

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF MARTINSVILLE

IN RE: NOTICE OF DEFERRED OR INSTALLMENT PAYMENT AGREEMENT
GUIDELINES AND PROCEDURES FOR COURT COSTS, FINES AND RESTITUTION

The following are the time-to-pay guidelines for payment of fine, costs, forfeitures, penalties and restitution in deferred and installment payment agreements, pursuant to Code of Virginia §§ 19.2-354 and 19.2-354.1.

Definitions.

"Deferred payment agreement" means an agreement in which no installment payments are required and the defendant agrees to pay the full amount of the fines and costs at the end of the agreement's stated term.

"Fines and costs" means all fines, court costs, forfeitures, and penalties assessed in any case by a single court against a defendant for the commission of any crime or traffic infraction. "Fines and costs" includes restitution unless the court orders a separate payment schedule for restitution.

"Installment payment agreement" means an agreement in which the defendant agrees to make monthly or other periodic payments until the fines and costs are paid in full.

"Modified deferred payment agreement" means a deferred payment agreement in which the defendant also agrees to use best efforts to make monthly or other periodic payments.

Payments. When Required. Amount. All Defendants who are convicted of a traffic infraction or a violation of any criminal law of the Commonwealth or of a City or County will almost always be required to pay a fine, restitution, forfeiture or penalty to the Court. It is the responsibility of the Defendant to inquire into and make arrangement to pay these assessments. If the Defendant cannot make full payment of this assessment within 90 days of sentencing, the Court allows the Defendant to make payment in deferred payments or installments. Unless otherwise ordered by the Court, no down payment is due at the time a deferred, installment or modified deferred payment agreement is granted the Defendant. *Unless otherwise ordered by the Court*, when a Deferred Payment Agreement is granted, the Defendant shall make payments as follows:

Amount of Total Fine and Costs

Time-to-Pay

\$0 - \$1,000

\$50 per month until paid in full.

More than \$1,000

\$300 every six (6) months until paid in full.

Order of Payment Credits. If the defendant owes court-ordered restitution and enters into a deferred or installment payment agreement, any money collected pursuant to such agreement shall be used first to satisfy such restitution order and any collection costs associated with restitution prior to being used to satisfy any other fine, forfeiture, penalty, or cost owed.

Interest on Unpaid Balances. Per Code of Virginia § 19.2-353.5, no interest accrues during any period in which a fine, costs, or both a fine and costs are being paid in deferred or installment payments pursuant to an order of the Court. Interest will accrue if the Defendant does not make payment in accord with the Deferred Payment Agreement. Interest cannot be stopped on Restitution, and will continue to accrue at the judgment rate of interest set forth in Virginia Code § 6.2-302 until paid in full.

Who authorizes the Deferred and Installment Payment Agreement. The Clerk is authorized to set up the first Deferred or Installment Payment Agreement. If the Defendant defaults on the first agreement, second and subsequent agreements, and Modified deferred payment agreements must be approved by the Court. Defendants requesting reinstatement of a first Deferred or Installment Payment Plan Agreement, or applying for a Modified deferred payment agreement, shall write a letter to:

Honorable G. Carter Greer, Judge

Martinsville Circuit Court

Post Office Box 1206

Martinsville, VA 24114

A request must include the defendant's current address and telephone number. The Clerk will notify the Defendant by telephone of the Court's decision.

Modified Deferred Payment Agreement. At any time during the duration of a payment agreement, the defendant may request a modification of the agreement in writing on a form provided by the clerk, and the Court may grant such modification based on a good faith showing of need.

Request for Extension of Time to Pay. All requests for additional time to pay must be approved by the Court.

Default on Payment Agreement. The Court shall consider a request by a defendant who has defaulted on a payment agreement to enter into a subsequent payment agreement. Any defendant who has defaulted on a payment agreement shall be required to pay a down payment prior to entering into a subsequent payment agreement. Pursuant to Code of Virginia § 19.2-354.1, the required down payment may not exceed (i) if the fines and costs owed are \$500 or less, 10 percent of such amount or (ii) if the fines and costs owed are more than \$500, five percent of such amount or \$50, whichever is greater. A defendant may make a larger down payment.

Suspension of Driving Privileges. Reinstatement. Code of Virginia § 46.2-395 was REPEALED by the Virginia General Assembly in 2020. CHAPTER 964 repealed the requirement that the driver's license of a person convicted of any violation of the law who fails or refuses to provide for immediate payment of fines or costs be suspended. The bill also required the Commissioner of the Department of Motor Vehicles to return or reinstate any person's driver's license that was suspended prior to July 1, 2019, solely for nonpayment of fines or costs.

Collection by the Department of Taxation. The Martinsville Commonwealth's Attorney has contracted with the Department of Taxation to undertake collection of unpaid fines, costs, forfeitures, penalties and restitution. Per Code of Virginia § 19.2-349, persons owing unsatisfied judgments or failing to comply with installment payment agreements under § 19.2-354 shall be subject to the delinquent tax collection provisions of Title 58.1. Defendants subject to collection by the Department of Taxation may apply to the Court in which fines, costs, etc. are owed for a

new Deferred Payment Agreement; if granted, further collection (not pending collection) by the Department will be suspended.

Effective July 1, 2024, Any case in which a defendant owes fines and costs and where such defendant's sole financial resource is a Social Security Benefit, such defendant shall be exempt from making payments until he has another source of income. Any restitution that is owed is not included in this exemption of payment and is due as the Court has ordered. The defendant must appear and request this exemption.

These Guidelines shall remain in effect until modified or amended by the Court.

July 1, 2024.

Jean P. Nunn, Clerk

Martinsville Circuit Court