

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF AUGUSTA

IN RE: DEFERRED PAYMENT AGREEMENT GUIDELINES AND PROCEDURES FOR  
COURT COSTS, FINES AND RESTITUTION

AMENDED ORDER

Pursuant to the requirements of VA. Code Ann. §19.2-349, §19.2-354 and §19.2-354.1 and Amended Supreme Court Rule 1:24 effective July 1, 2017:

**A. The following are the payment guidelines for the total costs and fines (collectively, the Costs) in all cases assessed by this Court against the defendant:**

- 1) The Clerk will mail to the defendant, in a timely manner following the defendant's trial and sentencing hearing
  - a. a Notice of Fines and Costs (the Notice) and
  - b. a copy of this Order
- 2) If a defendant is unable to pay the Costs in full within 30 days of conviction (or other disposition of the case authorized by law), or if a defendant is incarcerated, within 30 days after the defendant's release from incarceration, the defendant must elect one of the following plans:
  - a) to pay the Costs in periodic payments (an Installment Payment Agreement); or
  - b) to pay the Costs in full by a date certain, either as a lump sum or in conjunction with the defendant's best efforts to make monthly or periodic payments (a Deferred Payment Agreement); or
  - c) **IF a community service program has been established by this Court**, to pay the Costs by earning credits for the performance of community service work (the Community Service Program). The amount of the credit for such community service work shall be calculated by multiplying the number of hours of community service work times the current federal hourly minimum wage rate. The defendant shall qualify for and select the Community Service Option prior to receiving credit for community service, and the defendant shall confirm with the Clerk, prior to engaging in the work, that the work which he or she contemplates qualifies as community service work.

If a defendant fails both (a) to pay the Costs in full and (b) to set up an Installment Payment Agreement, a Deferred Payment Agreement or to elect the Court-established Community Service Option during the prescribed period, the Clerk will assess a one-time collection fee in the amount of 17% of the balance of the Costs pursuant to Appropriations Act 2013.

- 3) The initial recommended monthly payment for any Installment Payment Agreement is \$50.00 per month. However, the Court shall take into account the defendant's financial resources and obligations and any Costs which the defendant owes in other Courts. In assessing the defendant's ability to pay, the Court shall use a written financial statement on a form provided by the Office of the Executive Secretary of the Supreme Court, setting forth

the defendant's financial resources and obligations or conduct an oral examination of the defendant to determine his financial resources and obligations. The Court may require the defendant to present a summary prepared by the Department of Motor Vehicles of the other courts in which the defendant also owes fines and costs. The length of a payment agreement and the amount of the payments shall be reasonable in light of the defendant's financial resources and obligations and shall not be based solely on the amount of fines and costs.

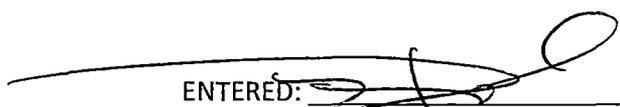
- 4) The payment agreement may incorporate all fines and costs owed for all cases in the Augusta County Circuit Court.
- 5) Any payment received within ten (10) days of its due date shall be considered to be timely made.
- 6) The defendant, at any time during the duration of a payment agreement, may request a modification of the agreement in writing on a form provided by the Executive Secretary of the Supreme Court, and the Court may grant such modification based on a good faith showing of need.
- 7) No down payment is required to enter into an **initial** payment agreement.
- 8) A Court shall consider a request by a defendant who has defaulted on an Installment Payment Agreement to enter into a subsequent payment agreement. In determining whether to approve the request the Court shall consider any change in the defendant's circumstances. **A down payment to enter into a subsequent payment agreement shall be required.** The down payment shall not exceed 10% of the Costs if the total is \$500 or less. If the Costs owed are more than \$500, five percent of such amount or \$50.00, whichever is greater, shall be required.
- 9) If a defendant defaults on an Installment Payment Agreement and then enters into a new Installment Payment Agreement, the Clerk shall notify the Department of Taxation and the Division of Motor Vehicles that the defendant has entered into a new Installment Payment Agreement.
- 10) When a defendant defaults in the payment of an Installment Payment Agreement or Deferred Payment Agreement, the Court, upon motion of the Commonwealth in the case of a conviction of a violation of a state law, or attorney for a locality or for the Commonwealth in the event of a conviction of a violation of a local law or ordinance, or upon its own motion, may require the defendant to show cause why he or she should not be confined in jail or fined for nonpayment and dispose of the show cause as provided in Va. Code Ann. § 19.2-358, and the defendant's privilege to operate a motor vehicle will be suspended pursuant to Va. Code Ann. §46.2-395.
- 11) While the defendant is in default in the payment of an Installment Payment Agreement or a Deferred Payment Agreement, the Department of Taxation may institute collection proceedings through garnishments, tax set offs and other measures available to the Department. The Tax Commissioner may act in accordance with VA. Code Ann. §19.2-349 to collect all costs, forfeitures and penalties.

- 12) Interest through the Supreme Court Financial Management System will accrue on balances when there is a default in payment.
- 13) The defendant, at any time during the duration of a payment agreement, may request a modification of the agreement in writing on a form provided by the Executive Secretary of the Supreme Court, and the Court may grant such modification based on a good faith showing of need.

**B. The following are the payment guidelines for restitution in all cases assessed by this Court:**

- 1) At the time of sentencing, the Commonwealth Attorney shall provide to the Court the amount of restitution owed and the name(s) and address(es) of the victim(s). The Court shall order restitution, as required by law, to be paid directly to the Clerk of the Augusta County Circuit Court on behalf of the victims. No interest is accrued against Restitution unless the Court so orders.
- 2) Pursuant to Va. Code Ann. §19.2-305.1.J., whenever a defendant is ordered to pay restitution, any sums collected shall be used first to satisfy such restitution order and any collection costs associated with restitution prior to being used to satisfy any fine, forfeiture, penalty or cost assessed against the defendant.
- 3) The defendant may not satisfy a restitutionary requirement by the performance of community service work.
- 4) If the defendant defaults in the payment of restitution on an Installment Payment Agreement or a Deferred Payment Agreement, the Court may take action as described in ¶A(11) and Va. Code Ann. §19.2-305.1.F.

ENTERED: \_\_\_\_\_

  
Victor V. Ludwig, Judge

DATE: July 5, 2017