

CHAPTER 86
SB 200-FN - FINAL VERSION

04/27/2017 1539EBA

2017 SESSION

17-0966
04/03

SENATE BILL ***200-FN***

AN ACT relative to incarceration for nonpayment of an assessment or nonperformance of community service.

SPONSORS: Sen. Feltes, Dist 15; Sen. Bradley, Dist 3; Sen. Carson, Dist 14; Rep. Rouillard, Hills. 6; Rep. Berch, Ches. 1; Rep. W. Pearson, Ches. 16

COMMITTEE: Judiciary

ANALYSIS

 This bill requires appointment of counsel for an indigent defendant in cases involving nonpayment of an assessment or nonperformance of community service.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struck through.]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Seventeen

AN ACT relative to incarceration for nonpayment of an assessment or nonperformance of community service.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 86:1 New Section; Appointment of Counsel in Cases of Nonpayment or Nonperformance.
2 Amend RSA 604-A by inserting after section 2-e the following new section:

3 604-A:2-f Appointment of Counsel for Nonpayment or Nonperformance.

4 I. No defendant shall be incarcerated after a final hearing for nonpayment of an assessment
5 or nonperformance of community service unless counsel has been appointed for a defendant who is
6 indigent or such defendant has executed a valid waiver of counsel for the final hearing.
7 Incarceration of such defendant may occur only if the court, after having conducted an ability to pay
8 or ability to perform final hearing at which the court has made a specific inquiry of the defendant
9 concerning his or her financial circumstances and his or her reasons for nonpayment or
10 nonperformance, finds that the defendant willfully failed to pay the assessment or perform the
11 community service.

12 II. Prior to conducting an ability to pay or ability to perform final hearing, the court shall:

13 (a) Provide the defendant with a financial affidavit and direct the defendant to complete
14 the affidavit;

15 (b) Inform the defendant that he or she may be immediately incarcerated if the court
16 finds that he or she has willfully failed to comply with the court's prior order to pay an assessment
17 or perform community service;

18 (c) Inform the defendant that he or she is entitled to counsel for the final hearing in
19 which incarceration is a possible outcome and, if the defendant cannot afford one, the court will
20 appoint one; and

21 (d) Explain the issues to be decided at the final hearing as well as the process provided.

22 III. The court shall appoint counsel to represent an indigent defendant at a final hearing on
23 an ability to pay or perform held pursuant to this section if incarceration is a possible outcome of
24 the final hearing.

25 IV. When the court appoints counsel to represent a defendant in a proceeding under this
26 section, the court shall grant the defendant relief from the obligation to repay the state for
27 appointed counsel fees under RSA 604-A:9, I-b, if the court determines that the defendant is
28 financially unable to repay.
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1 86:2 Effective Date. This act shall take effect 60 days after its passage.

Approved: June 02, 2017
Effective Date: August 01, 2017

