a fine,  
16 restitution, or forfeiture on any violation that is being  
17 sentenced but shall order only one assessment from the  
18 Schedule of Assessments 1 through 13 of this Act for all  
19 sentenced violations in a case, that being the schedule  
20 applicable to the highest classified offense violation that is  
21 being sentenced, plus any conditional assessments under  
22 Section 15-70 of this Act applicable to any sentenced  
23 violation in the case.

1           (b) Before the court orders an assessment, the court shall  
2 make a determination of the defendant's ability to pay the  
3 assessment. If the court determines that the defendant is  
4 unable to pay the assessment, the court may reduce the  
5 assessment or waive the assessment in the court's discretion.

6 If the court finds that the schedule of assessments will cause  
7 an undue burden on any victim in a case or if the court orders  
8 community service or some other punishment in place of the  
9 applicable schedule of assessments, the court may reduce the  
10 amount set forth in the applicable schedule of assessments or  
11 not order the applicable schedule of assessments. If the court  
12 reduces the amount set forth in the applicable schedule of  
13 assessments, then all recipients of the funds collected will  
14 receive a prorated amount to reflect the reduction.

15           (c) The court may order the assessments to be paid  
16 forthwith or within a specified period of time or in  
17 installments.

18           (c-3) Excluding any ordered conditional assessment, if the  
19 assessment is not paid within the period of probation,  
20 conditional discharge, or supervision to which the defendant  
21 was originally sentenced, the court may extend the period of  
22 probation, conditional discharge, or supervision under Section  
23 5-6-2 or 5-6-3.1 of the Unified Code of Corrections, as  
24 applicable, until the assessment is paid or until successful  
25 completion of public or community service set forth in  
26 subsection (b) of Section 5-20 of this Act or the successful

1 completion of the substance abuse intervention or treatment  
2 program set forth in subsection (c-5) of this Section.

3 (c-5) Excluding any ordered conditional assessment, the  
4 court may suspend the collection of the assessment; provided,  
5 the defendant agrees to enter a substance abuse intervention  
6 or treatment program approved by the court; and further  
7 provided that the defendant agrees to pay for all or some  
8 portion of the costs associated with the intervention or  
9 treatment program. In this case, the collection of the  
10 assessment shall be suspended during the defendant's  
11 participation in the approved intervention or treatment  
12 program. Upon successful completion of the program, the  
13 defendant may apply to the court to reduce the assessment  
14 imposed under this Section by any amount actually paid by the  
15 defendant for his or her participation in the program. The  
16 court shall not reduce the assessment under this subsection  
17 unless the defendant establishes to the satisfaction of the  
18 court that he or she has successfully completed the  
19 intervention or treatment program. If the defendant's  
20 participation is for any reason terminated before his or her  
21 successful completion of the intervention or treatment  
22 program, collection of the entire assessment imposed under  
23 this Act shall be enforced. Nothing in this Section shall be  
24 deemed to affect or suspend any other fines, restitution  
25 costs, forfeitures, or assessments imposed under this or any  
26 other Act.

1           (d) Except as provided in Section 5-15 of this Act, the  
2 defendant shall pay to the clerk of the court and the clerk  
3 shall remit the assessment to the appropriate entity as set  
4 forth in the ordered schedule of assessments within one month  
5 of its receipt.

6           (e) Unless a court ordered payment schedule is implemented  
7 or the assessment requirements of this Act are waived under a  
8 court order, the clerk of the circuit court may add to any  
9 unpaid assessments under this Act a delinquency amount equal  
10 to 5% of the unpaid assessments that remain unpaid after 30  
11 days, 10% of the unpaid assessments that remain unpaid after  
12 60 days, and 15% of the unpaid assessments that remain unpaid  
13 after 90 days. Notice to those parties may be made by signage  
14 posting or publication. The additional delinquency amounts  
15 collected under this Section shall be deposited into the  
16 Circuit Clerk Operations and Administration Fund and used to  
17 defray additional administrative costs incurred by the clerk  
18 of the circuit court in collecting unpaid assessments.

19           (Source: P.A. 100-987, eff. 7-1-19; 100-1161, eff. 7-1-19.)