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Statement to Missouri Supreme Court Municipal Division Work Group

By Jenny Terrell - St. Louis, Missouri - November 12, 2015

Good evening, and thank you for hosting this public hearing where we can come together to work towards positive reforms in the Missouri municipal court system. My name is Jenny Terrell and I am a third year law student at Washington University in St. Louis. I began working on issues of municipal court reform this past summer as an intern at the Southern Poverty Law Center in Montgomery, Alabama, addressing issues in the Alabama municipal courts such as excessive fines and fees, jailing for inability to pay, and predatory private probation. My summer work has continued into this fall, as I've done extensive research into the procedures and practices of municipal courts in Missouri, especially in St. Louis County.

I have three specific proposals that address judicial and community understanding of the appropriate use of warrants, the process for setting bonds, the legal requirements for incarceration, the enforceability of judgments, and remedies for nonpayment. These proposals will assist municipal judges in abiding by Missouri court rules and law (including Senate Bill 5), and will give communities further access to important information concerning municipal court, thereby increasing the likelihood of due process and equal justice for all throughout Missouri's municipalities. Through my research of other municipal court systems, including reports from Missouri and California, as well as settlements in recent court cases across the country, I have observed a variety of efforts by other states to address these issues.

First: I urge the Missouri Supreme Court to create and distribute a "**Bench Card**" to all Missouri municipal court judges. A "bench card" is a tool used in other jurisdictions that provides judges with quick reference to the relevant laws and rules in a given area of law. Your binders (in Tab 2) include a copy of the bench card issued by the **Supreme Court of Ohio** for its judges, and the bench card approved by the U.S. District Court in Atlanta in the case of *Thompson v. DeKalb County, Georgia*, settled earlier this year. These bench cards outline procedures for determining someone's ability to pay and also instruct judges on the legal requirements for setting bonds, collecting fines and fees, using incarceration, and using alternative forms of sentencing.

A Missouri municipal court bench card would similarly explain ability to pay requirements, sentencing processes, and remedies for nonpayment. Such a bench card will help municipalities and judges ensure that they are complying with new requirements. It will also help ensure that judges across the state are sentencing individuals in municipal court uniformly, and treating them equitably. Giving all municipal judges throughout the state a standardized bench card will both increase judges' ability to efficiently and confidently dispose of a case, and increase community perception that individuals in court are facing consistently fair judges. In addition to the Ohio Supreme Court and the DeKalb County, GA bench cards, I have provided you with a proposed **Model Bench Card for Missouri Municipal Courts**, designed by my colleague, Jacob Blanton.

Second: I encourage your committee to review, adopt, and publish uniform guidelines for Missouri municipal court judges as to how to assess “**Ability to Pay.**” A uniform procedure would help judges fulfill their duty to assess ability to pay before incarcerating a person for failure to pay court-ordered fines and fees. Judges are already required to complete such an inquiry pursuant to the Supreme Court case *Bearden v. Georgia*, the Missouri Supreme Court, and Senate Bill 5. In the binder, you will find a recent study by the **Michigan Supreme Court Ability to Pay Workgroup Guidelines**, designed to help judges throughout Michigan with this issue. This study includes model checklists for judges, and informational brochures for community members.

Third: Community members charged with violations also need access to the information being provided to judges in bench cards and ability to pay guidelines. From the first moment community members receive a ticket to the final moment of completing a municipal court sentence, many individuals are woefully unaware of their rights or the processes and procedures of the relevant municipal court. This lack of transparency by the courts and local government contributes to community mistrust in courts and the law, and often creates a drawn-out debtor/collector relationship between community members and courts that is oppressive, and in some cases, illegal.

An important first step in bridging this oft-cited divide between community members and local courts is empowering individuals with full access to information. This includes ensuring that community members have complete information regarding general court procedures, the appropriate use of warrants, the process for setting bonds, processes for the setting and payment of fines and fees, the right to an assessment of ability to pay and alternative sentencing, and restrictions on the use of incarceration.

This “**Notice to Violators**” can be shared as early as at the moment of ticketing, either as printed information on the back of a ticket or as an attached brochure. Such notice could include both specific and general information. Information specific to the individual includes space to fill in the individual’s charge, court date, and potential penalties; time and place of court; and contact information for the court, court clerk, and court website. General information includes a basic outline of what happens when an individual arrives at court and, most importantly, an individual’s rights throughout the process. This information could be provided again, at the time of court, by posting it on courtroom walls or monitors.

In your binder is a brochure used in the **New Jersey Municipal Courts: “Your Day in Court”** which details the rights an individual has in the New Jersey consolidated system, and the processes used in New Jersey courts. Also in your binder is a brochure used by Judge Thornhill’s municipal court in Springfield, MO. This brochure also gives an overview of general court proceedings, the plea and trial processes, and sentencing restrictions. Springfield, and other municipalities in Missouri with similar brochures, are to be applauded for their initiative. However, it would be optimal if this information was provided by the Missouri Supreme Court, was required for all municipal courts throughout the state, and was as uniform as possible (while still providing court-specific information).

Your binders also include a sample form of notice that can be printed directly on the back of traffic tickets, created by the **Beyond Housing 24:1** project, which encompasses the 24 municipalities within the Normandy school district, in response to the most commonly asked questions by individuals living in those municipalities. 24:1 created multiple formats of this document based on the varying sizes of tickets in the various municipalities, ensuring that it has practical use.

I encourage this committee to design both an informational brochure, and a template for notice on the back of tickets, which can be used in municipalities across Missouri. Such uniformity would increase citizens access to basic municipal court information, make it easier for individuals know where and how to get further information, and hopefully begin rebuilding trust between communities and their courts through increased transparency.

It is my hope that the implementation of these suggestions will help ensure a more just and equitable municipal court system while simultaneously promoting positive perceptions of and relations to municipal courts outside of their city halls. Thank you very much for your time and commitment to this issue.

Statement to Missouri Supreme Court Municipal Division Work Group

By Sam Stragand - St. Louis, Missouri, November 12, 2015

My name is Sam Stragand and I am a third-year law student at Washington University. I have been researching municipal court reform since I began writing my note for Journal in the fall of 2014. I have studied all of the relevant news stories and reports from Missouri and across the country, focusing primarily on the lack of due process and the civil rights abuses in municipal courts. I have also attended numerous Ferguson Commission meetings, including numerous Ferguson Commission Municipal Court working group meetings, and assisted several local stakeholders in search of solutions to these civil rights violations.

This evening, I will speak primarily about the issue of consolidation, one of the four issues under analysis by this Work Group. I will offer a set of suggestions centered on the essential relationship between consolidation and the need for more uniformity and professionalism in the municipal courts, especially in St. Louis County.

My colleagues and I searched for websites for all 80 courts in St. Louis County, plus the St. Louis City. I have provided for you in the binder a set of data concerning the state of municipal court webpages in St. Louis County. I also included St. Louis City in the data analysis. This data highlights both the overwhelming number of municipal courts in St. Louis County and the lack of uniformity and professionalism exhibited by them.

In the process, we identified eight (8) key elements we think are required for a municipal court webpage to provide the information necessary to inform violators of their rights and responsibilities, and of the policies and procedures for the courts, in order to uphold the due process rights of the individuals appearing before that municipal court, which I highlight in a sheet marked **Best Practices for Municipal Court Websites**. Adequate information provided in these eight (8) areas would go a long way toward protecting an individual's due process rights in a municipal court:

- 1) Basic information needed to meet a court appearance, such as docket time and court address;
- 2) Contact information for the court clerk;
- 3) Information on court procedures and policies;
- 4) Information on a defendant's rights and responsibilities;
- 5) The ability to pay online;
- 6) Information on all payment options;
- 7) Information on "ability to pay" assessments and community service alternatives; and
- 8) Information in other languages.

[I would quickly highlight that the St. Louis County Economic Development Partnership, in conjunction with a MacArthur Foundation grant that was awarded to enhance access to justice and automation in the St. Louis County courts, also surveyed all websites and their data match ours. Just as we did, they quickly identified the high number of outstanding warrants in the St. Louis County municipalities and the difficulties experienced by violators who seek information about their rights and responsibilities from municipal court websites as an impediment to access to justice. Because of these concerns, they hosted a hack-a-thon

several weeks ago to develop tools that would improve access to information for violators from the municipal courts through the websites and other means. There is a short article in your binders.]

Unfortunately, as you can see from the **Overview of Municipal Websites** and the entire **Data Grid**, best practices is far from the reality for most municipal courts in St. Louis County. According to the data that we reviewed:

- Of the eighty (80) municipal courts in St. Louis County, plus the one in St. Louis City, only sixty-one (61) of the eighty-one (81) courts have their own court webpages.
- Only fifty-six (56) websites list information pertaining to the location and timing of the municipal court. [Of these, many do not have up-to-date, correct, or easy-to-locate information on the location and timing.]
- Only fifty-five (55) websites provide contact information for the municipal court clerk (although some of that information can be found on the State Courts webpage rather than the individual municipal court's webpage – assuming one knows of the existence of that website).
- Only thirty-two (32) webpages include any substantial information on defendants' rights.
- Only fifty-four (54) webpages provide ability to pay online.
- Only forty-two (42) webpages have any information on alternative payment methods, such as payment plans.
- At most, sixteen (16) webpages list current court dockets.
- Only six (6) webpages (Ellisville, Fenton, Kirkwood, Town & Country, St. Louis County, and St. Louis City) have any information relating to "ability to pay" assessments and community service alternatives, now required by SB 5.
- And, only one (1) website provides information in languages other than English.

In the binder, we provided materials from a couple of websites we found that do provide much of the essential information. For example, you have the webpage for the City of Ellisville, which is quite substantial, and the webpage for St. Louis City, which is the only webpage we located in multiple languages.

I believe that the faulty state of the majority of these municipal court webpages provides a good view of the dangerous lack of uniformity of justice being administered, and the lack of professionalism, throughout the St. Louis County municipal courts. Without the ability to obtain correct information concerning their violations and the procedures and options available to them, many individuals cannot resolve their outstanding violations, even with determined effort.

Not only does this serious lack of information contribute to the distrust that currently exists between community members and the courts, it also significantly increases the likelihood that some individuals will not have their rights ensured. In the end, individuals will spend unnecessary time and money trying to track down and manage their tickets. Some who would like to meet their obligation and pay their fines are unable to do so. Alternatively, some who are unable to pay might not avoid going to court, as often happens, if they knew that they could not be put in jail for inability to pay and that there would be community service alternatives. Having full access to the courts and having one's rights protected

should be uniform throughout Missouri's courts. It should not be the unfortunate circumstance of geography.

It is within the Missouri Supreme Court's power to promulgate and enforce rules of practice and procedure governing the municipal courts. Article V, Section 4 of the Missouri Constitution provides for a unified court system in which the Supreme Court has "general superintending control over all courts and tribunals." Article V Section 5 goes on to state that "(t) he supreme court may establish rules relating to practice, procedure and pleading for all courts and administrative tribunals, which shall have the force and effect of law." The section establishing municipal courts, Section 23, states that a Supreme Court rule can change "the practice, procedure, right to and method of appeal before and from municipal judges."

At a minimum, given that the Supreme Court has the power to establish rules of practice and procedure in municipal courts, the Supreme Court should utilize its power to mandate that all municipal divisions in the state have uniform, updated, and functioning websites with the above characteristics, as well as uniform bench cards for municipal judges and uniform information sheets for violators, as suggested by my colleague Jenny Terrell – so that all have essential information from the point of first contact between police officers and individuals and into the municipal courthouses on the walls or monitors.

In my view, the Supreme Court could go even further. Incomplete, incorrect, or nonexistent court information has led to multiple and egregious civil rights violations in many small, part-time municipal courts in the St. Louis area - as documented in the DOJ Ferguson report, other reports, and several recently settled lawsuits. If, as it appears in St. Louis County, that many of the current municipal courts cannot meet higher professional standards of procedure and practice promulgated by the Missouri Supreme Court, and thereby cannot provide due process for all individuals who appear before them, they are not providing equal access to justice. These municipal courts should then be disbanded or consolidated into larger more professional, preferably full-time, courts, with full-time judges and staff, who can meet the Supreme Court's standards of professionalism, justice, and fairness.

In many cases, the sheer number of courts, their part-time operation, their part-time judges and staff, their inadequate court facilities and their lack of professional standards are to blame for these violations of due process. At least as to St. Louis County, it goes beyond question that it is impossible for one presiding circuit judge to administer eighty (80) municipal courts. The next highest number of municipal courts in one circuit in Missouri is twenty-three (23) in the Forty-Third (43rd) Judicial Circuit. The vagaries, inconsistencies, and misinformation in the municipal court websites are the most obvious, quantitative examples of the lack of professionalism and lack of equal justice in these municipal courts. It stands to reason then that fewer courts with more professional staff and standards would better serve to protect the due process rights of Missourians appearing before them.

Thank you again for your time and consideration.

Statement to Missouri Supreme Court Municipal Court Improvement Committee

By Jacob Blanton - St. Louis, Missouri, November 12, 2015

My name is Jacob Blanton. I am in my last year of the J.D./M.S.W. program at Washington University. I have spent the last year examining and researching the various issues associated with municipal courts, including civil rights violations, conflicts of interest, and negative public perception. I spent last spring working for Rep. Kirkton in Jefferson City, where I followed SB 5 as it made its way through the legislature. I attended multiple Ferguson Commission meetings, including several Municipal Court Working Group sessions. And, I have actively engaged with community members on these issues through my work with Metropolitan Congregations United. In particular, I have spent the past several months researching alternatives to fines and incarceration, including community justice center models and alternative sentencing programs.

If we listen to many of the residents in this region, we know that the courts (at all levels) have a perception problem. Specifically, at the municipal level, the courts are often viewed as tax collectors of the poor, with "policing for profit," frequently targeting people of color who have low incomes, in order to fund themselves and the rest of their government. This perception has led many to the logical conclusion that municipal courts are unfair, biased, and unjust, and has precipitated significant expressions of mistrust in the legal system.

We can debate these conclusions or acknowledge that our municipal courts as they currently exist do not always promote a better community nor adequately protect public safety. Our courts could and should do better to provide equal justice for all. If we choose this path, then we will be forced to either abolish or transform the current municipal court system into something new. You have heard valuable suggestions from my colleagues as to the need for uniform ticket information to violators, bench cards for judges, and enhanced court websites. I want to focus on a more transformative proposal to reconceptualize our municipal courts as centers of community justice.

Instead of the current sentencing system for municipal ordinance violations, which enforces community standards through fines and incarceration, sometimes excessive, I propose that municipal courts should utilize alternative community sentences whenever possible. Fines and fees should no longer be the default. All violators, regardless of their income, should be required to participate in these community-building activities.

The US Supreme Court and the Missouri Supreme Court have mandated that courts must assess an individual's ability to pay and SB 5 clearly requires that municipal courts utilize alternative community service sentencing. But as my colleague Sam Stragand highlighted, only 6 St. Louis County municipalities currently list community service on their websites as a legitimate option. The Missouri Supreme Court should issue rules and guidance on how municipal courts must utilize community alternatives so that the decision is not left entirely to the discretion of the municipal judge and those who are unable to pay are wrongly incarcerated.

In the materials is the **Guide to Community Service for the Sixth District Court of Michigan**. As you can see, it provides detailed procedures for alternative sentencing, including work service, community service, and credit for GED and other types of training programs. In addition, I included a handout that I prepared on **Community Justice Centers**, which could be a part of or connected to municipal courts, both to promote and provide alternative remedies for non-payment of fines and court costs, and to help restore public trust in the courts. Again, the Missouri Supreme Court could distribute same to all courts

In the handout, I propose four alternatives that could be used in lieu of fines or in lieu of incarceration for non-payment of fines:

- **Community service**, which is already used throughout the country, is now REQUIRED in Missouri, since the passage of SB 5. While St. Louis City and the unincorporated St. Louis County municipal courts already utilize community service alternatives, many other municipal courts in Missouri are woefully (and illegally) behind:
 - Violators should not be required to pay extra for their participation in community service programs, unlike the St. Louis County alternative community service program, which charges participants \$60.
 - Violators should be assisted by case managers in identifying and completing appropriate community service with community partners.
 - Community service alternatives have to be readily accessible to violators, such as is the case in St. Louis City, where the probation and parole office, which oversees community alternatives, is located just down the hall from the courtrooms.
- **Community restitution**, like community service, aims to repair the harm done to the community. So, for instance, a person who fails to properly maintain their property may be required to spend time helping elderly or disabled individuals maintain theirs. This kind of response holds the violator responsible while also contributing to the growth and betterment of the community in general.
- **Community mediation** provides an alternative means of addressing nuisance-related disputes. Instead of going to court for noise or property violations, community members would first attempt to resolve their issues through a mediation process. As you will note, this type of work is already being done on a small scale in the St. Louis region by groups such as the St. Louis Mennonite Peace Center. Such service can and should be utilized by all municipalities.
- Finally, **referral to social services** is an important alternative. Courts across the country like those in Michigan, have begun to utilize social service referrals in order to address the various life circumstances that make interaction with the justice system more likely and less successful, e.g., alcohol/substance abuse, unemployment or underemployment, homelessness, sexual exploitation, inability to manage anger. Social service referrals, in lieu of fines or incarceration, could include GED classes, mental health counseling, and other resources that aim to

hold violators accountable, while also helping to prevent future interaction with the justice system.

In addition to the two handouts I mentioned, you also have a **St. Louis Post-Dispatch Editorial**, written by my colleague Sam Stragand and Professor Karen Tokarz, advocating the concept of municipal courts as centers of community justice, such as exist in New York and other cities across the country.

I strongly encourage the Missouri Supreme Court to examine the possibility of state-wide implementation of the use of community alternatives, as well as the establishment of community justice centers. The Court can do this through their oversight authority and issue rules that establish guidelines for the use of these alternative community sentences.

Should such centers develop, I would encourage municipalities to consider the extension of community alternatives to all violators, not just indigent violators, which would go even further to repair community-court relations and restore public trust in our courts. In this way, we would not just bring our municipal courts in line with Missouri law, but also set an example for the rest of the country, which is also struggling with these issues.

Thank you.



THE SUPREME COURT of OHIO

OFFICE OF JUDICIAL SERVICES

COLLECTION OF FINES AND COURT COSTS

Fines are separate from court costs. Court costs, restitution and fees are civil, not criminal, obligations and may be collected only by the methods provided for the collection of civil judgments.¹ Sole authority exists under **R.C. 2947.14** for a court or magistrate to commit an offender to jail for nonpayment of *fin*es in a criminal case. An offender **CANNOT** be held in contempt of court for refusal to pay fines.² Accordingly, unpaid fines and/or court costs may neither be a condition of probation, nor grounds for an extension or violation of probation.

ENFORCING FINES BY IMPOSING JAIL

- A person may be jailed for a willful refusal of nonpayment of a fine that he or she has the ability to pay.³
- Prior to committing an offender to jail for nonpayment of fines, an economic ability-to-pay hearing is required, but this requirement does not arise until the trial court decides to jail the offender for failure to pay fines.⁴
- Notice must be provided at a reasonable time prior to the hearing.⁵
- A person has a right to counsel (including a public defender or court-appointed attorney) for the hearing.⁶
- Any person jailed for failure to pay a fine shall receive credit upon the fine at the rate of fifty dollars per day or *per fraction of a day*.⁷
- The court shall inquire and make a determination of an offender's ability to pay a fine, which shall be supported by findings of fact set forth in a judgment entry that indicates the offender's ability to pay, as well as the income, assets, and debts, as presented by the offender.⁸
- A person cannot be ordered to serve additional days for failure to pay a fine if the maximum jail sentence was imposed and served.⁹ Under R.C. 2947.14(E), no commitment pursuant to this section shall exceed six months.

IMPOSING COSTS

- Trial court must impose court costs at time of sentencing.¹⁰
 - Stated at sentencing hearing
 - Written in sentencing order
- Trial court has a mandatory duty to inform a defendant at the time of sentencing that failure to pay court costs may result in imposition of community service.¹¹
- Trial court retains jurisdiction to waive, suspend, or modify the payment of costs at the time of sentencing or any time thereafter.¹²
- A court may not order a person to appear or issue a warrant for unpaid court costs.¹³

Note: When both fines and court costs are owed, the court has the obligation to segregate and/or allocate the amounts when imposing jail time for nonpayment, so that the appropriate mechanisms can be utilized to collect each.¹⁴

LIMITATION OF CONTEMPT

1. Contempt **may not** be used in lieu of R.C. 2947.14 to impose jail time to collect fines.¹⁵
2. Contempt **may not** be used to collect costs.¹⁶
3. If community service is in lieu of either fines or court costs, contempt **may not** be imposed for failure to perform.¹⁷

Contempt of court may be applied if a defendant fails to appear for a court-ordered hearing, including a hearing under R.C. 2947.14, but only after the defendant has been served with a separate citation for contempt of court, notice, and advised of the right to counsel (including appointed, if applicable) and jury trial. Contempt may not be used to create a jail sentence that does not exist with the underlying offense. Contempt for non-appearance cannot be used on a summary basis. If contempt is used for non-appearance at a payment hearing, then any imposition of jail time must be based upon the failure to appear, not for the failure to pay fines.

Failing to follow the dictates of R.C. 2947.14 and using contempt as a sanction to collect fines can result in disciplinary violations.¹⁸

ALLOCATION OF COURT COSTS, FINES, RESTITUTION & REIMBURSEMENTS (R.C. 2949.111)

Unless the court enters in the record of the case a different method of assigning payments, the clerk shall assign the offender's payment in the following manner:

1. Court costs, until entirely paid, then;
2. State fines or costs, on a pro rata basis, until entirely paid, then;
3. Restitution, until entirely paid, then;
4. Fines, until entirely paid, then;
5. Reimbursements

COLLECTING FINES

Permitted Methods of Collection:

- Voluntary Payment¹⁹
- Payment Plan²⁰
- Collection Agency²¹
- Community Service²²
- Attachment of Prisoner Accounts²³
- Execution of Civil Judgment²⁴
- Registration Block²⁵
- Imposing Jail (see Enforcing Fines)
- Driver's License Forfeiture²⁶
- Warrant Block²⁷

Non-permitted Methods of Collection:

- Contempt of Court²⁸
- Forfeiture of Confiscated Money²⁹
- Refusal to Accept Filings³⁰
- Violation or Extension of Probation³¹

COLLECTING COSTS

Permitted Methods of Collection:

- Voluntary Payment³²
- Payment Plan³³
- Collection Agency³⁴
- Community Service³⁵
- Attachment of Prisoner Accounts³⁶
- Execution of Civil Judgment³⁷
- Registration Block³⁸

Non-permitted Methods of Collection:

- Imposing Jail³⁹
- Driver's License Forfeiture⁴⁰
- Warrant Block⁴¹
- Contempt of Court⁴²
- Forfeiture of Confiscated Money⁴³
- Refusal to Accept Filings⁴⁴
- Violation or Extension of Probation⁴⁵

AN ALTERNATIVE: CANCELLATION/DISCHARGE

If at any time the court finds that an amount owing to the court is due and uncollectible, in whole or in part, the court may direct the clerk of the court to cancel all or part of the claim.⁴⁶ The court retains jurisdiction to waive, suspend, or modify the payment of the costs of prosecution, including any costs under R.C. 2947.231, at the time of sentencing or at any time thereafter.⁴⁷

COMMUNITY SERVICE AS PAYMENT FOR COURT COSTS

R.C. 2947.23 authorizes a court to convert court costs to community service when a defendant fails to pay court costs or comply with a payment plan to pay court costs.

- Notice must be given to the defendant and the prosecuting attorney
- An evidentiary hearing must be held
- Limit of forty hours per month

Defendant is entitled to credit at a specified hourly credit rate defined by 29 U.S.C.A. 206(a)(1).

COMMUNITY SERVICE SCHEDULE

Offense	Statutory Authority	Limitation
Minor Misdemeanor	R.C. 2929.27(D)	Maximum 30 hours
Second, Third, and Fourth Degree Misdemeanor	R.C. 2929.27(A)	Maximum 200 hours
First Degree Misdemeanor	R.C. 2929.27(A)	Maximum 500 hours
Unclassified Misdemeanor	Suspended License Offenses ⁴⁸	Maximum 500 hours
Felony	R.C. 2929.17 R.C. 2951.02	Maximum 500 hours
Satisfaction of Court Costs	R.C. 2947.23	Federal minimum hourly wage rate with maximum 40 hours per month; hearing required
Satisfaction of Fines ⁴⁹	R.C. 2929.28	Not specified; hearing not required

ENDNOTES:

¹⁹Stratman v. Studt (1969), 20 Ohio St.2d 95.

²⁰Cleveland v. Anderson (1992), 82 Ohio App.3d 63.

²¹State v. Ellis, 2d Dist., 2008 Ohio 2719.

²²State v. Perkins (2003), 154 Ohio App.3d 631.

²³State v. Swift, 2d Dist., 2005 Ohio 1595.

²⁴Id.

²⁵R.C. 2947.14 (D).

²⁶R.C. 2947.14 (B).

²⁷Stratman v. Studt (1969), 20 Ohio St.2d 95.

²⁸State v. Joseph, 125 Ohio St.3d 76, 2010-Ohio-954.

²⁹R.C. 2947.23 (A)(1)(a)(i).

³⁰R.C. 2947.23 (C).

³¹Strongsville v. Walwood (1989), 62 Ohio App.3d 521.

³²State v. Swift, 2d Dist., 2005 Ohio 1595.

³³Alliance v. Kelly (1988), 48 Ohio App.3d 133; Cleveland v. Anderson (1992), 82 Ohio App.3d 63.

³⁴State v. Lamb (2005), 163 Ohio App.3d 290.

³⁵Id. & State v. Ellis, 2d Dist., 2008 Ohio 2717.

³⁶Ohio State Bar Assn. v. Goldie (2008), 119 Ohio St.3d 428.

³⁷R.C. 2929.28 (F).

³⁸R.C. 2929.28 (F)(2).

³⁹R.C. 2929.18 (F) Felony;

R.C. 2929.28 (F)(1)

Misdemeanor.

⁴⁰R.C. 2929.28 (B).

⁴¹R.C. 5120.133.

⁴²R.C. 2929.28 (D).

⁴³R.C. 1901.44 (B) Municipal

Court; 1907.25 (B) County

Court; 2947.09 (A) Common

Pleas Court.

⁴⁴R.C. 4510.22 1st - 4th

Degree Misdemeanor; R.C.

2935.27 Minor Misdemeanor.

⁴⁵R.C. 4503.13 Registration

of Vehicle; R.C. 4507.091

Driver's License.

⁴⁶Alliance v. Kelly (1988), 48

Ohio App.3d 133; Cleveland

v. Anderson (1992), 82 Ohio

App.3d 63.

⁴⁷R.C. 2981.12 (G)

⁴⁸In re GMS Mgt. Co., Inc. v.

Unpaid Court Costs, Fees and

Delinquencies (2010), 187

Ohio App.3d 426.

⁴⁹R.C. 2947.14 (D).

⁵⁰R.C. 2929.28 (F).

⁵¹R.C. 2929.28 (F)(2).

⁵²R.C. 2929.18 (F) Felony;

R.C. 2929.28 (F)(1)

Misdemeanor.

⁵³R.C. 2947.23.

⁵⁴R.C. 5120.133.

⁵⁵R.C. 2929.28 (D).

⁵⁶R.C. 1901.44 (B) Municipal

Court; 1907.25 (B) County

Court; 2947.09 (A) Common

Pleas Court.

⁵⁷State v. Swift, 2d Dist., 2005

Ohio 1595.

⁵⁸State v. Short, 2nd Dist.

Darke Co. 2011 CA 16, 2012-

Ohio-2546.

⁵⁹Strongsville v. Walwood,

(1989), 62 Ohio App.3d 521.

⁶⁰State v. Ellis, 2d Dist., 2008

Ohio 2719.

⁶¹State v. Cruise, (2009) 185

Ohio App.3d 230.

⁶²In re GMS Mgt. Co., Inc. v.

Unpaid Court Costs, Fees and

Delinquencies (2010), 187

Ohio App.3d 426.

⁶³Stratman v. Studt (1969), 20

Ohio St.2d 95.

⁶⁴R.C. 1901.263 (Municipal

Court); 1905.38 (Mayor's

Court); 1907.251 (County

Court); 1925.151 (Small

Claims Division of Municipal

or County Court); 2101.165

(Probate Court); 2151.542

(Juvenile Court); 2303.23

(Court of Common Pleas).

⁶⁵R.C. 2947.23 (C).

⁶⁶The following R.C. sections

(4507.35, 4510.111, 4510.12,

4510.16, 4510.21, and

4511.203) provide for a

maximum of 500 hours of

community work service if

the offense is charged as

a "first offense" with no

prior convictions set out

in the citation or charging

document. For these offenses,

a jail sentence may not be

directly imposed, but to

enforce the community service

assignment, the defendant

may be charged with indirect

criminal contempt of court in

accordance with R.C. 2705.02

et. seq. for failure to complete

community service. This is

a separate charge, however,

and the defendant would

be entitled to counsel, and,

appointed counsel, if indigent.

⁶⁷Although the statute does

not set out a rate of credit

of a fine when converted to community service, the court in State v. Glasscock (1993), 91 Ohio App.3d 520 implied the appropriate rate to be the daily rate for incarceration under R.C. 2947.14. The current rate is \$50.00 per day.

The Staff of the Supreme Court of Ohio would like to thank the following who contributed to the development of this bench card: Judge Patrick Carroll of the Lakewood Municipal Court, Judge John T. Rohrs, III of the Defiance Municipal Court, Judge Beth W. Root of the Fairborn Municipal Court and Tim Young, the Ohio Public Defender.

THOMPSON V. DEKALB COUNTY, GA APPROVED BENCH CARD
COLLECTION OF FINES AND COURT COSTS

All DeKalb County Recorder's Court judges adjudicating misdemeanor probation revocation proceedings shall abide by the described procedures:

RIGHT TO COUNSEL	ABILITY TO PAY/ENFORCING FINES BY IMPOSING JAIL
<p>All probationers have a right to counsel (which may include a public defender or court-appointed attorney) in probation revocation proceedings.</p> <p>The court MAY NOT accept a <u>written</u> or oral waiver of the right to counsel without FIRST informing the probationer of the dangers of proceeding without counsel and ensuring that any waiver of the right to counsel is knowing, intelligent, and voluntary.</p> <p>If a probationer seeks to waive his right to counsel, the court must conduct a colloquy <u>QQ the record</u> to inform the probationer:</p> <ul style="list-style-type: none">• That the probationer has a right to a court-appointed attorney or public defender nt no cost, if he cannot afford to retain an attorney;• That the \$50 fee normally charged for representation by the DeKalb County Public Defender <u>may be waived</u> for those who cannot afford to pay;• Of the risks and dangers of proceeding without counsel, including the risk of incarceration and the <u>maximum jail time</u> that may be imposed if the probationer is determined to have violated probation; and• Of the benefits of representation by counsel, including assistance with asserting constitutional rights.	<p>A probationer charged with failure to pay may be jailed only if (s)he has willfully failed to pay or failed to make reasonable efforts to acquire the resources to pay, AND no adequate alternative to incarceration exists.</p> <p>Prior to revoking probation and committing a probationer to jail for nonpayment of fines, the <u>judge must conduct an economic ability-to-mlv hearing</u>.</p> <p>To conduct such a hearing, the court shall</p> <ul style="list-style-type: none">• Inquire and make a determination of a probationer's ability to pay a fine, which shall address the probationer's ability to pay and the income, assets, debts, and financial responsibilities presented by the probationer;• Inquire and make a determination of the reasonableness of a probationer's efforts to acquire resources to pay a fine, which shall take into account efforts to secure employment and borrow money, as well as limitations to the probationer's ability to secure employment and borrow money;• Consider and make a determination of the adequacy of alternatives to incarceration, including a reduction or waiver of fines and fees, an extension of time to pay, and community service, in the event that a probationer is determined to lack ability to pay despite having made reasonable efforts to acquire resources.

<p>preparing and presenting financial hardship documentation to the court, arguing in favor of alternatives to incarceration, and vigorous advocacy against the imposition of jail as punishment for probation violation.</p> <p>If, after being so informed, a probationer states a desire to waive his right to counsel, the court <u>must engage in a colloquy</u> and <u>make a determination</u>, supported by findings of fact on the record and set forth in an order, that waiver is knowing, <u>intelligent</u>, and voluntary.</p> <p>Written waiver of the right to counsel on a probation revocation petition or other document is NOT ACCEPTABLE without such a colloquy and findings of fact made <u>on the record</u>.</p>	<p>Each of these determinations shall be supported by findings of fact on the record and set forth in a written order.</p>
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DRAFT BENCH CARD FOR MISSOURI MUNICIPAL COURT JUDGES

Missouri Municipal Courts: Collection of Fines and Court Costs, Ability to Pay, and Alternatives to Fines and Court Costs

Inquiry Into Ability to Pay:

Before fines or court costs may be assessed, defendants **MUST** have the opportunity to present evidence of their **inability to pay**.ⁱ Standards to determine whether a defendant is indigent are set by the presiding judge of the circuit court, which shall reflect the model rules and requirements set by the Missouri Supreme Court.ⁱⁱ Suggested questions to determine ability to pay may include:

- Are you currently working? If so, what is your monthly income?
- If you are not currently working, when did you last work and what have you done to try to find work?
- Do you have any medical or other conditions that limit your ability to work?
- Do you receive any government benefits?
- How much does your household pay per month for basic living costs (ex. rent, utilities, food, health care, transportation, clothing, fines to other courts, child support, other necessary expenses)?
- Do you own property or assets that you could use to pay your fine?ⁱⁱⁱ

Confinement is Explicitly Allowed:	Confinement is Not Allowed:
<p>For minor traffic violations:</p> <ul style="list-style-type: none">• Involving alcohol or controlled substances^{iv}• Endangering the health or welfare of others^v• Where the defendant eluded or gave false information to a law enforcement officer^{vi}• In which the defendant failed to pay and their nonpayment violates the terms of their probation^{vii} <p>For other violations, but shall not exceed three months^{viii}</p>	<ul style="list-style-type: none">• To coerce payment of fines and costs^{ix}• In general, as a sentence for minor traffic violations^x• For failure to pay fines for minor traffic violations^{xi}• Beyond 24 hours without a warrant^{xii}• After 48 hours without having the opportunity to be heard by a judge for defendants who are arrested on a warrant for minor traffic violations^{xiii}• After 72 hours without having the opportunity to be heard by a judge for defendants who are arrested on a warrant for other violations^{xiv}

***EVERY** person arrested and held in custody for the alleged commission of an ordinance violation, or upon suspicion thereof, has a **right to consult with counsel** or other persons.^{xv} Indigent defendants have the **right to request the appointment of counsel** if there is a possibility of a jail sentence.^{xvi} Judges have a duty to advise defendants of their right to counsel.^{xvii}

Limits on Fines and Fees:

Fines:

- When combined with court costs, shall not exceed \$300 for minor traffic violations^{xviii}
- Shall not exceed \$1000 for all other violations^{xix}

Court Costs:

- Prohibited in cases where the defendant is found to be indigent^{xx}
- Prohibited if the case is dismissed^{xxi}

Required/Permitted Alternatives to Immediate Payment of Fines and Fees:

Required for indigent defendants:

- Payment plans,^{xxii} and/or
- Community service alternatives^{xxiii}

Permitted (generally):

- Income tax refund set-off^{xxiv}

Permitted as conditions of probation:

- Restitution for the victim or dependent of the victim^{xxv}
- Community service^{xxvi}

“Minor traffic violations” are municipal or county violations:

- Not involving and accident or injury
- Not involving the operation of a commercial vehicle
- For which the department of revenue is authorized to assess no more than four points to a person’s driving record upon conviction
- Not involving a speeding violation that exceeds the speed limit by more than 19mph
- Not involving a speeding violation that occurs within a construction or school zone^{xxvii}

ⁱ Mo. Ann. Stat. § 479.360 (4) and Mo. Ann. Stat. § 479.353 (4)

ⁱⁱ Mo. Ann. Stat. § 479.353 (4)

ⁱⁱⁱ Reference Guide: Legal Financial Obligations (LFOs) Ordered by Courts of Limited Jurisdiction in Washington State, Washington State Supreme Court Minority and Justice Commission (Aug. 2014).

^{iv} Mo. Ann. Stat. § 479.353 (2)

^v *Id.*

^{vi} *Id.*

^{vii} Mo. Ann. Stat. § 479.353 (3)

^{viii} Mo. Ann. Stat. § 546.902

^{ix} Mo. Ann. Stat. § 479.360 (3)

^x Mo. Ann. Stat. § 479.353 (2)

^{xi} Mo. Ann. Stat. § 479.353 (3)

^{xii} Mo. Ann. Stat. § 479.360 (2)

^{xiii} Mo. Ann. Stat. § 479.360 (1)

^{xiv} *Id.*

^{xv} V.A.M.R. Rule 37.13

^{xvi} V.A.M.R. Rule 37.47

^{xvii} V.A.M.R. Rule 37.50

^{xviii} Mo. Ann. Stat. § 479.353 (1)

^{xix} Mo. Ann. Stat. § 546.902

^{xx} Mo. Ann. Stat. § 479.353 (4)

^{xxi} Mo. Ann. Stat. § 479.353 (5)

^{xxii} Mo. Ann. Stat. § 479.360 (8) and V.A.M.R. Rule 37.65

^{xxiii} *Id.*

^{xxiv} Mo. Ann. Stat. § 479.356

^{xxv} Mo. Ann. Stat. § 479.190 (2)(1)

^{xxvi} Mo. Ann. Stat. § 479.190 (2)(2)

^{xxvii} Mo. Ann. Stat. § 479.350 (3)

Michigan Supreme Court
State Court Administrative Office



ABILITY TO PAY WORKGROUP

Tools and Guidance for Determining and
Addressing an Obligor's Ability to Pay

April 20, 2015

April 20, 2015

Mr. John A. Hohman, Jr.
State Court Administrator
Michigan Hall of Justice
P.O. Box 30048
Lansing, MI 48909

Re: Ability to Pay Workgroup

Dear Mr. Hohman:

In the time since the United States Supreme Court issued its opinion in *Bearden v Georgia*, 461 US 660 (1983), courts have been required to address a defendant's ability to pay before incarcerating the individual for failing to pay a required court fine or cost. More recently, judges have been asking for guidance on how and when to determine ability to pay. The State Court Administrative Office (SCAO) set out to work with judges, judicial associations, administrators, collections specialists, attorneys, and other interested parties to promote consistent application of the holding in *Bearden*. This effort led to the formation of the Ability to Pay Workgroup.

The Ability to Pay Workgroup began meeting in June 2014. The workgroup consists of judges, court administrators, collections specialists, attorneys, and SCAO staff. Over the course of six months, we examined the issue of ability to pay. In concluding our work on this issue, we have issued a report that outlines:

- tools to assist judges and their staff;
- best practices currently in use by Michigan judges;
- recommendation of continuing education of judges and their staff on how to address the issues related to ability to pay; and
- changes that might be made to statutes and court rules.

The workgroup's goal was to create a report that works for all involved in the criminal and juvenile justice system.

I would like to extend my thanks to all the members of the workgroup who spent their precious time debating the issues, drafting the materials, and testing the tools. Also, thank you to the SCAO staff, specifically Beth Barber, Connie Daiss, Robin Eagleson, and Deb Green. Your work behind the scenes did not go unnoticed. Thank you.

Sincerely,

Chief Judge John A. Hallacy
10th District Court
Chair, Ability to Pay Workgroup

Ability to Pay Workgroup (2014)

The Honorable John Hallacy (Chair)
10th District Court

Ms. Carol Bealor
Court Administrator
43rd Circuit Court, Family Division

The Honorable James B. Brady
47th District Court

Ms. Carmilla Bourn
Collections Liaison
36th District Court

Ms. Victoria Courterier
Court Administrator
46th Circuit Court

Ms. Shauna Dunnings
Court Administrator
30th Circuit Court

Mr. Bob Gillett
Executive Director
Legal Services of South Central Michigan

The Honorable Elizabeth Pollard Hines
15th District Court

Ms. Debra Kubitskey
Court Administrator
53rd District Court

Ms. Deborah Nehil
Business Office Manager
Isabella County Trial Court

Ms. Valerie R. Newman
Assistant Defender
State Appellate Defender Office

Ms. Stacy Parke
Deputy Court Administrator
47th District Court

Ms. Jennifer Phillips
Court Administrator
16th Circuit Court

The Honorable Thomas Slagle
41st Circuit Court, Family Division

Ms. Carol Stocking
Court Administrator
86th District Court

Ms. Ines Straube
Court Administrator
Barry County Trial Court

The Honorable Paul Stutesman
45th Circuit Court

The Honorable Robert Sykes, Jr.
8th Circuit Court, Family Division

Ms. Claudia Wilson
Collections Coordinator
3rd Circuit Court

The following tools, best practices, and guidance are intended to assist judges and court staff with determining an obligor's ability to pay and establishing payment plans, providing payment alternatives, enforcing court-ordered financial obligations, and identifying uncollectible debts. Because courts deal with diverse obligors and collections situations, some tools and best practices may have limited application in certain courts and/or cases.

In the three decades since the United States Supreme Court issued its decision in *Bearden v Georgia*, 461 US 660 (1983), judges have been required to address the issue of ability to pay before incarcerating a person for failure to pay court-ordered financial obligations. Michigan law is also clear that a judge may not incarcerate someone who lacks the ability to pay court-ordered financial obligations.

WHEN TO DETERMINE ABILITY TO PAY

Whenever a court attempts to enforce a court-ordered financial obligation, the obligor must be given an opportunity to contest the enforcement on the basis of indigency and the court must assess the obligor's ability to pay (*People v Jackson*, 483 Mich 271 (2009)). Generally, this means at the time of a show cause hearing, probation violation hearing, or at the time a conditional sentence is enforced. The ultimate determination of the ability to pay rests with the judge. The judge should review the applicable statutes and court rules to determine which factors to consider and place the appropriate findings on the record. Enforcement of court-ordered financial obligations by incarceration should only occur when the court has determined that the obligor has the ability or resources to pay the ordered monetary assessments and has not made a good faith effort to do so.

REFERENCE MATERIAL AND TOOLS TO ASSIST WITH DETERMINING ABILITY TO PAY

The workgroup created a variety of ability to pay checklists that are intended to assist judges with determining which factors to consider when placing the appropriate findings on the record with regard to ability to pay. Checklists may also assist court staff with establishing payment plans and providing recommendations to judges about payment alternatives and enforcement. Sample ability to pay checklists may be found in Appendix A.

Courts must comply with various statutes, court rules, and case law when making determinations of ability to pay. The ability to pay determination can and should be made in circuit court cases (including juvenile cases [abuse and neglect and delinquency proceedings]) and district court cases.

- Statutory requirements are listed in Appendix B.
- Court rule requirements are listed in Appendix C.
- Case law requirements are listed in Appendix D.

Probation violation proceedings are a useful tool to enforce court orders. When a court grants probation, a probationer agrees to the terms and conditions ordered by the court. Failure to pay court-ordered financial obligations is a violation of the terms of probation. Upon failure to pay, the probation officer should prepare a *Motion and Summons Regarding Probation Violation* (SCAO form MC 246) or a *Motion, Affidavit, and Bench Warrant* (SCAO form MC 229), depending on the court's preference. At the hearing, the probationer may contest the probation violation due to an inability to pay the court-ordered financial obligations. If the court considers contempt or incarceration as a penalty for violating probation, the court must offer probationer legal representation. A decision to revoke probation cannot be based on an indigent probationer's inability to make payments as ordered as a condition of probation (*People v Courtney*, 104 Mich App 454 (1981); *People v Baker*, 120 Mich App 89 (1982)). The court may, however, require a probationer to make a good-faith effort to find a job to make ordered payments.

Show cause dockets are also a useful tool for courts to enforce their orders and for reviewing an obligor's ability to pay. If an obligor fails to respond to initial collections efforts, the court should issue a *Motion and Order to Show Cause* (SCAO form MC 230) that requires the obligor to come into court to explain why he or she has not paid the court-ordered financial obligations. The order should inform the obligor that ability to pay will be considered at the show cause hearing. Appendix E contains sample ability to pay language for inclusion on the order. If the court considers contempt or incarceration as a penalty for violating the court's order, the court must offer obligor legal representation. Bench warrants should not be used unless an obligor fails to appear for court. Because case law requires a court determine an obligor's ability to pay before incarceration, courts should discontinue the use of bench warrants for failure to pay.

Courts may find it useful to review video examples of show cause hearings at <http://courts.mi.gov/Administration/admin/op/TCC/Pages/Resources.aspx> (contact Trial Court Collections at 517-373-4987 for the passcode to view the videos). Courts may also contact Judge Stutesman at the 45th Circuit Court and Judge Brady at the 47th District Court for additional information on the use of show cause dockets to enforce court-ordered financial obligations.

There are numerous methods to determine reasonable payment plans for obligors. Payment plan calculators are designed to help courts create installment payment agreements (see Appendix F; contact Trial Court Collections at 517-373-4987 for the calculator in Excel format). These calculators assist courts in setting reasonable payment plan amounts by taking into consideration an individual's "other" obligations. Obligor's have the same rights as civil debtors (*Fuller v Oregon*, 417 US 40 (1974)); therefore, the amount ordered paid cannot exceed 25 percent of disposable earnings. The obligor may agree to pay more than this amount. Calculators may be used to verify whether the payment amount is reasonable and/or if there is an ability to pay (for enforcement purposes). Payment plan calculators are not necessary in every

case. In addition, these calculators should not be used if the only source of income is public assistance or exempt income; payments made with these limited resources are strictly voluntary.

Courts should consider using calculators in the following situations:

- The “Actual Payment Plan Calculator” should be used when the court has an earnings statement for the obligor.
- The “Estimated Payment Plan Calculator” should be used when the court does not have an earnings statement for the obligor or if the obligor does not work a standard number of hours.
- The “Juvenile Payment Plan Calculator” should be used for juveniles that are working. Do not use this tool if the juvenile is emancipated.

Other resources that may assist the court are the federal poverty guidelines (see Appendix G) and the means test (see Appendix H). The federal poverty guidelines may be used to determine the threshold of whether an obligor has the ability to pay any amount toward court-ordered financial obligations. The federal means test is a method for determining the financial well-being of an obligor and the obligor’s necessary expenses and disposable earnings. This tool can be beneficial when determining how much income an obligor has to meet his or her court-ordered financial obligations after necessary expenses are paid.

ENFORCEMENT ALTERNATIVES

If the court determines there are appropriate alternatives or that additional time will enable an obligor with a documented need to pay court-ordered financial obligations, the court should explore those alternatives or grant additional time. Payment plans should require amounts that the obligor can successfully make, considering the amount owed and the obligor’s ability to pay. If the court finds that additional time to pay and/or installment payment plans would not enable the obligor to pay due to his or her proven inability to pay the court-ordered financial obligations, the court should consider alternatives for discretionary assessments imposed.

Payment alternatives should be considered if the obligor is in jeopardy of failing to comply with the court order and has demonstrated that he or she has exercised due diligence in attempting to comply. Payment alternatives such as community service, earning a GED, and youth-oriented projects may be used. A wide variety of payment alternatives may be considered by the court that would allow the obligor to reduce his or her financial obligations owed to the court while also serving or “paying back” his or her community (see best practices in Appendix I).

Incentives and waivers may also be considered by the court to reduce an obligor’s court-ordered financial obligations. If the court finds that an obligor has made a good faith effort and is unable to pay, then it may waive those monetary assessments that are not mandated by statute.

The 3rd Circuit Court, Family Division instituted an incentive and waiver policy that can be found, along with the court's forms, in Appendix J.

If the court determines that court-ordered financial obligations are uncollectible debts, it should consider whether those debts should be inactivated or discharged. The Model Debt Inactivation Policy may be found in Appendix K and at <http://courts.mi.gov/Administration/SCAO/Resources/Documents/Collections/Policies/ModelDebtInactivationPolicy.pdf>.

TRAINING – JUDICIAL AND STAFF

Instruction related to the issues and procedures regarding ability to pay should be a key component of training for newly elected and appointed judges. The training should include a discussion of the variety of alternatives and tools that are available. In addition, all existing members of the judiciary should receive periodic instruction on the issues and procedures regarding ability to pay, including a discussion of the variety of alternatives and tools that are available.

In addition to judges receiving ability to pay instruction, appropriate court staff should also be afforded training. This instruction should include a discussion of the variety of alternatives and tools that are available, and it should be provided to staff regularly and upon request, and as court staff changes occur.

POSSIBLE STATUTORY AND COURT RULE AMENDMENTS

During review of statutory and court rule requirements, the workgroup drafted possible statutory and court rule amendments. The following are possible statutory amendments (see Appendix L):

- Sentence/Conditional Sentence
 - MCL 769.2 (sentence; solitary confinement or hard labor – repeal)
 - MCL 769.3 (conditional sentence; payment of fine; probation – require ability to pay determination before finding payer in default of payment; setting amounts of credit toward financial obligations when incarcerated)
 - MCL 769.4 (conditional sentence; execution – execution of conditional sentence shall not occur until court has complied with MCL 769.3 as amended)
 - MCL 769.5 (alternative or combined penalties; power of court – require ability to pay determination before ordering incarceration for nonpayment; setting amounts of credit toward financial obligations when incarcerated)
 - MCL 801.201 *et seq.* (work farms, factories, and shops – repeal)

- Credit per day for commitment for civil contempt
 - MCL 257.908 (default as civil contempt; penalty – to ensure consistency, update credit amount when incarcerated)
 - MCL 600.8729 (payment of fine, costs, assessment, damages, or expenses; default as civil contempt – to ensure consistency, update credit amount when incarcerated)
 - MCL 600.8829 (default in payment of fines, costs, assessment, or installment – to ensure consistency, update credit amount when incarcerated)

The following are possible court rule amendments (see Appendix M):

- Collection
 - MCR 3.605 Collection of Penalties, Fines, Forfeitures, and Forfeited Recognizances (allowance of waiver of certain costs and expenses)
- Contempt
 - MCR 3.606 Contempts Outside Immediate Presence of Court (require court to make ability to pay determination before incarceration for nonpayment)
 - MCR 3.928 Contempt of Court (require court to make ability to pay determination before detainment or incarceration of a juvenile/parent for nonpayment)
- Probation violation/revocation
 - MCR 3.944 Probation Violation (require court to make ability to pay determination before detainment or incarceration of a juvenile/parent for nonpayment)
 - MCR 3.956 Review Hearings; Probation Violation (require court to make ability to pay determination before detainment or incarceration of a juvenile/parent for nonpayment)
 - MCR 6.445 Probation Revocation (require court to make ability to pay determination before incarceration for nonpayment)
 - MCR 6.933 Juvenile Probation Revocation (require court to make ability to pay determination before detainment or incarceration of juvenile/parent for nonpayment)
- Other
 - MCR 6.001 Scope; Applicability of Civil Rules; Superseded Rules and Statutes (refers to MCR 6.425(E)(3) ability to pay requirement)
 - MCR 6.425 Sentencing; Appointment of Appellate Counsel (require court to make ability to pay determination before incarceration for nonpayment)
 - MCR 6.610 Criminal Procedures Generally (require court to make ability to pay determination before incarceration for nonpayment)

CONCLUSION

The “ability to pay” must be determined and applied on an individual basis. Each judge, for each obligor brought before the court for failure to pay a court-ordered financial obligation, must review the required facts and circumstances and make an individual determination of the obligor’s ability and resources to pay the ordered monetary assessments and whether the obligor has made a good-faith effort to pay. Judges may have differing philosophies regarding ability to pay and may weigh facts in a given case differently. A judge’s discretion is tempered by the confines of the law and should be exercised with fairness and restraint. Ultimately, each decision is up to the individual judge.

Appendices

<u>Appendix A:</u>	Ability to Pay Checklists
<u>Appendix B:</u>	Statutory Requirements
<u>Appendix C:</u>	Court Rule Requirements
<u>Appendix D:</u>	Case Law Summary
<u>Appendix E:</u>	Ability to Pay Language
<u>Appendix F:</u>	Payment Plan Calculators
<u>Appendix G:</u>	Federal Poverty Guidelines Charts
<u>Appendix H:</u>	Means Test
<u>Appendix I:</u>	Payment Alternatives
<u>Appendix J:</u>	Incentives/Waivers
<u>Appendix K:</u>	Model Debt Inactivation Policy
<u>Appendix L:</u>	Possible Statutory Amendments
<u>Appendix M:</u>	Possible Court Rule Amendments

Appendix A

Ability to Pay Checklists

Ability to Pay Checklist – Short Form

- Confirm total amount due (determine if adjustment is needed).
- Reason(s) for nonpayment.
- Ability to pay today? How much? How much time needed to pay the remainder?
- Employment?
 - Ability to work?
- Other financial resources that could assist with payments?
- Consider any other special circumstance that may have an impact on the ability to pay.
 - Consider any unique circumstances, e.g. sick child, caring for an elderly parent.

Ability to Pay Checklist

- 1. Confirm background information and amount due.**
- 2. Ability to pay today? Amount?**
- 3. Defendant's/Respondent's reason(s) for nonpayment.**
- 4. The willfulness of the Defendant's/Respondent's failure to pay.**
 - a. Other debts? Nature of debt? Amount? Payment history?**
 - b. Credit cards?**
 - c. Did the Defendant/Respondent make some payments to the court?**
 - i. Reason they stopped making payments to the court?**
- 5. Defendant's/Respondent's employment status/history.**
 - a. Currently employed?**
 - b. Past employment?**
 - c. Reason(s) not employed?**
 - d. Ability to work?**
 - e. Availability of employment in your jurisdiction?**
- 6. Defendant's/Respondent's financial resources.**
 - a. Nature of income?**
 - i. Government Assistance? Type? Reason for receiving government assistance?**
 - ii. Pension? Veteran's benefits? Child Support?**
 - iii. Unemployment?**
 - iv. Student loan(s) or assistance?**
 - v. Household income? Bank accounts? Credit Cards?**
- 7. Defendant's/Respondent's basic living expenses.**
 - a. Food, shelter, clothing, necessary medical expenses, or child support etc...**
 - b. Vehicle? Real estate? Cellphone? Cable television? Tattoos? Manicures/Pedicures?**
- 8. Consider any other special circumstance that may have impacted the Defendant's/Respondent's ability to pay.**
 - a. Consider any circumstances unique to your jurisdiction.**

****This checklist is designed to assist a judge in creating a record regarding a defendant's "ability to pay." Each case may have unique characteristics and may require the judge to explore areas not covered by this checklist.***

Ability to Pay Checklist

1. Confirm total amount due and background information.
 - a. Be aware of breakdown: fines, costs, late fees, default fees, min. State costs, CVRF, BW or OSC fees; you may find it is appropriate to waive something.
2. Is there some reason you haven't paid?
3. Are you able to pay today?
 - a. How much?
 - b. How much time do you need to pay the remainder?
4. Do you work outside the home?
 - a. If employed:
 - i. name of employer, address; approximately how long have you worked there?
 - ii. How often do you get paid? How much do you take home each pay period?
 - iii. Are you receiving any benefits or public assistance: unemployment, DHS, VA, SSI, SSD, food stamps, bridge card?
5. Do you have any other source of money coming in for e.g., from parents, student loans, pension, VA benefits, child support?
6. Where do you live?
 - a. Do you pay rent or a mortgage, or live with friends/relatives?
 - b. How much do you pay and how often?
7. Do you own a vehicle?
 - a. What make, model and year?
 - b. Are you still making payments?
 - c. How much each month?
8. Do you have any children under age 18 in your home?
 - a. Do you support others in the home (for e.g., spouse, parent)?
 - b. Do you pay child support (if so, how much)?
9. Please estimate other monthly expenses.
 - a. Food, clothing, insurance, medical expenses, transportation, etc.
10. Are there any other circumstances about which I should know in determining whether you are able to pay?
 - a. Caring for ill family member
 - b. Spouse just lost job
 - c. Paying fines/fees/costs/probation oversight fees in other courts
 - d. Child in college

Have handy copy of federal poverty guidelines chart. May continue case to another day for actual "proof" of claims if suspect (for e.g., pay stubs, proof of benefits, tax forms).

Ability to Pay Checklist – Long Form

- Confirm total amount due (determine if adjustment is needed).
- Reason(s) for nonpayment.
- Ability to pay today? How much? How much time needed to pay the remainder?
- Employment status/history.
 - Currently employed?
 - If so, wage assignment.
 - Past employment?
 - Reason(s) for not employed?
 - Ability to work?
 - Provide verification of documented disability that prevents employment.
 - Can community service be completed in lieu of payments?
 - Availability of employment within jurisdiction?
 - Seeking employment? Applied where?
 - Longest time employment has been held?
 - Number of jobs since age 16?
 - Been fired or asked to resign from employment?
 - Criminal record that prevents gaining employment?
- Highest level of education?
- Current marital status?
 - Spouse's primary source of income?
- The willfulness of the failure to pay.
 - Other debts? Nature of debt? Amount? Payment history?
 - Credit cards?
 - Any payments made to the court?
 - Reason payments stopped?
- Provide income tax information for the past 3 years.
- Provide bank account statements and balances.
- Financial resources.
 - Nature of income?
 - Government assistance? Type? Reason for receiving government assistance?
 - Pension?
 - Unemployment?
 - Student loan(s) or other financial assistance?
 - Full load of classes? Still attending?
 - Household income?
 - Receiving or eligible for veteran's benefits?
 - Consider national poverty guidelines?
- Basic living expenses.
 - Food, shelter, clothing, necessary medical expenses, or child support?
 - Pay or receive alimony or child support?
 - Own/Lease a vehicle (make, model, and year)?
 - Still making payments? Monthly payment?
 - Children under age 18 in the home? Support others within the home?

- Own real estate?
- Other Expenses
 - Cell phone (what kind and monthly payment)?
 - Cable (monthly payment)?
 - Tattoos and when was the last one done? Cost?
 - Manicures? Gel or Acrylic (how many times filled)? Pedicures? Cost? How often done?
- Consider any other special circumstance that may have an impact on the ability to pay.
 - Consider any unique circumstances, e.g. sick child, caring for elderly parent.

Appendix B

Statutory Requirements

Statutes Referencing Ability to Pay:

Determination to revoke probation or impose imprisonment under conditional sentence:

Failure to comply with order of restitution:

[MCL 712A.30\(11\)](#)

[MCL 769.1a\(11\)](#)

[MCL 780.766\(11\)](#)

[MCL 780.794\(11\)](#)

[MCL 780.826\(11\)](#)

Failure to comply with order of costs for probationers:

[MCL 771.3\(8\)](#)

Determination to modify method of payment of restitution:

[MCL 712A.30\(12\)](#)

[MCL 769.1a\(12\)](#)

[MCL 780.766\(12\)](#)

[MCL 780.794\(12\)](#)

[MCL 780.826\(12\)](#)

Determination to detain/incarcerate for violation of probation for nonpayment of restitution:

[MCL 712A.30\(14\)](#)

[MCL 769.1a\(14\)](#)

[MCL 780.766\(14\)](#)

[MCL 780.794\(14\)](#)

[MCL 780.826\(14\)](#)

Determination to order parents to pay restitution:

[MCL 712A.30\(16\)](#)

[MCL 780.766\(16\)](#)

[MCL 780.794\(16\)](#)

Determination to modify/cancel parent's obligation to pay restitution:

[MCL 712A.30\(17\)](#)

[MCL 780.766\(17\)](#)

[MCL 780.794\(17\)](#)

Determination of amount and method of payment of costs for probationers:

[MCL 771.3\(6\)](#)

Determination to incarcerate for nonpayment of costs ordered under MCL 769.1k:

[MCL 769.1k\(10\)](#)

Statutes Referencing Ability to Pay:

Determination to revoke probation or impose imprisonment under conditional sentence:

712A.30 "Offense" and "victim" defined; order of restitution.

Sec. 30.

(11) If the juvenile is placed on probation, any restitution ordered under this section shall be a condition of that probation. The court may revoke probation if the juvenile fails to comply with the order and if the juvenile has not made a good faith effort to comply with the order. In determining whether to revoke probation, the court shall consider the juvenile's employment status, earning ability, and financial resources, the willfulness of the juvenile's failure to pay, and any other special circumstances that may have a bearing on the juvenile's ability to pay.

769.1a Order of restitution.

Sec. 1a.

(11) If the defendant is placed on probation or paroled or the court imposes a conditional sentence under section 3 of this chapter, any restitution ordered under this section shall be a condition of that probation, parole, or sentence. The court may revoke probation or impose imprisonment under the conditional sentence and the parole board may revoke parole if the defendant fails to comply with the order and if the defendant has not made a good faith effort to comply with the order. In determining whether to revoke probation or parole or impose imprisonment, the court or parole board shall consider the defendant's employment status, earning ability, and financial resources, the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.

771.3 Probation; conditions; entry of order into LEIN; costs as part of sentence of probation; compliance as condition of probation; revocation of probation; fees in delayed or deferred entry of judgment or sentencing.

Sec. 3.

(8) If a probationer is ordered to pay costs as part of a sentence of probation, compliance with that order shall be a condition of probation. The court may revoke probation if the probationer fails to comply with the order and if the probationer has not made a good faith effort to comply with the order. In determining whether to revoke probation, the court shall consider the probationer's employment status, earning ability, and financial resources, the willfulness of the probationer's failure to pay, and any other special circumstances that may have a bearing on the probationer's ability to pay. The proceedings provided for in this subsection are in addition to those provided in section 4 of this chapter.

780.766 "Victim" defined; restitution; order; condition of probation, parole, or sentence; revocation of probation or parole; petition to modify payment method; lien; enforcement; failure to pay restitution; payment by parent of juvenile; definitions; review; report or petition; compliance; copy of order to department of corrections; disposition of unclaimed restitution; amendment of order; effect of bankruptcy; victim as minor.

Sec. 16.

(11) If the defendant is placed on probation or paroled or the court imposes a conditional sentence as provided in section 3 of chapter IX of the code of criminal procedure, 1927 PA 175,

MCL 769.3, any restitution ordered under this section shall be a condition of that probation, parole, or sentence. The court may revoke probation or impose imprisonment under the conditional sentence and the parole board may revoke parole if the defendant fails to comply with the order and if the defendant has not made a good faith effort to comply with the order. In determining whether to revoke probation or parole or impose imprisonment, the court or parole board shall consider the defendant's employment status, earning ability, and financial resources, the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.

780.794 Definitions; order of restitution to be made by juvenile.

Sec. 44.

(11) If the juvenile is placed on probation, any restitution ordered under this section shall be a condition of that probation. The court may revoke probation if the juvenile fails to comply with the order and if the juvenile has not made a good faith effort to comply with the order. In determining whether to revoke probation, the court shall consider the juvenile's employment status, earning ability, and financial resources, the willfulness of the juvenile's failure to pay, and any other special circumstances that may have a bearing on the juvenile's ability to pay.

780.826 Definitions; restitution by defendant convicted of misdemeanor.

Sec. 76.

(11) If the defendant is placed on probation or the court imposes a conditional sentence as provided in section 3 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.3, any restitution ordered under this section shall be a condition of that probation or sentence. The court may revoke probation or impose imprisonment under the conditional sentence if the defendant fails to comply with the order and if the defendant has not made a good faith effort to comply with the order. In determining whether to revoke probation or impose imprisonment, the court shall consider the defendant's employment status, earning ability, and financial resources, the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.

Determination to modify method of payment of restitution:

712A.30 "Offense" and "victim" defined; order of restitution.

Sec. 30.

(12) A juvenile who is required to pay restitution and who is not in willful default of the payment of the restitution may at any time petition the court to modify the method of payment. If the court determines that payment under the order will impose a manifest hardship on the juvenile or his or her immediate family, the court may modify the method of payment.

769.1a Order of restitution.

Sec. 1a.

(12) A defendant who is required to pay restitution and who is not in willful default of the payment of the restitution may at any time petition the sentencing judge or his or her successor to modify the method of payment. If the court determines that payment under the order will impose a manifest hardship on the defendant or his or her immediate family, the court may modify the method of payment.

780.766 "Victim" defined; restitution; order; condition of probation, parole, or sentence; revocation of probation or parole; petition to modify payment method; lien; enforcement; failure to pay restitution; payment by parent of juvenile; definitions; review; report or petition; compliance; copy of order to department of corrections; disposition of unclaimed restitution; amendment of order; effect of bankruptcy; victim as minor.

Sec. 16.

(12) Subject to subsection (18), a defendant who is required to pay restitution and who is not in willful default of the payment of the restitution may at any time petition the sentencing judge or his or her successor to modify the method of payment. If the court determines that payment under the order will impose a manifest hardship on the defendant or his or her immediate family, and if the court also determines that modifying the method of payment will not impose a manifest hardship on the victim, the court may modify the method of payment.

780.794 Definitions; order of restitution to be made by juvenile.

Sec. 44.

(12) Subject to subsection (18), a juvenile who is required to pay restitution and who is not in willful default of the payment of the restitution may at any time petition the court to modify the method of payment. If the court determines that payment under the order will impose a manifest hardship on the juvenile or his or her immediate family, and if the court also determines that modifying the method of payment will not impose a manifest hardship on the victim, the court may modify the method of payment.

780.826 Definitions; restitution by defendant convicted of misdemeanor.

Sec. 76.

(12) Subject to subsection (15), a defendant who is required to pay restitution and who is not in willful default of the payment of the restitution may at any time petition the sentencing judge or his or her successor to modify the method of payment. If the court determines that payment under the order will impose a manifest hardship on the defendant or his or her immediate family, and if the court also determines that modifying the method of payment will not impose a manifest hardship on the victim, the court may modify the method of payment.

Determination to detain/incarcerate for violation of probation for nonpayment of restitution:

712A.30 "Offense" and "victim" defined; order of restitution.

Sec. 30.

(14) Notwithstanding any other provision of this section, a juvenile shall not be detained for a violation of probation, or otherwise, for failure to pay restitution as ordered under this section unless the court determines that the juvenile has the resources to pay the ordered restitution and has not made a good faith effort to do so.

769.1a Order of restitution.

Sec. 1a.

(14) Notwithstanding any other provision of this section, a defendant shall not be imprisoned, jailed, or incarcerated for a violation of probation or parole or otherwise for failure to pay restitution as ordered under this section unless the court or parole board determines that the

defendant has the resources to pay the ordered restitution and has not made a good faith effort to do so.

780.766 "Victim" defined; restitution; order; condition of probation, parole, or sentence; revocation of probation or parole; petition to modify payment method; lien; enforcement; failure to pay restitution; payment by parent of juvenile; definitions; review; report or petition; compliance; copy of order to department of corrections; disposition of unclaimed restitution; amendment of order; effect of bankruptcy; victim as minor.

Sec. 16.

(14) Notwithstanding any other provision of this section, a defendant shall not be imprisoned, jailed, or incarcerated for a violation of probation or parole or otherwise for failure to pay restitution as ordered under this section unless the court or parole board determines that the defendant has the resources to pay the ordered restitution and has not made a good faith effort to do so.

780.794 Definitions; order of restitution to be made by juvenile.

Sec. 44.

(14) Notwithstanding any other provision of this section, a juvenile shall not be detained or imprisoned for a violation of probation or parole or otherwise for failure to pay restitution as ordered under this section unless the court determines that the juvenile has the resources to pay the ordered restitution and has not made a good faith effort to do so.

780.826 Definitions; restitution by defendant convicted of misdemeanor.

Sec. 76.

(14) Notwithstanding any other provision of this section, a defendant shall not be imprisoned, jailed, or incarcerated for a violation of probation or otherwise for failure to pay restitution as ordered under this section unless the court determines that the defendant has the resources to pay the ordered restitution and has not made a good faith effort to do so.

Determination to order parents to pay restitution:

712A.30 "Offense" and "victim" defined; order of restitution.

Sec. 30.

(16) If the court orders a parent to pay restitution under subsection (15), the court shall take into account the financial resources of the parent and the burden that the payment of restitution will impose, with due regard to any other moral or legal financial obligations that the parent may have. If a parent is required to pay restitution under subsection (15), the court shall provide for payment to be made in specified installments and within a specified period of time.

780.766 "Victim" defined; restitution; order; condition of probation, parole, or sentence; revocation of probation or parole; petition to modify payment method; lien; enforcement; failure to pay restitution; payment by parent of juvenile; definitions; review; report or petition; compliance; copy of order to department of corrections; disposition of unclaimed restitution; amendment of order; effect of bankruptcy; victim as minor.

Sec. 16.

(16) If the court orders a parent to pay restitution under subsection (15), the court shall take into account the parent's financial resources and the burden that the payment of restitution will impose, with due regard to any other moral or legal financial obligations the parent may have. If a parent is required to pay restitution under subsection (15), the court shall provide for payment to be made in specified installments and within a specified period of time.

780.794 Definitions; order of restitution to be made by juvenile.

Sec. 44.

(16) If the court orders a parent to pay restitution under subsection (15), the court shall take into account the parent's financial resources and the burden that the payment of restitution will impose, with due regard to any other moral or legal financial obligations the parent may have. If a parent is required to pay restitution under subsection (15), the court shall provide for payment to be made in specified installments and within a specified period of time.

Determination to modify/cancel parent's obligation to pay restitution:

712A.30 "Offense" and "victim" defined; order of restitution.

Sec. 30.

(17) A parent who has been ordered to pay restitution under subsection (15) may petition the court for a modification of the amount of restitution owed by the parent or for a cancellation of any unpaid portion of the parent's obligation. The court shall cancel all or part of the parent's obligation due if the court determines that payment of the amount due will impose a manifest hardship on the parent.

780.766 "Victim" defined; restitution; order; condition of probation, parole, or sentence; revocation of probation or parole; petition to modify payment method; lien; enforcement; failure to pay restitution; payment by parent of juvenile; definitions; review; report or petition; compliance; copy of order to department of corrections; disposition of unclaimed restitution; amendment of order; effect of bankruptcy; victim as minor.

Sec. 16.

(17) A parent who has been ordered to pay restitution under subsection (15) may petition the court for a modification of the amount of restitution owed by the parent or for a cancellation of any unpaid portion of the parent's obligation. The court shall cancel all or part of the parent's obligation due if the court determines that payment of the amount due will impose a manifest hardship on the parent and if the court also determines that modifying the method of payment will not impose a manifest hardship on the victim.

780.794 Definitions; order of restitution to be made by juvenile.

Sec. 44.

(17) A parent who has been ordered to pay restitution under subsection (15) may petition the court for a modification of the amount of restitution owed by the parent or for a cancellation of any unpaid portion of the parent's obligation. The court shall cancel all or part of the parent's obligation due if the court determines that payment of the amount due will impose a manifest hardship on the parent and if the court also determines that modifying the method of payment will not impose a manifest hardship on the victim.

Determination of amount and method of payment of costs for probationers:

771.3 Probation; conditions; entry of order into LEIN; costs as part of sentence of probation; compliance as condition of probation; revocation of probation; fees in delayed or deferred entry of judgment or sentencing.

Sec. 3.

(6) If the court imposes costs under subsection (2) as part of a sentence of probation, all of the following apply:

(a) The court shall not require a probationer to pay costs under subsection (2) unless the probationer is or will be able to pay them during the term of probation. In determining the amount and method of payment of costs under subsection (2), the court shall take into account the probationer's financial resources and the nature of the burden that payment of costs will impose, with due regard to his or her other obligations.

(b) A probationer who is required to pay costs under subsection (1)(g) or (2)(c) and who is not in willful default of the payment of the costs may petition the sentencing judge or his or her successor at any time for a remission of the payment of any unpaid portion of those costs. If the court determines that payment of the amount due will impose a manifest hardship on the probationer or his or her immediate family, the court may remit all or part of the amount due in costs or modify the method of payment.

Determination to incarcerate for nonpayment of costs ordered under MCL 769.1k:

769.1k Imposition of fine, cost, or assessment.

Sec. 1k.

(10) A defendant shall not be imprisoned, jailed, or incarcerated for the nonpayment of costs ordered under this section unless the court determines that the defendant has the resources to pay the ordered costs and has not made a good-faith effort to do so.

Appendix C

Court Rule Requirements

Court Rules Referencing Ability to Pay:

[MCR 1.111](#)

[MCR 6.005](#)

Court Rules Referencing Ability to Pay:

Rule 1.111 Foreign Language Interpreters

(A) Definitions. When used in this rule, the following words and phrases have the following definitions:

(1) “Case or Court Proceeding” means any hearing, trial, or other appearance before any court in this state in an action, appeal, or other proceeding, including any matter conducted by a judge, magistrate, referee, or other hearing officer.

(2) “Party” means a person named as a party or a person with legal decision-making authority in the case or court proceeding.

(3) A person is “financially able to pay for interpretation costs” if the court determines that requiring reimbursement of interpretation costs will not pose an unreasonable burden on the person’s ability to have meaningful access to the court. For purposes of this rule, a person is financially able to pay for interpretation costs when:

(a) The person’s family or household income is greater than 125% of the federal poverty level; and

(b) An assessment of interpretation costs at the conclusion of the litigation would not unreasonably impede the person’s ability to defend or pursue the claims involved in the matter.

(4) “Certified foreign language interpreter” means a person who has:

(a) passed a foreign language interpreter test administered by the State Court Administrative Office or a similar state or federal test approved by the state court administrator,

(b) met all the requirements established by the state court administrator for this interpreter classification, and

(c) registered with the State Court Administrative Office.

(5) “Interpret” and “interpretation” mean the oral rendering of spoken communication from one language to another without change in meaning.

(6) “Qualified foreign language interpreter” means:

(a) A person who provides interpretation services, provided that the person has:

(i) registered with the State Court Administrative Office; and

(ii) met the requirements established by the state court administrator for this interpreter classification; and

(iii) been determined by the court after voir dire to be competent to provide interpretation services for the proceeding in which the interpreter is providing services, or

(b) A person who works for an entity that provides in-person interpretation services provided that:

(i) both the entity and the person have registered with the State Court Administrative Office; and

(ii) the person has met the requirements established by the state court administrator for this interpreter classification; and

(iii) the person has been determined by the court after voir dire to be competent to provide interpretation services for the proceeding in which the interpreter is providing services, or

(c) A person who works for an entity that provides interpretation services by telecommunication equipment, provided that:

(i) the entity has registered with the State Court Administrative Office; and

(ii) the entity has met the requirements established by the state court administrator for this interpreter classification; and

(iii) the person has been determined by the court after voir dire to be competent to provide interpretation services for the proceeding in which the interpreter is providing services

(B) Appointment of a Foreign Language Interpreter.

(1) If a person requests a foreign language interpreter and the court determines such services are necessary for the person to meaningfully participate in the case or court proceeding, or on the court's own determination that foreign language interpreter services are necessary for a person to meaningfully participate in the case or court proceeding, the court shall appoint a foreign language interpreter for that person if the person is a witness testifying in a civil or criminal case or court proceeding or is a party.

(2) The court may appoint a foreign language interpreter for a person other than a party or witness who has a substantial interest in the case or court proceeding.

(3) In order to determine whether the services of a foreign language interpreter are necessary for a person to meaningfully participate under subrule (B)(1), the court shall rely upon a request by an LEP individual (or a request made on behalf of an LEP individual) or prior notice in the record. If no such requests have been made, the court may conduct an examination of the person on the record to determine whether such services are necessary. During the examination, the court may use a foreign language interpreter. For purposes of this examination, the court is not required to comply with the requirements of subrule (F) and the foreign language interpreter may participate remotely.

(C) Waiver of Appointment of Foreign Language Interpreter. A person may waive the right to a foreign language interpreter established under subrule (B)(1) unless the court determines that the interpreter is required for the protection of the person's rights and the integrity of the case or court proceeding. The court must find on the record that a person's waiver of an interpreter is knowing and voluntary. When accepting the person's waiver, the court may use a foreign language interpreter. For purposes of this waiver, the court is not required to comply with the requirements of subrule (F) and the foreign language interpreter may participate remotely.

(D) Recordings. The court may make a recording of anything said by a foreign language interpreter or a limited English proficient person while testifying or responding to a colloquy during those portions of the proceedings.

(E) Avoidance of Potential Conflicts of Interest.

(1) The court should use all reasonable efforts to avoid potential conflicts of interest when appointing a person as a foreign language interpreter and shall state its reasons on the record for appointing the person if any of the following applies:

- (a) The interpreter is compensated by a business owned or controlled by a party or a witness;
- (b) The interpreter is a friend, a family member, or a household member of a party or witness;
- (c) The interpreter is a potential witness;
- (d) The interpreter is a law enforcement officer;
- (e) The interpreter has a pecuniary or other interest in the outcome of the case;
- (f) The appointment of the interpreter would not serve to protect a party's rights or ensure the integrity of the proceedings;
- (g) The interpreter does have, or may have, a perceived conflict of interest;
- (h) The appointment of the interpreter creates an appearance of impropriety.

(2) A court employee may interpret legal proceedings as follows:

(a) The court may employ a person as an interpreter. The employee must meet the minimum requirements for interpreters established by subrule (A)(4). The state court administrator may authorize the court to hire a person who does not meet the minimum requirements established by subrule (A)(4) for good cause including the unavailability of a certification test for the foreign language and the absence of certified interpreters for the foreign language in the geographic area in which the court sits. The court seeking authorization from the state court administrator shall provide proof of the employee's competency to act as an interpreter and shall submit a plan for

the employee to meet the minimum requirements established by subrule (A)(4) within a reasonable time.

(b) The court may use an employee as an interpreter if the employee meets the minimum requirements for interpreters established by this rule and is not otherwise disqualified.

(F) Appointment of Foreign Language Interpreters.

(1) When the court appoints a foreign language interpreter under subrule (B)(1), the court shall appoint a certified foreign language interpreter whenever practicable. If a certified foreign language interpreter is not reasonably available, and after considering the gravity of the proceedings and whether the matter should be rescheduled, the court may appoint a qualified foreign language interpreter who meets the qualifications in (A)(6). The court shall make a record of its reasons for using a qualified foreign language interpreter.

(2) If neither a certified foreign language interpreter nor a qualified foreign language interpreter is reasonably available, and after considering the gravity of the proceeding and whether the matter should be rescheduled, the court may appoint a person whom the court determines through voir dire to be capable of conveying the intent and content of the speaker's words sufficiently to allow the court to conduct the proceeding without prejudice to the limited English proficient person.

(3) The court shall appoint a single interpreter for a case or court proceeding. The court may appoint more than one interpreter after consideration of the nature and duration of the proceeding; the number of parties in interest and witnesses requiring an interpreter; the primary languages of those persons; and the quality of the remote technology that may be utilized when deemed necessary by the court to ensure effective communication in any case or court proceeding.

(4) The court may set reasonable compensation for interpreters who are appointed by the court. Court-appointed interpreter costs are to be paid out of funds provided by law or by the court.

(5) If a party is financially able to pay for interpretation costs, the court may order the party to reimburse the court for all or a portion of interpretation costs.

(6) Any doubts as to eligibility for interpreter services should be resolved in favor of appointment of an interpreter.

(7) At the time of determining eligibility, the court shall inform the party or witness of the penalties for making a false statement. The party has the continuing obligation to inform the court of any change in financial status and, upon request of the court, the party must submit financial information.

(G) Administration of Oath or Affirmation to Interpreters. The court shall administer an oath or affirmation to a foreign language interpreter substantially conforming to the following: "Do you

solemnly swear or affirm that you will truly, accurately, and impartially interpret in the matter now before the court and not divulge confidential communications, so help you God?"

(H) Request for Review.

(1) Any time a court denies a request for the appointment of a foreign language interpreter or orders reimbursement of interpretation costs, it shall do so by written order.

(2) An LEP individual may immediately request review of the denial of appointment of a foreign language interpreter or an assessment for the reimbursement of interpretation costs. A request for review must be submitted to the court within 56 days after entry of the order.

(a) In a court having two or more judges, the chief judge shall decide the request for review de novo.

(b) In a single-judge court, or if the denial was issued by a chief judge, the judge shall refer the request for review to the state court administrator for assignment to another judge, who shall decide the request de novo.

(c) A pending request for review under this subrule stays the underlying litigation.

(d) A pending request for review under this subrule must be decided on an expedited basis.

(e) No motion fee is required for a request for review made under this subrule.

Rule 6.005 Right to Assistance of Lawyer; Advice; Appointment for Indigents; Waiver; Joint Representation; Grand Jury Proceedings

(A) Advice of Right. At the arraignment on the warrant or complaint, the court must advise the defendant

(1) of entitlement to a lawyer's assistance at all subsequent court proceedings, and

(2) that the court will appoint a lawyer at public expense if the defendant wants one and is financially unable to retain one.

The court must question the defendant to determine whether the defendant wants a lawyer and, if so, whether the defendant is financially unable to retain one.

(B) Questioning Defendant About Indigency. If the defendant requests a lawyer and claims financial inability to retain one, the court must determine whether the defendant is indigent. The determination of indigency must be guided by the following factors:

(1) present employment, earning capacity and living expenses;

(2) outstanding debts and liabilities, secured and unsecured;

(3) whether the defendant has qualified for and is receiving any form of public assistance;

(4) availability and convertibility, without undue financial hardship to the defendant and the defendant's dependents, of any personal or real property owned; and

(5) any other circumstances that would impair the ability to pay a lawyer's fee as would ordinarily be required to retain competent counsel.

The ability to post bond for pretrial release does not make the defendant ineligible for appointment of a lawyer.

(C) Partial Indigency. If a defendant is able to pay part of the cost of a lawyer, the court may require contribution to the cost of providing a lawyer and may establish a plan for collecting the contribution.

(D) Appointment or Waiver of a Lawyer. If the court determines that the defendant is financially unable to retain a lawyer, it must promptly appoint a lawyer and promptly notify the lawyer of the appointment. The court may not permit the defendant to make an initial waiver of the right to be represented by a lawyer without first

(1) advising the defendant of the charge, the maximum possible prison sentence for the offense, any mandatory minimum sentence required by law, and the risk involved in self-representation, and

(2) offering the defendant the opportunity to consult with a retained lawyer or, if the defendant is indigent, the opportunity to consult with an appointed lawyer.

(E) Advice at Subsequent Proceedings. If a defendant has waived the assistance of a lawyer, the record of each subsequent proceeding (e.g., preliminary examination, arraignment, proceedings leading to possible revocation of youthful trainee status, hearings, trial or sentencing) need show only that the court advised the defendant of the continuing right to a lawyer's assistance (at public expense if the defendant is indigent) and that the defendant waived that right. Before the court begins such proceedings,

(1) the defendant must reaffirm that a lawyer's assistance is not wanted; or

(2) if the defendant requests a lawyer and is financially unable to retain one, the court must appoint one; or

(3) if the defendant wants to retain a lawyer and has the financial ability to do so, the court must allow the defendant a reasonable opportunity to retain one. The court may refuse to adjourn a proceeding to appoint counsel or allow a defendant to retain counsel if an adjournment would significantly prejudice the prosecution, and the defendant has not been reasonably diligent in seeking counsel.

(F) Multiple Representation. When two or more indigent defendants are jointly charged with an offense or offenses or their cases are otherwise joined, the court must appoint separate lawyers unassociated in the practice of law for each defendant. Whenever two or more defendants who have been jointly charged or whose cases have been joined are represented by the same retained lawyer or lawyers associated in the practice of law, the court must inquire into the potential for a conflict of interest that might jeopardize the right of each defendant to the undivided loyalty of the lawyer. The court may not permit the joint representation unless:

(1) the lawyer or lawyers state on the record the reasons for believing that joint representation in all probability will not cause a conflict of interests;

(2) the defendants state on the record after the court's inquiry and the lawyer's statement, that they desire to proceed with the same lawyer; and

(3) the court finds on the record that joint representation in all probability will not cause a conflict of interest and states its reasons for the finding.

(G) Unanticipated Conflict of Interest. If, in a case of joint representation, a conflict of interest arises at any time, including trial, the lawyer must immediately inform the court. If the court agrees that a conflict has arisen, it must afford one or more of the defendants the opportunity to retain separate lawyers. The court should on its own initiative inquire into any potential conflict that becomes apparent, and take such action as the interests of justice require.

(H) Scope of Trial Lawyer's Responsibilities. The responsibilities of the trial lawyer who represents the defendant include

(1) representing the defendant in all trial court proceedings through initial sentencing,

(2) filing of interlocutory appeals the lawyer deems appropriate, and

(3) responding to any preconviction appeals by the prosecutor. The defendant's lawyer must either:

(i) file a substantive brief in response to the prosecutor's interlocutory application for leave to appeal, or

(ii) notify the Court of Appeals that the lawyer will not be filing a brief in response to the application.

(4) Unless an appellate lawyer has been appointed or retained, or if retained trial counsel withdraws, the trial lawyer who represents the defendant is responsible for filing postconviction motions the lawyer deems appropriate, including motions for new trial, for a directed verdict of acquittal, to withdraw plea, or for resentencing.

(5) when an appellate lawyer has been appointed or retained, promptly making the defendant's file, including all discovery material obtained, available for copying upon request of that lawyer.

The trial lawyer must retain the materials in the defendant's file for at least five years after the case is disposed in the trial court.

(I) Assistance of Lawyer at Grand Jury Proceedings.

(1) A witness called before a grand jury or a grand juror is entitled to have a lawyer present in the hearing room while the witness gives testimony. A witness may not refuse to appear for reasons of unavailability of the lawyer for that witness. Except as otherwise provided by law, the lawyer may not participate in the proceedings other than to advise the witness.

(2) The prosecutor assisting the grand jury is responsible for ensuring that a witness is informed of the right to a lawyer's assistance during examination by written notice accompanying the subpoena to the witness and by personal advice immediately before the examination. The notice must include language informing the witness that if the witness is financially unable to retain a lawyer, the chief judge in the circuit court in which the grand jury is convened will on request appoint one for the witness at public expense.

Appendix D

Case Law Summary

Ability to Pay Case Law Summary

Bearden v Georgia, 461 US 660 (1983).

The defendant was indicted for felonies of burglary and theft by receiving stolen property and pled guilty to these offenses. The Georgia trial court did not enter a judgment of guilt, but deferred further proceedings and sentenced the petitioner to three years on probation for the burglary charge and a concurrent one year on probation for the theft charge. As a condition of probation, the trial court ordered the defendant to pay \$500 fine and \$250 in restitution. The defendant was ordered to pay \$100 the day of sentencing, \$100 the next day, and the \$550 balance within four months. The defendant borrowed money from his parents and paid the first \$200. However, defendant was subsequently laid off from his job. Defendant had a ninth grade education, could not read, and repeatedly tried to find other work but was unable to do so. Defendant had no income or assets. The defendant notified the probation office shortly before the balance was due that he was going to be late with his payment because he could not find a job. The State subsequently filed a petition to revoke petitioner's probation because he failed to pay the balance. The trial court revoked the defendant's probation, entered a conviction, and sentenced the defendant to serve the remaining portion of his probationary period in prison. The Georgia's Court of Appeals rejected the defendant's claim that imprisoning him for inability to pay the fine violated the 14th Amendment relying on earlier Georgia Supreme Court cases. The Georgia Supreme Court denied review. The U.S. Supreme Court held that the sentencing court could not properly revoke a defendant's probation for failure to pay a fine and make restitution absent evidence and findings that he was somehow responsible for the failure and that alternative forms of punishment would be inadequate to meet the State's interest in punishment and deterrence. The State cannot subject a certain class of convicted defendants to a period of imprisonment beyond the statutory maximum solely because they are too poor to pay a fine. The State cannot impose a fine as a sentence and then automatically convert it to a jail term solely because the defendant is indigent and cannot forthwith pay the fine in full. Only when a probationer has willfully refused to pay the fine or restitution when he has the means to pay will the state be perfectly justified in using imprisonment as a sanction to enforce collection.

Turner v Rogers, 131 S.Ct. 2507 (2011).

The petitioner, Michael D. Turner, was incarcerated six times between 2003 and 2010 for accumulated child support payment arrears. The duration of incarceration ranged from one day to eight months. Turner claimed that he was entitled to counsel at his hearing. The Court held that a state is under no obligation to provide free counsel to indigent defendants in civil contempt cases. However, state courts are under an obligation to provide alternative procedures to ensure a fair determination of the questions at hand. The Court held that Turner did not have clear notice that "ability to pay" would be the "critical question" in this proceeding, nor was he provided with information or forms that would have allowed Turner to disclose such information. The Court stated the following:

Solicitor General points out, there is available a set of "substitute procedural safeguards," *Mathews*, 424 U.S., at 335, 96S.Ct. 893, which, if employed together, can significantly reduce the risk of an erroneous deprivation of liberty. They can do so, moreover, without incurring some of the drawbacks inherent in recognizing an automatic right to counsel. Those safeguards include (1) notice to

Ability to Pay Case Law Summary

the defendant that his “ability to pay” is a critical issue in the contempt proceeding; (2) the use of a form (or the equivalent) to elicit relevant financial information; (3) an opportunity at the hearing for the defendant to respond to statements and questions about his financial status, (e.g., those triggered by his responses on the form); and (4) an express finding by the court that the defendant has the ability to pay. *Turner v. Rogers*, 131 S.Ct. 2507, 2519 [11] (2011)

People v Music, 428 Mich 356 (1987).

The defendant was originally charged with larceny in a building but pled guilty to a reduced charge of attempted larceny in a building. The defendant was sentenced to, among other terms of probation, pay costs by making installment payments. The probation order further provided that “failure to pay any monthly installment when due shall constitute a violation of the terms of this Order of Probation.” The defendant argues that he was unlawfully ordered to pay such costs and that the sentencing judge failed to satisfy MCL 771.3(5)(a). The Court held that 1) in imposing restitution or costs as part of sentence of probation, the court need not inquire regarding defendant’s ability to pay, absent an assertion of inability by defendant, and 2) defendant who does not timely challenge amount of costs waives right to challenge on appeal order imposing costs that appears on its face to be reasonable approximation on costs permitted. The Court further held that a probationer is free to ask the sentencing judge to reduce the amount of restitution or costs, and it is clear that a probationer cannot be punished for failure to pay restitution or costs that the probationer cannot afford¹. A hearing before the court may be necessary if the issue of defendant’s ability to pay as outlined in the statute becomes apparent to the court, the probation department, or the defendant. A defendant who feels unable to pay must be afforded the right to seek relief at any time during the probationary period, just as the probation department is free to bring the matter before the court in the event a defendant does not pay.

People v Jackson, 483 Mich 271 (2009).

The defendant was charged with several crimes for criminal actions involving assault, home invasion, and theft. As a result of his indigency, he was appointed a court-appointed attorney who negotiated a plea of first-degree home invasion, assault with intent to rob while unarmed, and tampering with telephone lines. Defendant was sentenced to an 8 year minimum prison term and the court imposed various costs and fines, including \$725 for “initial defense costs” (his court-appointed attorney’s fee). The trial court did not articulate whether it evaluated the defendant’s foreseeable ability to pay the attorney fee. The trial court further issued an order to remit prisoner funds for fines, costs, and assessments to allow the DOC to begin taking money from the prisoner’s account to satisfy the various fees and costs imposed by the trial court. Defendant requested appellate counsel and SADO was appointed. SADO motioned the trial court to correct the defendant’s sentence by arguing that the court imposed the attorney fee without considering defendant’s ability to pay it. The trial court denied the motion, which was appealed to the Court of Appeals by delayed application which was also denied. The Michigan Supreme Court granted leave. Defendant challenged the constitutionality of the procedure used

¹ The statute, MCL 769.1a, no longer requires the court to consider the defendant’s ability to pay when determining the amount of restitution owed. *People v Collins*, 239 Mich App 125 (1999).

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to impose and enforce a fee for his court-appointed attorney. The Court held that 1) presentence determination of a defendant's ability to pay for court appointed attorney is not constitutionally required; 2) trial courts should not entertain challenges based on ability to pay until enforcement has begun; 3) trial courts should focus on whether the prisoner's indigency has ended and whether payment at the level ordered would cause manifest hardship; 4) statute on collection of payment from prisoner was not made unconstitutional by lack of requirement of an ability-to-pay analysis; and 5) trial courts are only required to amend remittance order when presumption of nonindigency is rebutted with evidence that enforcement would impose manifest hardship on prisoner or immediate family. The Court further held that the defendant has no constitutional right to an assessment of their ability to pay before the imposition of a fee for a court-appointed attorney. However, when a trial court attempts to enforce its imposition of a fee for a court-appointed attorney, the defendant has a due process right to be advised of this enforcement action and be given an opportunity to contest the enforcement on the basis of indigency. Once enforcement has begun for payment of attorney fee for court-appointed attorney and a defendant has made a timely objection based on claimed inability to pay, trial courts should evaluate the defendant's ability to pay.

In re Lampart/People v Lampart and Alexandroni, 306 Mich App 226 (2014).

In 2007, Lampart, a juvenile at the time, entered a plea of admission to arson. Restitution was ordered in amount of \$28,210. The trial court subsequently ordered Alexandroni, the parent to Lampart, to pay restitution on behalf of Lampart in the amount of \$250 per month. The trial court entered an order withholding wages in the amount of \$62.50 per week to satisfy the restitution obligation. In September of 2009, Alexandroni suffered a heart attack, which left her unemployed due to the resultant heart condition. The wage garnishment was terminated due to her unemployment status. The trial court held a reimbursement hearing in April of 2011. Alexandroni stated in an affidavit that she was unemployed and that her only source of income was \$730 per month in SSDI benefits. Alexandroni argues that pursuant to 42 USC 407(a), which provides for an anti-attachment provision for social security benefits, the SSDI benefits were exempt from attachment, garnishment, or other court imposed obligation. The trial court did not agree and concluded that enforcing a restitution order under the Juvenile Code did not constitute "execution, levy, attachment, garnishment, or other legal process" and that it could consider Alexandroni's SSDI benefits as income. Alexandroni did not appeal this order. In 2012, Alexandroni filed a motion for relief from judgment pursuant to MCR 2.612(C)(1)(d) and/or (f) seeking to modify or cancel the obligation to make restitution payments. The trial court denied the motion. Alexandroni appealed this order. The Court held that the defendant's ability to pay is irrelevant when it comes to ordering restitution; only the victim's actual losses from the criminal conduct is to be considered. The Court held that it agreed with the trial court's decision not to cancel or modify the restitution obligation since Alexandroni may have assets, or may in the future have sources of income from which her restitution obligation can be satisfied. However, the Court did not agree with the trial court's decision that the court can still enforce the collection of restitution even if the only source of income is SSDI. The Court stated that the protection afforded to money received as social security benefits extends before and after the benefits are received...even after a recipient receives SSDI benefits and deposits them into a bank account, the SSDI benefits are still protected by 42 USC 407(a). Further, the Court stated that when a state court order attaches to social security benefits in contravention of 42 USC

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407(a), the attachment amounts to a conflict with federal law, and such a conflict is one “that the [s]tate cannot win.”

Appendix E

Ability to Pay Language

Ability to Pay Language

Note: The following language may be used in a variety of different ways, including but not limited to, initial hearing or pretrial, probation screening, sentencing/disposition, payment plans, notices, and show cause orders.

You must appear in court in order to have the court consider your ability to pay. Failure to appear in court may result in a warrant for your arrest. The court will not put you in jail if you are found to be unable to pay fines, fees, or costs due. The court will consider alternatives to immediate payment, including a payment plan. Please bring all relevant financial information with you to court.

If at any time you are unable to make payment(s), you must appear in court in order to have the court consider your ability to pay. The court will not put you in jail if the court determines you are unable to pay fines, costs, and other financial obligations due. However, you must respond to all notices and appear in court as ordered. Failure to appear in court may result in a warrant for your arrest. The court will consider payment modification, including an extended due date, new or modified installment payment plan, or payment alternatives. Please bring all relevant financial information with you to court.

Appendix F

Payment Plan Calculators

Pay Period		See Pay Period Key below
Children		Children residing with defendant

- | Chart* | | | |
|--|----|--|--------|
| Test II amount available: | | | |
| Weekly pay period | \$ | | 217.50 |
| Biweekly pay period | \$ | | 435.00 |
| Semimonthly pay period | \$ | | 471.25 |
| Monthly pay period | \$ | | 942.50 |
| *Training wage: for person aged 16 to 19 on their first job, use 85% of the above figures. | | | |

1	Weekly	20 or older OR 19 or younger and not first job
2	Biweekly	20 or older OR 19 or younger and not first job
3	Semimonthly	20 or older OR 19 or younger and not first job
4	Monthly	20 or older OR 19 or younger and not first job
5	Weekly	19 or younger and first job
6	Biweekly	19 or younger and first job
7	Semimonthly	19 or younger and first job
8	Monthly	19 or younger and first job

Actual Payment Plan Calculator

Definitions and Instructions

Pay Period

This is the time between paychecks. Options include weekly (7 days), biweekly (14 days), semimonthly (twice per month), and monthly, and are based on the litigant's age and whether or not this is the litigant's first job. This is a required field. Select the value from the drop down list (use the pay period key at the bottom of the calculator to determine which value to select). This value is used to calculate the test II amount available (minimum wage).

Children

This is the number of children being supported (other than by court-ordered child support) by the litigant. If there is no court-ordered child support, then this is the number of children residing with the litigant. If there is court-ordered child support that is being paid by the litigant (proof of payments should be provided) and there are additional children, then this is the number of additional children residing with the litigant for which no support is ordered to be paid. If there is court-ordered child support that is being paid by the litigant and there are no additional children, then this value should be 0. If there are more than five children, then this value should be 5. This is a required field. Select the value from the drop down list. This value is used to calculate disposable earnings (line 4), and provides an allowance for supporting children by reducing the amount of disposable earnings.

Line 1 – Gross Earnings

This is the litigant's salary each pay period before withholdings and deductions. This is a required field. Enter the gross earnings from the earnings statement.

Line 2 – Deductions

- a – Federal withholding tax – This is the amount of federal income taxes withheld each pay period. This is a required field. Enter the amount withheld from the earnings statement.
- b – State withholding tax – This is the amount of state income taxes withheld each pay period. This is a required field. Enter the amount withheld from the earnings statement.
- c – Employee portion of Social Security tax – This is the amount paid to Social Security (Old-Age, Survivors, and Disability Insurance or OASDI) each pay period. This is a required field. Enter the amount withheld from the earnings statement.
- d – Employee portion of Medicare tax – This is the amount paid into the Medicare system each pay period. This is a required field. Enter the amount withheld from the earnings statement.
- e – City withholding tax – This is the amount of city income taxes withheld each pay period. If applicable, this is a required field. Enter the amount withheld from the earnings statement.
- f – Mandatory retirement payments – These are mandatory payments made to retirement and pension plans. For example, an employer may require an employee to contribute a certain percentage of their gross earnings towards a self-funding pension plan. If applicable, this is a required field. Enter the amount withheld from the earnings statement.
- g – Health insurance – This is the amount of health insurance premiums withheld each pay period. This is a required field. Enter the amount withheld from the earnings statement.
- h – Total required deductions – This is the total of lines 2a through 2f. This is a required field that is calculated by the calculator.

Line 3 – Net earnings

This is calculated by subtracting total required deductions (line 2g) from gross earnings (line 1). This is a required field that is calculated by the calculator.

Line 4 – Disposable earnings

This is calculated by multiplying a child support allowance percentage, which is based upon the number of children entered at the top of the calculator, by net earnings (line 3). This is a required field that is calculated by the calculator.

Line 5 – Test I amount available (percentage)

This is calculated by multiplying the selected percentage by disposable earnings (line 4). This is a required field. Select the percentage, which cannot exceed 25%, from the drop down list. This amount is calculated by the calculator based on the percentage selected.

Line 6 – Test II amount available (minimum wage)

This protects 30 hours per week at the minimum wage rate (\$7.25 per hour).

a – Appropriate figure from chart – This is a required field. Based on the pay period entered at the top of the calculator, the calculator selects the appropriate amount from the chart.

b – Amount available – This is calculated by subtracting the amount from the chart (line 6a) from disposable earnings (line 4). This is a required field that is calculated by the calculator.

Line 7 – Maximum payment amount

This is the lesser of test I (line 5) or test II (line 6b). This is a required field that is completed by the calculator.

Line 8 – Orders with priority

These are amounts required by law to be withheld from the litigant's paycheck each pay period. Options include:

a – Orders of bankruptcy court – If applicable, this is a required field. Enter the amount withheld from the earnings statement.

b – Orders for past due federal or state taxes – If applicable, this is a required field. Enter the amount withheld from the earnings statement.

c – Income withholding for support of any person – If applicable, this is a required field. Enter the amount withheld from the earnings statement.

d – Other general garnishments – If applicable, this is a required field. Enter the amount withheld from the earnings statement.

e – Total of all priority amounts withheld (total of lines 8a through 8d) – This is a required field that is calculated by the calculator.

Line 9 – Amount available to be paid

This is the amount available to be paid to the court each pay period. This is calculated by subtracting the total of all priority orders (line 8e) from the maximum payment amount (line 7). This amount is calculated by the calculator. Note: In order to afford the litigant the same rights as civil debtors, the total of all withholding monies cannot exceed 25% of the litigant's disposable pay.

Line 10 – Amount to be paid

This is the amount to be paid to the court each pay period. Enter the lesser of the amount available to be paid (line 9) or the total amount owed.

Estimated Payment Plan Calculator

Pay Period See Pay Period Key below Hourly Rate \$
Children Children residing with defendant Hours per Pay \$

1 Gross earnings for the pay period		<div style="background-color: yellow; width: 100px; height: 15px;"></div>
2 Deductions required to be withheld from gross earnings:		
a Federal withholding tax (for income tax)	\$	-
b State withholding tax (for income tax)	\$	-
c Employee portion of Social Security tax	\$	-
d Employee portion of Medicare tax	\$	-
e City withholding tax (for income tax)	\$	-
f Total required deductions	\$	-
3 Net earnings	\$	-
4 Disposable earnings	100%	\$ -
5 Test I amount available (percentage)	<div style="background-color: yellow; width: 100px; height: 15px;"></div>	\$ -
6 Test II amount available (minimum wage)		
a Appropriate figure from chart below	FALSE	
b Amount available	\$	-
7 Maximum payment amount	FALSE	FALSE
8 Amounts withheld from disposable earnings pursuant to orders with priority:		
a Orders of bankruptcy court	<u> </u>	
b Orders for past due federal or state taxes	<u> </u>	
c Income withholding for support of any person	<u> </u>	
d Other general garnishments	<u> </u>	
e Total of all priority amounts withheld	\$	-
9 Amount available to be paid per pay period	\$	- FALSE
10 Amount to be paid per pay period	<u> </u>	

Chart*

Test II amount available:

Weekly pay period	\$	217.50
Biweekly pay period	\$	435.00
Semimonthly pay period	\$	471.25
Monthly pay period	\$	942.50

*Training wage: for person aged 16 to 19 on their first job, use 85% of the above figures.

Pay Period Key:

1	Weekly	20 or older OR 19 or younger and not first job
2	Biweekly	20 or older OR 19 or younger and not first job
3	Semimonthly	20 or older OR 19 or younger and not first job
4	Monthly	20 or older OR 19 or younger and not first job
5	Weekly	19 or younger and first job
6	Biweekly	19 or younger and first job
7	Semimonthly	19 or younger and first job
8	Monthly	19 or younger and first job

Estimated Payment Plan Calculator

Definitions and Instructions

Pay Period

This is the time between paychecks. Options include weekly (7 days), biweekly (14 days), semimonthly (twice per month), and monthly, and are based on the litigant's age and whether or not this is the litigant's first job. This is a required field. Select the value from the drop down list (use the pay period key at the bottom of the calculator to determine which value to select). This value is used to calculate the test II amount available (minimum wage).

Children

This is the number of children being supported (other than by court-ordered child support) by the litigant. If there is no court-ordered child support, then this is the number of children residing with the litigant. If there is court-ordered child support that is being paid by the litigant (proof of payments should be provided) and there are additional children, then this is the number of additional children residing with the litigant for which no support is ordered to be paid. If there is court-ordered child support that is being paid by the litigant and there are no additional children, then this value should be 0. If there are more than five children, then this value should be 5. This is a required field. Select the value from the drop down list. This value is used to calculate disposable earnings (line 4), and provides an allowance for supporting children by reducing the amount of disposable earnings.

Hourly Rate

This is the amount the litigant earns per hour. This is an optional field. Enter the rate, which is used to calculate gross earnings.

Hours Worked

This is the average number of hours worked per pay period. This is an optional field. Enter the hours, which is used to calculate gross earnings.

Line 1 – Gross Earnings

This is the litigant's salary each pay period before withholdings and deductions. This is a required field. If actual gross earnings are unknown and the hourly rate and hours worked were entered, then enter the calculated gross earnings located immediately above this line.

Line 2 – Deductions

a – Federal withholding tax – This is the amount of federal income taxes withheld each pay period. This is a required field. This amount is calculated by the calculator based on the gross earnings entered.

b – State withholding tax – This is the amount of state income taxes withheld each pay period. This is a required field. This amount is calculated by the calculator based on the gross earnings entered.

c – Employee portion of Social Security tax – This is the amount paid to Social Security (Old-Age, Survivors, and Disability Insurance or OASDI) each pay period. This is a required field. This amount is calculated by the calculator based on the gross earnings entered.

d – Employee portion of Medicare tax – This is the amount paid into the Medicare system each pay period. This is a required field. This amount is calculated by the calculator based on the gross earnings entered.

e – City withholding tax – This is the amount of city income taxes withheld each pay period. If applicable, this is a required field. This amount is calculated by the calculator based on the gross earnings entered.

f – Total required deductions – This is the total of lines 2a through 2e. This is a required field that is calculated by the calculator.

Line 3 – Net earnings

This is calculated by subtracting total required deductions (line 2f) from gross earnings (line 1). This is a required field that is calculated by the calculator.

Line 4 – Disposable earnings

This is calculated by multiplying a child support allowance percentage, which is based upon the number of children entered at the top of the calculator, by net earnings (line 3). This is a required field that is calculated by the calculator.

Line 5 – Test I amount available (percentage)

This is calculated by multiplying the selected percentage by disposable earnings (line 4). This is a required field. Select the percentage, which cannot exceed 25%, from the drop down list. This amount is calculated by the calculator based on the percentage selected.

Line 6 – Test II amount available (minimum wage)

This protects 30 hours per week at the minimum wage rate (\$7.25 per hour).

a – Appropriate figure from chart – This is a required field. Based on the pay period entered at the top of the calculator, the calculator selects the appropriate amount from the chart.

b – Amount available – This is calculated by subtracting the amount from the chart (line 6a) from disposable earnings (line 4). This is a required field that is calculated by the calculator.

Line 7 – Maximum payment amount

This is the lesser of test I (line 5) or test II (line 6b). This is a required field that is completed by the calculator.

Line 8 – Orders with priority

These are amounts required by law to be withheld from the litigant's paycheck each pay period. Options include:

a – Orders of bankruptcy court – If applicable, this is a required field. Enter the amount being paid each pay period (proof of payments should be provided).

b – Orders for past due federal or state taxes – If applicable, this is a required field. Enter the amount being paid each pay period (proof of payments should be provided).

c – Income withholding for support of any person – If applicable, this is a required field. Enter the amount being paid each pay period (proof of payments should be provided).

d – Other general garnishments – If applicable, this is a required field. Enter the amount being paid each pay period (proof of payments should be provided).

e – Total of all priority amounts withheld (total of lines 8a through 8d) – This is a required field that is calculated by the calculator.

Line 9 – Amount available to be paid

This is the amount available to be paid to the court each pay period. This is calculated by subtracting the total of all priority orders (line 8e) from the maximum payment amount (line 7). This amount is calculated by the calculator. Note: In order to afford the litigant the same rights as civil debtors, the total of all withholding monies cannot exceed 25% of the litigant's disposable pay.

Line 10 – Amount to be paid

This is the amount to be paid to the court each pay period. Enter the lesser of the amount available to be paid (line 9) or the total amount owed.

Juvenile Estimated Payment Plan Calculator

Hourly Rate _____
Hours per Pay _____ \$ -

1 Gross earnings for the pay period		
2 Deductions required to be withheld from gross earnings:		
a Federal withholding tax (for income tax)	\$ -	
b State withholding tax (for income tax)	\$ -	
c Employee portion of Social Security tax	\$ -	
d Employee portion of Medicare tax	\$ -	
e City withholding tax (for income tax)	\$ -	
f Total required deductions	\$ -	
3 Net earnings		\$ -
4 Expenses per pay period		
a Transportation (transit pass, car insurance, etc.)		
b Employment related (uniform, supplies, etc.)		
c School related (supplies, other school fees, etc.)		
d Other expenses (support of child and/or household)		
e Total expenses	\$ -	
5 Amount available to be paid per pay period	\$ -	FALSE
6 Amount to be paid per pay period		

Juvenile Estimated Payment Plan Calculator

Definitions and Instructions

Hourly Rate

This is the amount the juvenile earns per hour. This is an optional field. Enter the rate, which is used to calculate gross earnings.

Hours Worked

This is the average number of hours worked per pay period. This is an optional field. Enter the hours, which is used to calculate gross earnings.

Line 1 – Gross Earnings

This is the juvenile's salary each pay period before withholdings and deductions. This is a required field. If actual gross earnings are unknown and the hourly rate and hours worked were entered, then enter the calculated gross earnings located immediately above this line.

Line 2 – Deductions

a – Federal withholding tax – This is the amount of federal income taxes withheld each pay period. This is a required field. This amount is calculated by the calculator based on the gross earnings entered.

b – State withholding tax – This is the amount of state income taxes withheld each pay period. This is a required field. This amount is calculated by the calculator based on the gross earnings entered.

c – Employee portion of Social Security tax – This is the amount paid to Social Security (Old-Age, Survivors, and Disability Insurance or OASDI) each pay period. This is a required field. This amount is calculated by the calculator based on the gross earnings entered.

d – Employee portion of Medicare tax – This is the amount paid into the Medicare system each pay period. This is a required field. This amount is calculated by the calculator based on the gross earnings entered.

e – City withholding tax – This is the amount of city income taxes withheld each pay period. If applicable, this is a required field. This amount is calculated by the calculator based on the gross earnings entered.

f – Total required deductions – This is the total of lines 2a through 2e. This is a required field that is calculated by the calculator.

Line 3 – Net earnings

This is calculated by subtracting total required deductions (line 2f) from gross earnings (line 1). This is a required field that is calculated by the calculator.

Line 4 – Expenses

a – Transportation – This is an optional field. Enter the estimated amount the juvenile spends per pay period on transportation to and from school and/or work. Expenses may include transit pass, car insurance, gas, etc. (proof of payments should be provided).

b – Employment related – This is an optional field. Enter the estimated amount the juvenile spends per pay period on employment related expenses. Expenses may include required uniform, supplies, etc. (proof of payments should be provided).

c – School related – This is an optional field. Enter the estimated amount the juvenile spends per pay period on school related expenses. Expenses may include supplies, school fees, etc. (proof of payments should be provided).

d – Other expenses – This is an optional field. Enter the estimated amount the juvenile spends per pay period on other expenses not listed. Expenses may include support of a child and/or the household (proof of payments should be provided).

Line 5 – Amount available to be paid

This is the amount available to be paid to the court each pay period. This is calculated by subtracting total expenses (line 4e) from net earnings (line 3). This amount is calculated by the calculator.

Line 6 – Amount to be paid

This is the amount to be paid to the court each pay period. Enter the lesser of the amount available to be paid (line 5) or the total amount owed.

Appendix G

Federal Poverty Guidelines

2014 Poverty Guidelines for the 48 Contiguous States and the District of Columbia

Persons in Family or Household	Family Income Before Taxes									
	Annual					Monthly				
	100%	125%	150%	175%	200%	100%	125%	150%	175%	200%
1	\$11,670	\$14,588	\$17,505	\$20,423	\$23,340	\$973	\$1,216	\$1,459	\$1,702	\$1,945
2	\$15,730	\$19,663	\$23,595	\$27,528	\$31,460	\$1,311	\$1,639	\$1,966	\$2,294	\$2,622
3	\$19,790	\$24,738	\$29,685	\$34,633	\$39,580	\$1,649	\$2,061	\$2,474	\$2,886	\$3,298
4	\$23,850	\$29,813	\$35,775	\$41,738	\$47,700	\$1,988	\$2,484	\$2,981	\$3,478	\$3,975
5	\$27,910	\$34,888	\$41,865	\$48,843	\$55,820	\$2,326	\$2,907	\$3,489	\$4,070	\$4,652
6	\$31,970	\$39,963	\$47,955	\$55,948	\$63,940	\$2,664	\$3,330	\$3,996	\$4,662	\$5,328
7	\$36,030	\$45,038	\$54,045	\$63,053	\$72,060	\$3,003	\$3,753	\$4,504	\$5,254	\$6,005
8	\$40,090	\$50,113	\$60,135	\$70,158	\$80,180	\$3,341	\$4,176	\$5,011	\$5,846	\$6,682
For each additional person, add	\$4,060	\$5,075	\$6,090	\$7,105	\$8,120	\$338	\$423	\$508	\$592	\$677

Income levels for public assistance programs:

Medicaid: Healthy Michigan Plan	138%
MIChild (Michigan's Children's Health Insurance Program)	212%
Healthy Kids Medicaid Age 1-18	160%
Healthy Kids Infant/Pregnant	195%
Medicare Savings Program (Part B Medicare Premium)	120%
Community Health Centers	200%
Migrant Health Centers	200%
Title XV Breast and Cervical Cancer Control Program	250%
Plan First Family Planning Services	185%
Day Care Meal Programs	185%
School Breakfast and Lunch	185%
Women Infant & Children Food Supports	185%
Legal Services Corporation	125% with waivers to 200%

2014 Poverty Guidelines for the 48 Contiguous States and the District of Columbia

Persons in Family or Household	Family Income Before Taxes									
	Bi-weekly					Weekly				
	100%	125%	150%	175%	200%	100%	125%	150%	175%	200%
1	\$449	\$561	\$673	\$785	\$898	\$224	\$281	\$337	\$393	\$449
2	\$605	\$756	\$908	\$1,059	\$1,210	\$303	\$378	\$454	\$529	\$605
3	\$761	\$951	\$1,142	\$1,332	\$1,522	\$381	\$476	\$571	\$666	\$761
4	\$917	\$1,147	\$1,376	\$1,605	\$1,835	\$459	\$573	\$688	\$803	\$917
5	\$1,073	\$1,342	\$1,610	\$1,879	\$2,147	\$537	\$671	\$805	\$939	\$1,073
6	\$1,230	\$1,537	\$1,844	\$2,152	\$2,459	\$615	\$769	\$922	\$1,076	\$1,230
7	\$1,386	\$1,732	\$2,079	\$2,425	\$2,772	\$693	\$866	\$1,039	\$1,213	\$1,386
8	\$1,542	\$1,927	\$2,313	\$2,698	\$3,084	\$771	\$964	\$1,156	\$1,349	\$1,542
For each additional person, add	\$156	\$195	\$234	\$273	\$312	\$78	\$98	\$117	\$137	\$156

Income levels for public assistance programs:

Medicaid: Healthy Michigan Plan	138%
MIChild (Michigan's Children's Health Insurance Program)	212%
Healthy Kids Medicaid Age 1-18	160%
Healthy Kids Infant/Pregnant	195%
Medicare Savings Program (Part B Medicare Premium)	120%
Community Health Centers	200%
Migrant Health Centers	200%
Title XV Breast and Cervical Cancer Control Program	250%
Plan First Family Planning Services	185%
Day Care Meal Programs	185%
School Breakfast and Lunch	185%
Women Infant & Children Food Supports	185%
Legal Services Corporation	125% with waivers to 200%

2014 Poverty Guidelines for the 48 Contiguous States
and the District of Columbia

Persons in Family or Household	Family Income Before Taxes			
	Annual	Monthly	Bi-weekly	Weekly
1	\$11,670	\$973	\$449	\$224
2	\$15,730	\$1,311	\$605	\$303
3	\$19,790	\$1,649	\$761	\$381
4	\$23,850	\$1,988	\$917	\$459
5	\$27,910	\$2,326	\$1,073	\$537
6	\$31,970	\$2,664	\$1,230	\$615
7	\$36,030	\$3,003	\$1,386	\$693
8	\$40,090	\$3,341	\$1,542	\$771
For each additional person, add	\$4,060	\$338	\$156	\$78

125% of the 2014 Poverty Guidelines for the 48
Contiguous States and the District of Columbia

Persons in Family or Household	Family Income Before Taxes			
	Annual	Monthly	Bi-weekly	Weekly
1	\$14,588	\$1,216	\$561	\$281
2	\$19,663	\$1,639	\$756	\$378
3	\$24,738	\$2,061	\$951	\$476
4	\$29,813	\$2,484	\$1,147	\$573
5	\$34,888	\$2,907	\$1,342	\$671
6	\$39,963	\$3,330	\$1,537	\$769
7	\$45,038	\$3,753	\$1,732	\$866
8	\$50,113	\$4,176	\$1,927	\$964
For each additional person, add	\$5,075	\$423	\$195	\$98

150% of the 2014 Poverty Guidelines for the 48
Contiguous States and the District of Columbia

Persons in Family or Household	Family Income Before Taxes			
	Annual	Monthly	Bi-weekly	Weekly
1	\$17,505	\$1,459	\$673	\$337
2	\$23,595	\$1,966	\$908	\$454
3	\$29,685	\$2,474	\$1,142	\$571
4	\$35,775	\$2,981	\$1,376	\$688
5	\$41,865	\$3,489	\$1,610	\$805
6	\$47,955	\$3,996	\$1,844	\$922
7	\$54,045	\$4,504	\$2,079	\$1,039
8	\$60,135	\$5,011	\$2,313	\$1,156
For each additional person, add	\$6,090	\$508	\$234	\$117

175% of the 2014 Poverty Guidelines for the 48
Contiguous States and the District of Columbia

Persons in Family or Household	Family Income Before Taxes			
	Annual	Monthly	Bi-weekly	Weekly
1	\$20,423	\$1,702	\$785	\$393
2	\$27,528	\$2,294	\$1,059	\$529
3	\$34,633	\$2,886	\$1,332	\$666
4	\$41,738	\$3,478	\$1,605	\$803
5	\$48,843	\$4,070	\$1,879	\$939
6	\$55,948	\$4,662	\$2,152	\$1,076
7	\$63,053	\$5,254	\$2,425	\$1,213
8	\$70,158	\$5,846	\$2,698	\$1,349
For each additional person, add	\$7,105	\$592	\$273	\$137

200% of the 2014 Poverty Guidelines for the 48
Contiguous States and the District of Columbia

Persons in Family or Household	Family Income Before Taxes			
	Annual	Monthly	Bi-weekly	Weekly
1	\$23,340	\$1,945	\$898	\$449
2	\$31,460	\$2,622	\$1,210	\$605
3	\$39,580	\$3,298	\$1,522	\$761
4	\$47,700	\$3,975	\$1,835	\$917
5	\$55,820	\$4,652	\$2,147	\$1,073
6	\$63,940	\$5,328	\$2,459	\$1,230
7	\$72,060	\$6,005	\$2,772	\$1,386
8	\$80,180	\$6,682	\$3,084	\$1,542
For each additional person, add	\$8,120	\$677	\$312	\$156

Appendix H

Means Test

What is the means test?

You may have read that the new bankruptcy law imposes a "means test" on who can file for Chapter 7 bankruptcy.

You might think this new test will prevent you from filing. But, chances are, you're wrong. Most people considering bankruptcy have no trouble passing the means test. Indeed, some lawyers think *more* people will qualify for Chapter 7 under this test than under the old law, where judges had no fixed formula.

Use this calculator find out where you stand.

The Formula

The law now uses a standard mathematical formula to determine whether you can file for Chapter 7 -- or, to put it in legal terms, whether filing for Chapter 7 would be an 'abuse' of the bankruptcy system. (Those who fail the means test, are left with a Chapter 13 repayment plan as their only bankruptcy option.)

The means test is actually a two-part test and you only need to pass one of them to qualify for Chapter 7.

Test 1. "Median Income"

This is a very simple test that compares your average household income for the past six calendar months to the median income for your state. If your income is below the median, you qualify for Chapter 7. If it is above the median, you must pass Test 2.

Test 2. "Disposable Income"

This test deducts expenses from your income to determine how much you can pay your *unsecured creditors* over the next five years:

- If you can pay at least \$11,725 (\$195.42 per month), you can't file for Chapter 7.
- If you can pay at least \$7,025 (about \$117 per month) and that is at least 25% of what you currently owe your unsecured creditors, you can't file for Chapter 7.
- If your disposable income is less than \$117 per month, you can file for Chapter 7.

Certain deductions are standard allowances based on the number of vehicles you operate, the number of people in your household, and the cost of living in.

In addition, to these standard deductions, you can also deduct the full amount of certain *actual* expenses such as mortgage and vehicle loan payments.

How long does this take?

Using this calculator takes about 20 minutes. For some, the answer may be obvious after only a few questions.

Garbage in, garbage out

If you don't put in the correct numbers in the correct blanks, this calculator won't give you an accurate result. It only does the math. It is your responsibility to put the right numbers in the right blanks. Helpful resources are available throughout the test to help you figure out what the form is asking for and what to put where.

Be sure to account for all the different kinds of income you receive. If you're not sure what to put in an 'expense' blank, skip it. You may find that it doesn't matter -- that is, you may qualify regardless of what number you put in that blank.

If you need assistance, this website has listings of **books** and local **services** that offer bankruptcy help.

Where to find the Official Means Test form

If you end up actually filing for Chapter 7 bankruptcy you need to fill out **official form (22A)**, which you can find **here**. This calculator is based on that form.

Census Bureau, IRS Data and Administrative Expenses Multipliers

(Cases Filed On or After May 1, 2014)

Section I. Census Bureau Data

In Part III of Bankruptcy Form 22A and Part II of Bankruptcy Form 22C, debtors are instructed to enter the "Applicable median family income". This information is published by the Census Bureau according to State and family size, and the data is updated each year. In addition, pursuant to 11 U.S.C. § 101(39A)(B), the data on this Web site will be further adjusted early each calendar year based upon the Consumer Price Index for All Urban Consumers (CPI).

The following link provides the median family income data published in September 2013 and CPI-adjusted in January 2014, reproduced in a format that is designed for ease of use in completing these bankruptcy forms.

Median Family Income Based on State/Territory and Family Size

Available for download in MS Excel format. [XLS - 38 KB] [XLSX - 15 KB]

Section II. IRS Data & General Information for Completing Bankruptcy Forms

Note: The IRS expense figures posted on this Web site are for use in completing bankruptcy forms. They are not for use in computing taxes or for any other tax administration purpose. Expense information for tax purposes can be found on the IRS Web site. In addition, the following language is taken directly from the IRS Collection Financial Standards available at the IRS Website noted above. The IRS Collection Financial Standards use the word "taxpayer" and this reference has been unchanged for purposes of publishing the Standards for use in bankruptcy cases.

1. General Information Regarding IRS Collection Financial Standards

Collection Financial Standards are used to help determine a taxpayer's ability to pay a delinquent tax liability. Allowable living expenses include those expenses that meet the necessary expense test. The necessary expense test is defined as expenses that are necessary to provide for a taxpayer's (and his or her family's) health and welfare and/or production of income.

National Standards for food, clothing and other items apply nationwide. Taxpayers are allowed the total National Standards amount for their family size, without questioning the amount actually spent.

National Standards have also been established for minimum allowances for out-of-pocket health care expenses. Taxpayers and their dependents are allowed the standard amount on a per person basis, without questioning the amount actually spent.

Maximum allowances for housing and utilities and transportation, known as the Local Standards, vary by location. In most cases, the taxpayer is allowed the amount actually spent, or the local standard, whichever is less.

Generally, the total number of persons allowed for necessary living expenses should be the same as those allowed as exemptions on the taxpayer's most recent year income tax return.

If the IRS determines that the facts and circumstances of a taxpayer's situation indicate that using the standards is inadequate to provide for basic living expenses, we may allow for actual expenses. However, taxpayers must provide documentation that supports a determination that using national and local expense standards leaves them an inadequate means of providing for basic living expenses.

2. National Standards: Food Clothing & Other Items

National Standards have been established for five necessary expenses: food, housekeeping supplies, apparel and services, personal care products and services, and miscellaneous.

The standards are derived from the Bureau of Labor Statistics (BLS) Consumer Expenditure Survey (CES). The survey collects information from the Nation's households and families on their buying habits (expenditures), income and household characteristics.

Available for download in MS Excel format. [XLS - 32 KB] [XLSX - 12 KB]

3. National Standards: Out-of-Pocket Health Care Expenses

Out-of-Pocket Health Care standards have been established for out-of-pocket health care expenses including medical services, prescription drugs, and medical supplies (e.g. eyeglasses, contact lenses, etc.).

The table for health care allowances is based on Medical Expenditure Panel Survey data and uses an average amount per person for taxpayers and their dependents under 65 and those individuals that are 65 and older.

The out-of-pocket health care standard amount is allowed in addition to the amount taxpayers pay for health insurance.

Available for download in MS Excel format. [XLS - 23 KB] [XLSX - 10 KB]

4. Local Standards. Housing and Utilities and Transportation

a. Housing and Utilities Standards are derived from Census and BLS data, and are provided by state down to the county level. The standard for a particular county and family size includes both housing and utilities allowed for a taxpayer's primary place of residence.

Housing and Utilities standards include mortgage or rent, property taxes, interest, insurance, maintenance, repairs, gas, electric, water, heating oil, garbage collection, telephone, cell phone, internet, and cable. The tables include five categories for one, two, three, four, and five or more persons in a household.

Note: Effective October 3, 2011, the IRS no longer provides Housing and Utilities Standards for the U.S. territories of Guam, the Northern Mariana Islands, and the Virgin Islands.

[Select State]

▼

Available for download in MS Excel format. [XLS - 1.33 MB] [XLSX - 667 KB]

b. Transportation Expense Standards for taxpayers with a vehicle consist of two parts: nationwide figures for monthly loan or lease payments referred to as ownership costs, and additional amounts for monthly operating costs broken down by Census Region and Metropolitan Statistical Area (MSA). A conversion chart has been provided with the standards that lists the states that comprise each Census Region, as well as the counties and cities included in each MSA. The ownership cost portion of the transportation standard, although it applies nationwide, is still considered part of the Local Standards.

The ownership costs provide maximum allowances for the lease or purchase of up to two automobiles if allowed as a necessary expense. A single taxpayer is normally allowed one automobile.

The operating costs include maintenance, repairs, insurance, fuel, registrations, licenses, inspections, parking and tolls.

If a taxpayer has a car payment, the allowable ownership cost added to the allowable operating cost equals the allowable transportation expense. If a taxpayer has a car, but no car payment, only the operating costs portion of the transportation standard is used to figure the allowable transportation expense. In both of these cases, the taxpayer is allowed the amount actually spent, or the standard, whichever is less.

There is a single nationwide allowance for public transportation based on BLS expenditure data for mass transit fares for a train, bus, taxi, ferry, etc. Taxpayers with no vehicle are allowed the standard, per household, without questioning the amount actually spent.

If a taxpayer owns a vehicle and uses public transportation, expenses may be allowed for both, provided they are needed for the health, and welfare of the taxpayer or family, or for the production of income. However, the expenses allowed would be actual expenses incurred for ownership costs, operating costs and public transportation, or the standard amounts, whichever is less.

[Select Region]

▼

Available for download in MS Excel format. [XLS - 27 KB] [XLSX - 11 KB]

Section III. Administrative Expenses Multipliers

11 U.S.C. § 707(b)(2)(A)(ii)(III) allows a debtor who is eligible for chapter 13 to include in his/her calculation of monthly expenses the actual administrative expenses of administering a chapter 13 plan in the judicial district where the debtor resides.

The Executive Office for U.S. Trustees issues the schedules of actual administrative expenses which contain, by judicial district, the chapter 13 multiplier needed to complete Official Bankruptcy Forms 22A and 22C (Statement of Current Monthly Income and calculations). Form 22A is the form most chapter 7 debtors will complete and the multiplier is entered on Line 45.b; Form 22C is the form most chapter 13 debtors will complete and the multiplier is entered on Line 50.b.

Schedules of Actual Administrative Expenses of Administering a Chapter 13 Plan (as Required by 11 U.S.C. § 707(b)(2)(A)(ii)(III))

Available for download in MS Excel format. [XLS - 30 KB] [XLSX - 14 KB]

Note:

The original source for the State Median Family Income is the Census Bureau.

The original source for the National and Local Standards is the IRS.

To report any differences between the data on these pages and their original source, please e-mail: ust.mt.help@usdoj.gov.

FRIDAY, APRIL 25, 2014 10:24 AM

(Cases Filed On or After May 1, 2014)

Note: The IRS expense figures posted on this Web site are for use in completing bankruptcy forms. They are not for use in computing taxes or for any other tax administration purpose. Expense information for tax purposes can be found on the [IRS Web Site](#).

Collection Financial Standards for Food, Clothing and Other Items

Expense	One Person	Two Persons	Three Persons	Four Persons
Food	\$315	\$588	\$660	\$794
Housekeeping supplies	\$30	\$66	\$65	\$74
Apparel & services	\$88	\$162	\$209	\$244
Personal care products & services	\$34	\$61	\$64	\$70
Miscellaneous	\$116	\$215	\$251	\$300
Total	\$583	\$1,092	\$1,249	\$1,482

More than four persons

Additional Amount Per Person

For each additional person, add to four-person
total allowance: \$298

Bankruptcy Allowable Living Expenses – National Standards (See 11 U.S.C. § 707(b)(2)(A)(ii)(I))

Expense	One Person	Two Persons	Three Persons	Four Persons
Food & Clothing (Apparel & Services)*	\$403	\$750	\$869	\$1,038
5% of Food & Clothing	\$20	\$38	\$43	\$52
More than four persons	Additional Amount Per Person			
Food & Clothing (Apparel & Services)*				\$209
5% of Food & Clothing				\$10

* This total may differ from the combination of the two amounts on the table above due to rounding.

Monday, March 31, 2014 3:15 PM

Appendix I

Payment Alternatives

Payment alternatives to consider include, but are not limited to, the following:

- Community service
 - The court does not have to provide court-supervised community service. The court can order the obligor to perform community service at a non-profit agency and provide the court with proof of hours worked.
 - See attached best practices from the 8th District Court, 61st District Court, and 8th Circuit Court, Family Division.
- Good grades on a report card
- Progress/completion of a class/program (e.g., completion of GED)
- Attendance at school
- Painting a mural at the courthouse or youth center
 - The 10th Circuit Court, Family Division, had some juveniles create a mural for the youth center because the juveniles were great graffiti artists (see attached).
- Teaching music
 - A court that knew a juvenile was a song writer and played the guitar, but didn't have enough money to buy a guitar, found some funds to buy the guitar for him. In lieu of making payments he assisted an elementary school in creating its school song.

Find out what the obligor is passionate about or likes to do and figure out a creative way for him or her to channel that talent in a positive light within his or her community. It gives the obligor a great sense of accomplishment and makes them feel like he or she is a part of the community.

Appendix J

Incentives/Waivers

3rd Circuit Court-Family Division Policy

Policy on Negotiating Balances Due

Court Cost, Fines and Fees*

****Excludes Restitution reimbursement ordered by the Court***

Upon full payment of the State Minimum Cost and Crime Victim fees, the following reimbursement options are available:

Option #1

- **Payment Agreement**
 - Balance reduced 50%.
 - Paid within 90 days.
 - Payment Agreement will include cost and fees ordered up to and including the date of the agreement.
 - ***Does not include Restitution ordered by the Court.***
 - Cost and fees ordered after the agreement is approved shall be paid as ordered.

Option #2

- **Settlement Agreement**
 - Settlement Agreement terms:
 - 10% reduction will be applied to cost assessed within a year (2013 to present)
 - 25% reduction will be applied to cost assessed 2 – 5 years ago (2012 – 2008)
 - 50% reduction will be applied to cost assessed over 6 years ago (prior to 2007)
 - To enter a Settlement Agreement the following are required:
 - Complete a financial agreement
 - Provide the following:
 - a. Proof of income/employment
 - b. Proof of household size
 - c. Provide proof of expenses
 - Monthly installment period beyond 90 days.
 - Settlement Agreement will include cost and fees ordered up to and including the date of the agreement.
 - ***Does not include Restitution ordered by the Court.***
 - Cost and fees ordered after the Settlement Agreement is approved shall be paid as ordered.

Option #3

- **Reduction or Waiver of Fees**
 - Provide proof of indigency during the period of the assessments.
 - Complete a financial statement
 - Provide the following:
 - a. Proof of income/employment/Government Benefits
 - b. W2 or Tax Return
 - c. Proof of household size
 - d. Provide proof of expenses
 - Waiver/reduction will include cost and fees ordered up to and including the date of the approval.
 - ***Waiver/Reduction does not include Restitution ordered by the Court.***
 - Cost and fees ordered after approval will be subject to waiver/reduction based on proof of indigency.

Option #4

- **Request for Judicial Review**
 - Complete a Motion Packet

Default on an Agreement

If the party defaults on the terms of an agreement, the original balance will become due and collectible. The Court Collections Unit will enforce reimbursement. Enforcement will include:

- Administrative Show Cause Hearing
- Referral to Third Party Collection Agency
- State Tax Offset
- Income Withholding

The Court Collections Unit will review the financial documentation provided to negotiate the best option.

FINANCIAL REVIEW AND RECOMMENDATION

Case Number:		Petition Number:	
Responsible Party:			
Relationship:		Party ID:	
Child(ren) :			
Account balance:		Assessed today:	

Receives:

☐ State Public Assistance
☐ Child Support
☐ VA Benefits
☐ Medicaid/Medicare
☐ Social Security/Disability Insurance Recipient: _____
☐ Public Housing

Currently housed in:

☐ Prison
☐ Mental Health Facility

Unemployed: _____

(a) Household Gross Income: \$ _____

(b) Liquid Assets: _____ (cash, bank accounts, readily convertible property)

Total Income: \$ _____ (a + b)

(c) Reasonable/Necessary

Expenses: _____ (rent, mortgage, day care, utilities)

(d) Exceptional Expenses: _____ (child support, uninsured medical expenses)

Total Expenses: \$ _____ (c + d)

Income less Expenses = Available Funds: \$ _____

Family Size: _____

Indigent

Receives public assistance and/or income level at or below 133% of U. S. Poverty level.

Partially

Income level greater than 133% of U. S. Poverty level, however current financial situation presents a hardship.

Indigent**Not Indigent**

Income level greater than 133% of U. S. Poverty Level.

Collections

Collections		
Date	Collections Staff	Approved

Notice of Outstanding Balance

Name: 0

Case Number: 0

Petition Number: 0

Party Id: 0

Balance:	\$ -	*balance as of date below
There may be cost assessed at each court hearing.		

To make a payment:

Pay by mail or at the Cashier Window:

Lincoln Hall of Justice
1025 E. Forest, Room 238-Bldg A
Attn: Cashier
Detroit, MI 48207

Cash, Master Card, Visa Debit, American Express, or Discover Card
Money Orders or Certified Checks payable to: Wayne County Clerk
No personal checks accepted

Pay Online:

www.govpaynow.com

Pay Location Code: 6214

Pay by phone:

888-604-7888

Pay Location Code: 6214

Collections Unit	
9/9/2014	
Date	Collections Staff

FINANCIAL REVIEW AND RECOMMENDATION

1/7/2015 (e) Paid in Full by

Attorney Fees		\$	-	
Court Cost		\$	-	
CVF		\$	-	
SMC		\$	-	
Restitution		\$	-	
(a) Total Outstanding	\$	-	\$	- (b) Negotiated Amount

TRUE

(c) Paid Today \$ -

(d) monthly amount \$ -

(f) Amount waived \$ -

Over 90 days

Date of Assessments

2013 - today		\$	-	\$	-
2008 - 2012		\$	-	\$	-
2007 -prior		\$	-	\$	-
CVF				\$	-
SMC				\$	-
Restitution				\$	-
(a) Total Outstanding	\$	-	\$	-	(b) Negotiated Amount

TRUE

(c) Paid Today \$ -

Enter # of months to pay

#DIV/0!

(d) monthly payment amount

(f) Amount waived \$ -

Appendix K

Model Debt Inactivation Policy

Trial Court Collections Model Debt Inactivation Policy

Introduction

This policy establishes criteria and procedures for designating uncollectible debts as "inactive." Inactivation is an administrative procedure to remove a debt from the list of amounts the court can expect to collect. Inactivation of uncollectible debts from the court's accounts receivable ledger does not constitute forgiveness of the debt; inactive debts are still payable by the debtor.

In some instances, a case may warrant the partial or complete discharge of a debt, which is a judicial action to forgive a debt. Examples of debts which may be candidates for discharge include: the debtor claims indigence, the debtor disputes the validity of the assessment, or the debtor has requested a waiver. The court administrator should refer eligible discharged debts to the assigned judge for consideration.

Purpose

The purpose of this policy is to establish procedures for inactivating court receivables in order to:

- Accurately portray the value of amounts owed to the court.
- Improve court collections.

Definitions

Debt - Debts are fines, fees, costs, assessments, restitution, or reimbursements ordered by and payable to the court that arise from the adjudication of a case or otherwise provided for by statute. A case can result in multiple debts; for example, a case may result in imposition of a fine, a fee, court costs, etc. Each debt has a status (see Section 1.1.1 of the Trial Court Collections Standards & Guidelines).

Active debt - A past due debt that the court is currently attempting to collect.

Inactive debt - A past due debt for which the court has decided to forego collections activity temporarily or indefinitely.

Discharged debt - A debt for which a court has decided to permanently forego collections activity.

Responsibilities

The chief judge shall designate the court administrator or another individual to implement this policy and decide which debts to inactivate. The assigned judge shall be responsible for discharging a debt.

Process

1. No action on the part of court staff will be required to inactivate debts. Because of limitations in various automated systems used by the courts, there is currently no way to universally "flag" debts as inactive.
2. At or near the end of every fiscal year, the court administrator will review all debts to determine the debts that are eligible for discharge.
 - a. Debts shall be eligible for discharge regardless of payment history, contact with debtor, and age of debt in the following instances:
 - i. The debtor is deceased and the estate is closed.
 - ii. The debt is discharged by order of a bankruptcy court.
 - iii. The debt is uncollectible by operation of law.

The court shall rescind any bench warrants issued for nonpayment of debts that are discharged under this subsection.

3. Court staff shall provide the following information to the court administrator to support the recommendation for discharge: debtor name, case number, date of judgment, amount assessed, amount unpaid, efforts undertaken to collect the debt, and reason for discharge.
4. The court administrator shall review the debts recommended for discharge and recommend to the assigned judge which debts should be discharged. The case files and automated information system shall be updated to indicate the date the debt(s) were discharged.
5. The court must be able to accept payment for all inactive debts. If a partial payment is accepted on a debt that has been inactivated, the debt shall be returned to active status, and appropriate collection efforts resumed.
6. If circumstances allow collection efforts to resume, an inactivated debt shall be reinstated to active status.

Appendix L

Possible Statutory Amendments

Possible Statutory Amendments:

Sentence/conditional sentence:

[MCL 769.2](#)

[MCL 769.3](#)

[MCL 769.4](#)

[MCL 769.5](#)

[MCL 801.201 et. seq.](#)

Credit per day for commitment for civil contempt:

[MCL 257.908](#)

[MCL 600.8729](#)

[MCL 600.8829](#)

Possible Statutory Amendments:

769.2 Sentence; solitary confinement or hard labor.

Sec. 2.

Whenever any person shall be lawfully sentenced by any court to imprisonment in the state prison or in any county jail, it shall be competent for the court awarding the sentence, to incorporate therein a provision that the person so sentenced shall be kept in solitary confinement or at hard labor, or both, during the term of such imprisonment, or any specific portion thereof.

769.3 Conditional sentence; payment of fine; probation.

Sec. 3.

(1) If a person is convicted of an offense punishable by a fine or imprisonment **in the state prison or in any county jail**, or both, the court may impose a conditional sentence and order the person to pay a fine, with or without the costs of prosecution, and restitution as provided under section 1a of this chapter or the crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, within a limited time stated in the sentence and, in default of payment, sentence the person as provided by law.

(2) Except for a person who is convicted of criminal sexual conduct in the first or third degree, the court may also place the offender on probation with the condition that the offender pay a fine, costs, damages, restitution, or any combination in installments with any limited time and may, upon default in any of those payments, impose sentence as provided by law.

(3) The court shall consider the person's ability to pay prior to finding a person in default of payment. The court may then sentence the person as provided by law only if the court finds that the person has the ability to pay, but has not paid as ordered. Any term of incarceration for violation of subsection (1) or subsection (2) shall be specified in the order of commitment, and shall not exceed one (1) day for each \$ (AMOUNT TO BE SET BY LEGISLATURE) of the fines and costs. A person committed for violation of subsection one (1) or subsection (2) shall be given credit toward payment for each day of incarceration and each day of detention in default of recognizance before judgment at a rate of \$ (AMOUNT TO BE SET BY LEGISLATURE – SHOULD BE SAME AS ABOVE) per day.

769.4 Conditional sentence; execution.

Sec. 4.

(1) The person against whom any such conditional sentence shall be awarded, shall be forthwith committed to the custody of an officer in court or to the county jail, to be detained until the sentence be complied with; and if he shall not pay the fine within the time limited, the sheriff shall cause the other part of the sentence to be executed forthwith.

(a) Execution of the conditional sentence shall not occur until the Court has complied with MCL 769.3(3).

769.5 Alternative or combined penalties; power of court.

Sec. 5.

(1) Whenever it is provided that an offender shall be punished by imprisonment and a fine, such offender may at the discretion of the court, be sentenced to be punished by such imprisonment without the fine or by such fine without the imprisonment; and whenever it is provided that an offense shall be punished by fine or imprisonment, the court may impose both such fine and

imprisonment in its discretion. If the court shall impose both a fine, costs and imprisonment in any state prison, **jail**, or reformatory the offender shall be detained in said prison, **jail**, or reformatory until said fine and costs are paid, not exceeding however, the additional time expressed in said sentence for the non-payment of the same.

(a) Prior to any incarceration for non-payment, the court shall consider the offender's ability to pay. If the court finds, on the record, that the offender has the ability to pay, but has not paid as ordered, the term of incarceration ordered by the court may be enforced.

(b) Any term of imprisonment shall be specified in the order of commitment, and shall not exceed one (1) day for each \$ (AMOUNT TO BE SET BY LEGISLATURE) of the fines and costs. An offender shall be given credit toward payment for each day of imprisonment and each day of detention in default of recognizance before judgment at a rate of \$ (AMOUNT TO BE SET BY LEGISLATURE – SHOULD BE SAME AS ABOVE) per day.

801.201 et. seq.

WORK FARMS, FACTORIES, AND SHOPS

Act 78 of 1917

AN ACT to establish and to provide for the conduct and maintenance of work farms, factories or shops in counties of this state and to authorize the confinement of convicted persons therein and to provide for the punishment of such persons for breaking or attempting to break out; and to permit counties not operating work farms, factories or shops to contract for the care of their prisoners with counties operating such farms, factories or shops.

History: 1917, Act 78, Imd. Eff. Apr. 17, 1917

257.908 Default as civil contempt; penalty.

Sec. 908.

(1) If a defendant defaults in the payment of a civil fine, costs, or both, or of any installment, as ordered pursuant to section 907(2), the court, upon the motion of the plaintiff or upon its own motion, may require the defendant to show cause why the default should not be treated as in civil contempt and may issue a summons or order to show cause or a bench warrant of arrest for the defendant's appearance.

(2) When a corporation or an association is ordered to pay a civil fine or costs, the persons authorized to make disbursement shall pay the fine or costs, and their failure to do so shall be civil contempt unless they make the showing required in this section.

(3) Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until the civil fine, costs, or both, or a specified part thereof, is paid.

(4) If it appears that the default in the payment of a civil fine or costs does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment, or revoking the fine or costs or the unpaid portion thereof in whole or in part.

(5) The term of imprisonment on civil contempt for nonpayment of a civil fine or costs shall be specified in the order of commitment, and shall not exceed 1 day for each **\$10.00 (Amount consistent with MCL 600.8729 and 600.8829 – As set by the Legislature)** of the fine and costs. A person committed for nonpayment of a civil fine or costs shall be given credit toward

payment for each day of imprisonment and each day of detention in default of recognizance before judgment at the rate of **\$10.00 (Amount consistent with MCL 600.8729 and 600.8829 – As set by the Legislature)** per day.

(6) A defendant committed to imprisonment for civil contempt for nonpayment of a civil fine or costs shall not be discharged from custody until 1 of the following occurs:

- (a) The defendant has been credited with the amount due pursuant to subsection (5).
 - (b) The amount due has actually been collected through execution of process or otherwise.
 - (c) The amount due has been satisfied pursuant to a combination of subdivisions (a) and (b).
- (7) The civil contempt shall be purged upon discharge of the defendant pursuant to subsection (6).

600.8729 Payment of fine, costs, assessment, damages, or expenses; default as civil contempt.

Sec. 8729.

(1) If a defendant defaults in the payment of a civil fine, costs, assessment, or, if applicable, damages or expenses as provided in section 8733(2) if applicable, or any installment, as ordered pursuant to section 8727, the court, upon the motion of the plaintiff or upon its own motion, may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons, an order to show cause, or a bench warrant of arrest for the defendant's appearance.

(2) If a corporation or an association is ordered to pay a civil fine, costs, assessment, or damages or expenses, the individuals authorized to make disbursement shall pay the fine, costs, assessment, or damages or expenses, and their failure to do so shall be civil contempt unless they make the showing required in this section.

(3) Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the amount due is paid.

(4) If it appears that the default in the payment of a fine, costs, assessment, or damages or expenses does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment, or revoking the fine, costs, assessment, or damages or expenses.

(5) The term of imprisonment on civil contempt for nonpayment of a civil fine, costs, assessment, or damages or expenses shall be specified in the order of commitment and shall not exceed 1 day for each **\$30.00 (Amount consistent with MCL 257.908 and 600.8829 – As set by the Legislature)** due. A person committed for nonpayment of a civil fine, costs, assessment, or damages or expenses shall be given credit toward payment for each day of imprisonment and each day of detention in default of recognizance before judgment at the rate of **\$30.00 (Amount consistent with MCL 257.908 and 600.8829 – As set by the Legislature)** per day.

(6) A defendant committed to imprisonment for civil contempt for nonpayment of a civil fine, costs, assessment, or damages or expenses shall not be discharged from custody until 1 of the following occurs:

- (a) The defendant is credited with the amount due pursuant to subsection (5).
- (b) The amount due is collected through execution of process or otherwise.
- (c) The amount due is satisfied pursuant to a combination of subdivisions (a) and (b).

(7) The civil contempt shall be purged upon discharge of the defendant pursuant to subsection (6).

600.8829 Default in payment of fines, costs, assessment, or installment.

Sec. 8829.

(1) If a defendant defaults in the payment of a civil fine, costs, or assessment or of any installment, as ordered pursuant to section 8827, the court, upon the motion of the plaintiff or upon its own motion, may require the defendant to show cause why the default should not be treated as in civil contempt and may issue a summons, order to show cause, or a bench warrant of arrest for the defendant's appearance.

(2) If a corporation or an association is ordered to pay a civil fine, costs, or assessment, the individuals authorized to make disbursement shall pay the fine or costs, and their failure to do so shall be civil contempt unless they make the showing required in this section.

(3) Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the civil fine, costs, or assessment, or any combination of those amounts, is paid.

(4) If it appears that the default in the payment of a fine, costs, or assessment does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment, or revoking the fine or costs.

(5) The term of imprisonment on civil contempt for nonpayment of a civil fine, costs, or assessment shall be specified in the order of commitment and shall not exceed 1 day for each **\$30.00 (Amount consistent with MCL 257.908 and 600.8729 – As set by the Legislature)** of the fine and costs. A person committed for nonpayment of a civil fine or costs shall be given credit toward payment for each day of imprisonment and each day of detention in default of recognizance before judgment at the rate of **\$30.00 (Amount consistent with MCL 257.908 and 600.8729 – As set by the Legislature)** per day.

(6) A defendant committed to imprisonment for civil contempt for nonpayment of a civil fine, costs, or assessment shall not be discharged from custody until 1 of the following occurs:

(a) The defendant is credited with the amount due pursuant to subsection (5).

(b) The amount due is collected through execution of process or otherwise.

(c) The amount due is satisfied pursuant to a combination of subdivisions (a) and (b).

(7) The civil contempt shall be purged upon discharge of the defendant pursuant to subsection (6).

Appendix M
Possible Court Rule
Amendments

Possible Court Rule Amendments:

[MCR 3.605](#)

[MCR 3.606](#)

[MCR 3.928](#)

[MCR 3.944](#)

[MCR 3.956](#)

[MCR 6.001](#)

[MCR 6.425](#)

[MCR 6.445](#)

[MCR 6.610](#)

[MCR 6.933](#)

Possible Court Rule Amendments:

Rule 3.605 Collection of Penalties, Fines, Forfeitures, and Forfeited Recognizances

(A) Definition. The term "penalty," as used in this rule, includes fines, forfeitures, and forfeited recognizances, unless otherwise provided in this rule.

(B) Parties. The civil action for a pecuniary penalty incurred for the violation of an ordinance of a city or village must be brought in the name of the city or village. Other actions to recover penalties must be brought in the name of the people of the State of Michigan.

(C) Judgment on Penalty. In an action against a party liable for a penalty, judgment may be rendered directly against the party and in favor of the other party on motion and showing that the condition has occurred giving rise to the penalty. This subrule does not apply to forfeited civil recognizances under MCR 3.604 or to forfeited criminal recognizances under MCL 765.28.

(D) Remission of Penalty. An application for the remission of a penalty, including a bond forfeiture, may be made to the judge who imposed the penalty or ordered the forfeiture. The application may not be heard until reasonable notice has been given to the prosecuting attorney (or municipal attorney) and he or she has had an opportunity to examine the matter and prepare to resist the application. The application may not be granted without payment of the costs and expenses incurred in the proceedings for the collection of the penalty, **unless waived by the court.**

(E) Duty of Clerk When Fine Without Order for Commitment; Duty of Prosecutor. When a fine is imposed by a court on a person, without an order for the immediate commitment of the person until the fine is paid, the clerk of the court shall deliver a copy of the order imposing the fine to the prosecuting attorney of the county in which the court is held, or the municipal attorney in the case of a fine that is payable to a municipality. The prosecuting attorney (or municipal attorney) shall obtain execution to collect the fine.

Rule 3.606 Contempts Outside Immediate Presence of Court

(A) Initiation of Proceeding. For a contempt committed outside the immediate view and presence of the court, on a proper showing on ex parte motion supported by affidavits, the court shall either

(1) order the accused person to show cause, at a reasonable time specified in the order, why that person should not be punished for the alleged misconduct; or

(2) issue a bench warrant for the arrest of the person.

(B) Writ of Habeas Corpus. A writ of habeas corpus to bring up a prisoner to testify may be used to bring before the court a person charged with misconduct under this rule. The court may enter an appropriate order for the disposition of the person.

(C) Bond for Appearance.

(1) The court may allow the giving of a bond in lieu of arrest, prescribing in the bench warrant the penalty of the bond and the return day for the defendant.

(2) The defendant is discharged from arrest on executing and delivering to the arresting officer a bond

(a) in the penalty endorsed on the bench warrant to the officer and the officer's successors,

(b) with two sufficient sureties, and

(c) with a condition that the defendant appear on the return day and await the order and judgment of the court.

(3) Return of Bond. On returning a bench warrant, the officer executing it must return the bond of the defendant, if one was taken. The bond must be filed with the bench warrant.

(D) Assignment of Bond; Damages. The court may order assignment of the bond to an aggrieved party who is authorized by the court to prosecute the bond under MCR 3.604(H). The measure of the damages to be assessed in an action on the bond is the extent of the loss or injury sustained by the aggrieved party because of the misconduct for which the order for arrest was issued, and that party's costs and expenses in securing the order. The remainder of the penalty of the bond is paid into the treasury of the county in which the bond was taken, to the credit of the general fund.

(E) Prosecution on Bond by Attorney General or Prosecutor. If the court does not order an assignment as provided in (D), it shall order the breach prosecuted by the Attorney General or by the prosecuting attorney for the county in which the bond was taken, under MCR 3.604. The penalty recovered is to be paid into the treasury of the county in which the bond was taken, to the credit of the general fund.

(F) The court shall not sentence a person to a term of incarceration unless the court has complied with the provisions of MCL 6.425(E)(3). Proceedings to which the Child Support and Parenting Time Enforcement Act, MCL 552.602 et. seq. applies are subject to the requirements of that Act.

Rule 3.928 Contempt of Court

(A) Power. The court has the authority to hold persons in contempt of court as provided by MCL 600.1701 and 712A.26. A parent, guardian, or legal custodian of a juvenile who is within the court's jurisdiction and who fails to attend a hearing as required is subject to the contempt power as provided in MCL 712A.6a.

(B) Procedure. Contempt of court proceedings are governed by MCL 600.1711, 600.1715, and MCR 3.606. MCR 3.982-3.989 govern proceedings against a minor for contempt of a minor personal protection order.

(C) Contempt by Juvenile. A juvenile under court jurisdiction who is convicted of criminal contempt of court, and who was at least 17 years of age when the contempt was committed, may be sentenced to up to 93 days in the county jail as a disposition for the contempt. Juveniles sentenced under this subrule need not be lodged separately and apart from adult prisoners. Younger juveniles found in contempt of court are subject to a juvenile disposition under these rules.

(D) Determination of Ability to Pay. A juvenile and/or parent shall not be detained or incarcerated for the nonpayment of court ordered financial obligations as ordered by the court, unless the court determines that the juvenile and/or parent has the resources to pay and has not made a good-faith effort to do so.

Rule 3.944 Probation Violation

(A) Petition; Temporary Custody.

(1) Upon receipt of a sworn supplemental petition alleging that the juvenile has violated any condition of probation, the court may:

(a) direct that the juvenile be notified pursuant to MCR 3.920 to appear for a hearing on the alleged violation, which notice must include a copy of the probation violation petition and a notice of the juvenile's rights as provided in subrule (C)(1); or

(b) order that the juvenile be apprehended and brought to the court for a detention hearing, which must be commenced within 24 hours after the juvenile has been taken into court custody, excluding Sundays and holidays as defined in MCR 8.110 (D)(2).

(2) When a juvenile is apprehended pursuant to court order as provided in subrule (A)(1)(b), the officer must:

(a) forthwith take the juvenile

(i) to the court for a detention hearing, or

(ii) to the place designated by the court pending the scheduling of a detention hearing; and

(b) notify the custodial parent, guardian, or legal custodian that the juvenile has been taken into custody, of the time and place of the detention hearing, if known, and of the need for the presence of the parent, guardian, or legal custodian at the detention hearing.

(B) Detention Hearing; Procedure. At the detention hearing:

(1) The court must determine whether a parent, guardian, or legal custodian has been notified and is present. If a parent, guardian, or legal custodian has been notified, but fails to appear, the detention hearing may be conducted without a parent, guardian, or legal custodian if a guardian ad litem or attorney appears with the juvenile.

(2) The court must provide the juvenile with a copy of the petition alleging probation violation.

(3) The court must read the petition to the juvenile, unless the attorney or juvenile waives the reading.

(4) The court must advise the juvenile of the juvenile's rights as provided in subrule (C)(1) and of the possible dispositions.

(5) The juvenile must be allowed an opportunity to deny or otherwise plead to the probation violation. If the juvenile wishes to admit the probation violation or plead no contest, the court must comply with subrule (D) before accepting the plea.

(a) If the juvenile admits the probation violation or pleads no contest, and the court accepts the plea, the court may modify the existing order of probation or may order any disposition available under MCL 712A.18 or MCL 712A.18a.

(b) If the juvenile denies the probation violation or remains silent, the court must schedule a probation violation hearing, which must commence within 42 days. The court may order the juvenile detained without bond pending the probation violation hearing if there is probable cause to believe the juvenile violated probation. If the hearing is not commenced within 42 days, and the delay in commencing the hearing is not attributable to the juvenile, the juvenile must be released pending hearing without requiring that bail be posted.

(C) Probation Violation Hearing.

(1) At the probation violation hearing, the juvenile has the following rights:

(a) the right to be present at the hearing,

(b) the right to an attorney pursuant to MCR 3.915(A)(1),

(c) the right to have the petitioner prove the probation violation by a preponderance of the evidence,

(d) the right to have the court order any witnesses to appear at the hearing,

(e) the right to question witnesses against the juvenile,

(f) the right to remain silent and not have that silence used against the juvenile, and

(g) the right to testify at the hearing, if the juvenile wants to testify.

(2) At the probation violation hearing, the Michigan Rules of Evidence do not apply, other than those with respect to privileges. There is no right to a jury.

(3) If it is alleged that the juvenile violated probation by having been found, pursuant to MCR 3.941 or MCR 3.942, to have committed an offense, the juvenile may then be found to have violated probation pursuant to this rule.

(D) Pleas of Admission or No Contest. If the juvenile wishes to admit the probation violation or plead no contest, before accepting the plea, the court must:

(1) tell the juvenile the nature of the alleged probation violation;

(2) tell the juvenile the possible dispositions;

(3) tell the juvenile that if the plea is accepted, the juvenile will not have a contested hearing of any kind, so the juvenile would give up the rights that the juvenile would have at a contested hearing, including the rights as provided in subrule (C)(1);

(4) confirm any plea agreement on the record;

(5) ask the juvenile if any promises have been made beyond those in the plea agreement and whether anyone has threatened the juvenile;

(6) establish support for a finding that the juvenile violated probation,

(a) by questioning the juvenile or by other means when the plea is a plea of admission, or

(b) by means other than questioning the juvenile when the juvenile pleads no contest. The court must also state why a plea of no contest is appropriate;

(7) inquire of the parent, guardian, legal custodian, or guardian ad litem whether there is any reason why the court should not accept the juvenile's plea. Agreement or objection by the parent, guardian, legal custodian, or guardian ad litem to a plea of admission or of no contest by a juvenile shall be placed on the record if the parent, guardian, legal custodian, or guardian ad litem is present; and

(8) determine that the plea is accurately, voluntarily and understandingly made.

(E) Disposition of Probation Violation; Reporting.

(1) If, after hearing, the court finds that a violation of probation has occurred, the court may modify the existing order of probation or order any disposition available under MCL 712A.18 or MCL 712A.18a.

(2) If, after hearing, the court finds that a violation of probation occurred on the basis of the juvenile having committed an offense, that finding must be recorded as a violation of probation only and not a finding that the juvenile committed the underlying offense. That finding must not be reported to the State Police or the Secretary of State as an adjudication or a disposition.

(F) Determination of Ability to Pay. A juvenile and/or parent shall not be detained or incarcerated for the nonpayment of court ordered financial obligations as ordered by the court, unless the court determines that the juvenile and/or parent has the resources to pay and has not made a good-faith effort to do so.

Rule 3.956 Review Hearings; Probation Violation

(A) Review Hearings in Delayed Imposition of Sentence Cases.

(1) When Required. If the court entered an order of disposition delaying imposition of sentence, the court shall conduct a review hearing to determine whether the juvenile has been rehabilitated and whether the juvenile presents a serious risk to public safety.

(a) Time of Hearing.

(i) Annual Review. The court shall conduct an annual review of the probation, including, but not limited to, the services being provided to the juvenile, the juvenile's placement, and the juvenile's progress in placement. In conducting the review, the court must examine any report prepared under MCL 803.223, and any report prepared by the officer or agency supervising probation. The court may order changes in the juvenile's probation on the basis of the review including, but not limited to, imposition of sentence.

(ii) Review on Request of Institution or Agency. If an institution or agency to which the juvenile was committed believes that the juvenile has been rehabilitated and does not present a serious risk to public safety, the institution or agency may petition the court to conduct a review hearing at any time before the juvenile becomes 19 years of age or, if the court has extended jurisdiction, any time before the juvenile becomes 21 years of age.

(iii) Mandatory Review. The court shall schedule a review hearing to be held within 42 days before the juvenile attains the age of 19, unless adjourned for good cause.

(iv) Final Review. The court shall conduct a final review of the juvenile's probation not less than 91 days before the end of the probation period.

(b) Notice of Hearing. Notice of the hearing must be given at least 14 days before the hearing to

(i) the prosecuting attorney;

(ii) the agency or the superintendent of the institution or facility to which the juvenile has been committed;

(iii) the juvenile; and

(iv) if the address or whereabouts are known, the parent, guardian, or legal custodian of the juvenile.

The notice must clearly indicate that the court may extend jurisdiction over the juvenile or impose sentence and must advise the juvenile and the parent, guardian, or legal custodian of the juvenile that the juvenile has a right to an attorney.

(2) Appointment of Attorney. The court must appoint an attorney to represent the juvenile unless an attorney has been retained. The court may assess the cost of providing an attorney as costs against the juvenile or those responsible for the juvenile's support, or both, if the persons to be assessed are financially able to comply.

(3) Evidence; Commitment Report. The court may consider the commitment report prepared as provided in MCL 803.225 and any report prepared upon the court's order by the officer or agency supervising probation.

(4) Burden of Proof; Findings.

(a) Before the court may continue jurisdiction over the juvenile or impose sentence, the prosecuting attorney must demonstrate by a preponderance of the evidence that the juvenile has not been rehabilitated or that the juvenile presents a serious risk to public safety. The Michigan Rules of Evidence, other than those with respect to privileges, do not apply. In making the determination, the court must consider the following factors:

(i) the extent and nature of the juvenile's participation in education, counseling, or work programs;

(ii) the juvenile's willingness to accept responsibility for prior behavior;

(iii) the juvenile's behavior in the current placement;

(iv) the juvenile's prior record, character, and physical and mental maturity;

(v) the juvenile's potential for violent conduct as demonstrated by prior behavior;

(vi) the recommendation of the institution, agency, or facility charged with the juvenile's care for the juvenile's release or continued custody;

(vii) any other information the prosecuting attorney or the juvenile submit.

(b) Before the court may impose a sentence at the final review hearing, the court must determine that the best interests of the public would be served by the imposition of a sentence provided by law for an adult offender. In making the determination, the court must consider the following factors, in addition to the criteria specified in subrule (4)(a):

(i) the effect of treatment on the juvenile's rehabilitation;

(ii) whether the juvenile is likely to be dangerous to the public if released;

(iii) the best interests of the public welfare and the protection of public security.

(5) Sentencing credit. If a sentence of imprisonment is imposed, the juvenile shall receive credit for the time served on probation.

(B) Violation of Probation in Delayed Imposition of Sentence Cases.

(1) Subsequent Conviction. If a juvenile placed on probation under an order of disposition delaying imposition of sentence is found by the court to have violated probation by being convicted of a felony or a misdemeanor punishable by imprisonment for more than 1 year, or adjudicated as responsible for an offense that if committed by an adult would be a felony or a misdemeanor punishable by imprisonment for more than 1 year, the court shall revoke probation and sentence the juvenile to imprisonment for a term that does not exceed the penalty that could have been imposed for the offense for which the juvenile was originally convicted and placed on probation.

(2) Other Violations of Probation. If a juvenile placed on probation under an order of disposition delaying imposition of sentence is found by the court to have violated probation other than as provided in subrule (B)(1), the court may impose sentence or may order any of the following for the juvenile:

(a) A change in placement.

(b) Community service.

(c) Substance abuse counseling.

(d) Mental health counseling.

(e) Participation in a vocational-technical program.

(f) Incarceration in the county jail for not more than 30 days if the present county jail facility would meet all requirements under federal law and regulations for housing juveniles, and if the court has consulted with the sheriff to determine when the sentence will begin to ensure that space will be available for the juvenile. If the juvenile is under 17 years of age, the juvenile must be placed in a room or ward out of sight and sound from adult prisoners.

(g) Other participation or performance as the court considers necessary.

(3) Hearing. The probation violation hearing must be conducted pursuant to MCR 3.944(C).

(4) Sentencing Credit. If a sentence of imprisonment is imposed, the juvenile must receive credit for the time served on probation.

(C) Determination of Ability to Pay. A juvenile and/or parent shall not be detained or incarcerated for the nonpayment of court ordered financial obligations as ordered by the court, unless the court determines that the juvenile and/or parent has the resources to pay and has not made a good-faith effort to do so.

Rule 6.001 Scope; Applicability of Civil Rules; Superseded Rules and Statutes

(A) Felony Cases. The rules in subchapters 6.000-6.500 govern matters of procedure in criminal cases cognizable in the circuit courts and in courts of equivalent criminal jurisdiction.

(B) Misdemeanor Cases. MCR 6.001-6.004, 6.005(B) and (C), 6.006, 6.102(D) and (F), 6.106, 6.125, 6.202, **6.425(E)(3)**, 6.427, 6.445(A)-(G), and the rules in subchapters 6.600-6.800 govern matters of procedure in criminal cases cognizable in the district courts.

(C) Juvenile Cases. The rules in subchapter 6.900 govern matters of procedure in the district courts and in circuit courts and courts of equivalent criminal jurisdiction in cases involving juveniles against whom the prosecutor has authorized the filing of a criminal complaint as provided in MCL 764.1f.

(D) Civil Rules Applicable. The provisions of the rules of civil procedure apply to cases governed by this chapter, except

(1) as otherwise provided by rule or statute,

(2) when it clearly appears that they apply to civil actions only, or

(3) when a statute or court rule provides a like or different procedure.

Depositions and other discovery proceedings under subchapter 2.300 may not be taken for the purposes of discovery in cases governed by this chapter. The provisions of MCR 2.501(C) regarding the length of notice of trial assignment do not apply in cases governed by this chapter.

(E) Rules and Statutes Superseded. The rules in this chapter supersede all prior court rules in this chapter and any statutory procedure pertaining to and inconsistent with a procedure provided by a rule in this chapter.

Rule 6.425 Sentencing; Appointment of Appellate Counsel

(A) Presentence Report; Contents.

(1) Prior to sentencing, the probation officer must investigate the defendant's background and character, verify material information, and report in writing the results of the investigation to the court. The report must be succinct and, depending on the circumstances, include:

(a) a description of the defendant's prior criminal convictions and juvenile adjudications,

- (b) a complete description of the offense and the circumstances surrounding it,
- (c) a brief description of the defendant's vocational background and work history, including military record and present employment status,
- (d) a brief social history of the defendant, including marital status, financial status, length of residence in the community, educational background, and other pertinent data,
- (e) the defendant's medical history, substance abuse history, if any, and, if indicated, a current psychological or psychiatric report,
- (f) information concerning the financial, social, psychological, or physical harm suffered by any victim of the offense, including the restitution needs of the victim,
- (g) if provided and requested by the victim, a written victim's impact statement as provided by law,
- (h) any statement the defendant wishes to make,
- (i) a statement prepared by the prosecutor on the applicability of any consecutive sentencing provision,
- (j) an evaluation of and prognosis for the defendant's adjustment in the community based on factual information in the report,
- (k) a specific recommendation for disposition, and
- (l) any other information that may aid the court in sentencing.

(2) A presentence investigation report shall not include any address or telephone number for the home, workplace, school, or place of worship of any victim or witness, or a family member of any victim or witness, unless an address is used to identify the place of the crime or to impose conditions of release from custody that are necessary for the protection of a named individual. Upon request, any other address or telephone number that would reveal the location of a victim or witness or a family member of a victim or witness shall be exempted from disclosure unless an address is used to identify the place of the crime or to impose conditions of release from custody that are necessary for the protection of a named individual.

(3) Regardless of the sentence imposed, the court must have a copy of the presentence report and of any psychiatric report sent to the Department of Corrections. If the defendant is sentenced to prison, the copies must be sent with the commitment papers.

(B) Presentence Report; Disclosure Before Sentencing. The court must provide copies of the presentence report to the prosecutor, and the defendant's lawyer, or the defendant if not represented by a lawyer, at a reasonable time, but not less than two business days, before the day of sentencing. The prosecutor and the defendant's lawyer, or the defendant if not represented by

a lawyer, may retain a copy of the report or an amended report. If the presentence report is not made available to the prosecutor and the defendant's lawyer, or the defendant if not represented by a lawyer, at least two business days before the day of sentencing, the prosecutor and the defendant's lawyer, or the defendant if not represented by a lawyer, shall be entitled, on oral motion, to an adjournment of the day of sentencing to enable the moving party to review the presentence report and to prepare any necessary corrections, additions, or deletions to present to the court. The court may exempt from disclosure information or diagnostic opinion that might seriously disrupt a program of rehabilitation and sources of information that have been obtained on a promise of confidentiality. When part of the report is not disclosed, the court must inform the parties that information has not been disclosed and state on the record the reasons for nondisclosure. To the extent it can do so without defeating the purpose of nondisclosure, the court also must provide the parties with a written or oral summary of the nondisclosed information and give them an opportunity to comment on it. The court must have the information exempted from disclosure specifically noted in the report. The court's decision to exempt part of the report from disclosure is subject to appellate review.

(C) Presentence Report; Disclosure After Sentencing. After sentencing, the court, on written request, must provide the prosecutor, the defendant's lawyer, or the defendant not represented by a lawyer, with a copy of the presentence report and any attachments to it. The court must exempt from disclosure any information the sentencing court exempted from disclosure pursuant to subrule (B).

(D) Sentencing Guidelines. The court must use the sentencing guidelines, as provided by law. Proposed scoring of the guidelines shall accompany the presentence report.

(E) Sentencing Procedure.

(1) The court must sentence the defendant within a reasonably prompt time after the plea or verdict unless the court delays sentencing as provided by law. At sentencing, the court must, on the record:

(a) determine that the defendant, the defendant's lawyer, and the prosecutor have had an opportunity to read and discuss the presentence report,

(b) give each party an opportunity to explain, or challenge the accuracy or relevancy of, any information in the presentence report, and resolve any challenges in accordance with the procedure set forth in subrule (E)(2),

(c) give the defendant, the defendant's lawyer, the prosecutor, and the victim an opportunity to advise the court of any circumstances they believe the court should consider in imposing sentence,

(d) state the sentence being imposed, including the minimum and maximum sentence if applicable, together with any credit for time served to which the defendant is entitled,

(e) if the sentence imposed is not within the guidelines range, articulate the substantial and compelling reasons justifying that specific departure, and

(f) order that the defendant make full restitution as required by law to any victim of the defendant's course of conduct that gives rise to the conviction, or to that victim's estate.

(2) Resolution of Challenges. If any information in the presentence report is challenged, the court must allow the parties to be heard regarding the challenge, and make a finding with respect to the challenge or determine that a finding is unnecessary because it will not take the challenged information into account in sentencing. If the court finds merit in the challenge or determines that it will not take the challenged information into account in sentencing, it must direct the probation officer to

(a) correct or delete the challenged information in the report, whichever is appropriate, and

(b) provide defendant's lawyer with an opportunity to review the corrected report before it is sent to the Department of Corrections.

(3) Incarceration for Nonpayment.

(a) The court shall not sentence a defendant to a term of incarceration, nor revoke probation, for failure to comply with an order to pay money unless the court finds, on the record, that the defendant is able to comply with the order without manifest hardship and that the defendant has not made a good faith effort to comply with the order.

(b) Payment alternatives. If the court finds that the defendant is unable to comply with an order to pay money without manifest hardship, the court may impose a payment alternative, such as a payment plan, modification of any existing payment plan, or waiver of part or all of the amount of money owed to the extent permitted by law.

(c) Determining manifest hardship. The court shall consider the following criteria in determining manifest hardship:

(i) Defendant's employment status and history.

(ii) Defendant's employability and earning ability.

(iii) The willfulness of the defendant's failure to pay.

(iv) Defendant's financial resources.

(v) Defendant's basic living expenses, including but not limited to food, shelter, clothing, necessary medical expenses, or child support.

(vi) Any other special circumstances that may have bearing on the defendant's ability to pay.

(F) Advice Concerning the Right to Appeal; Appointment of Counsel.

(1) In a case involving a conviction following a trial, immediately after imposing sentence, the court must advise the defendant, on the record, that

(a) the defendant is entitled to appellate review of the conviction and sentence,

(b) if the defendant is financially unable to retain a lawyer, the court will appoint a lawyer to represent the defendant on appeal, and

(c) the request for a lawyer must be made within 42 days after sentencing.

(2) In a case involving a conviction following a plea of guilty or nolo contendere, immediately after imposing sentence, the court must advise the defendant, on the record, that

(a) the defendant is entitled to file an application for leave to appeal,

(b) if the defendant is financially unable to retain a lawyer, the court will appoint a lawyer to represent the defendant on appeal, and

(c) the request for a lawyer must be made within 42 days after sentencing.

(3) The court also must give the defendant a request for counsel form containing an instruction informing the defendant that the form must be completed and returned to the court within 42 days after sentencing if the defendant wants the court to appoint a lawyer.

(4) When imposing sentence in a case in which sentencing guidelines enacted in 1998 PA 317, MCL 777.1 *et seq.*, are applicable, if the court imposes a minimum sentence that is longer or more severe than the range provided by the sentencing guidelines, the court must advise the defendant on the record and in writing that the defendant may seek appellate review of the sentence, by right if the conviction followed trial or by application if the conviction entered by plea, on the ground that it is longer or more severe than the range provided by the sentencing guidelines.

(G) Appointment of Lawyer; Trial Court Responsibilities in Connection with Appeal.

(1) Appointment of Lawyer.

(a) Unless there is a postjudgment motion pending, the court must rule on a defendant's request for a lawyer within 14 days after receiving it. If there is a postjudgment motion pending, the court must rule on the request after the court's disposition of the pending motion and within 14 days after that disposition.

(b) In a case involving a conviction following a trial, if the defendant is indigent, the court must enter an order appointing a lawyer if the request is filed within 42 days after sentencing or within

the time for filing an appeal of right. The court should liberally grant an untimely request as long as the defendant may file an application for leave to appeal.

(c) In a case involving a conviction following a plea of guilty or nolo contendere, if the defendant is indigent, the court must enter an order appointing a lawyer if the request is filed within 42 days after sentencing.

(d) Scope of Appellate Lawyer's Responsibilities. The responsibilities of the appellate lawyer appointed to represent the defendant include representing the defendant

(i) in available postconviction proceedings in the trial court the lawyer deems appropriate,

(ii) in postconviction proceedings in the Court of Appeals,

(iii) in available proceedings in the trial court the lawyer deems appropriate under MCR 7.208(B) or 7.211(C)(1), and

(iv) as appellee in relation to any postconviction appeal taken by the prosecutor.

(2) Order to Prepare Transcript. The appointment order also must

(a) direct the court reporter to prepare and file, within the time limits specified in MCR 7.210,

(i) the trial or plea proceeding transcript,

(ii) the sentencing transcript, and

(iii) such transcripts of other proceedings, not previously transcribed, that the court directs or the parties request, and

(b) provide for the payment of the reporter's fees.

The court must promptly serve a copy of the order on the prosecutor, the defendant, the appointed lawyer, the court reporter, and the Michigan Appellate Assigned Counsel System. If the appointed lawyer timely requests additional transcripts, the trial court shall order such transcripts within 14 days after receiving the request.

(3) Order as Claim of Appeal; Trial Cases. In a case involving a conviction following a trial, if the defendant's request for a lawyer, timely or not, was made within the time for filing a claim of appeal, the order described in subrules (G)(1) and (2) must be entered on a form approved by the State Court Administrative Office, entitled "Claim of Appeal and Appointment of Counsel," and the court must immediately send to the Court of Appeals a copy of the order and a copy of the judgment being appealed. The court also must file in the Court of Appeals proof of having made service of the order as required in subrule (G)(2). Entry of the order by the trial court pursuant to this subrule constitutes a timely filed claim of appeal for the purposes of MCR 7.204.

Rule 6.445 Probation Revocation

(A) Issuance of Summons; Warrant. On finding probable cause to believe that a probationer has violated a condition of probation, the court may

(1) issue a summons in accordance with MCR 6.103(B) and (C) for the probationer to appear for arraignment on the alleged violation, or

(2) issue a warrant for the arrest of the probationer.

An arrested probationer must promptly be brought before the court for arraignment on the alleged violation.

(B) Arraignment on the Charge. At the arraignment on the alleged probation violation, the court must

(1) ensure that the probationer receives written notice of the alleged violation,

(2) advise the probationer that

(a) the probationer has a right to contest the charge at a hearing, and

(b) the probationer is entitled to a lawyer's assistance at the hearing and at all subsequent court proceedings, and that the court will appoint a lawyer at public expense if the probationer wants one and is financially unable to retain one,

(3) if requested and appropriate, appoint a lawyer,

(4) determine what form of release, if any, is appropriate, and

(5) subject to subrule (C), set a reasonably prompt hearing date or postpone the hearing.

(C) Scheduling or Postponement of Hearing. The hearing of a probationer being held in custody for an alleged probation violation must be held within 14 days after the arraignment or the court must order the probationer released from that custody pending the hearing. If the alleged violation is based on a criminal offense that is a basis for a separate criminal prosecution, the court may postpone the hearing for the outcome of that prosecution.

(D) Continuing Duty to Advise of Right to Assistance of Lawyer. Even though a probationer charged with probation violation has waived the assistance of a lawyer, at each subsequent proceeding the court must comply with the advice and waiver procedure in MCR 6.005(E).

(E) The Violation Hearing.

(1) Conduct of the Hearing. The evidence against the probationer must be disclosed to the probationer. The probationer has the right to be present at the hearing, to present evidence, and to examine and cross-examine witnesses. The court may consider only evidence that is relevant to

the violation alleged, but it need not apply the rules of evidence except those pertaining to privileges. The state has the burden of proving a violation by a preponderance of the evidence.

(2) Judicial Findings. At the conclusion of the hearing, the court must make findings in accordance with MCR 6.403.

(F) Pleas of Guilty. The probationer may, at the arraignment or afterward, plead guilty to the violation. Before accepting a guilty plea, the court, speaking directly to the probationer and receiving the probationer's response, must

(1) advise the probationer that by pleading guilty the probationer is giving up the right to a contested hearing and, if the probationer is proceeding without legal representation, the right to a lawyer's assistance as set forth in subrule (B)(2)(b),

(2) advise the probationer of the maximum possible jail or prison sentence for the offense,

(3) ascertain that the plea is understandingly, voluntarily, and accurately made, and

(4) establish factual support for a finding that the probationer is guilty of the alleged violation.

(G) Sentencing. If the court finds that the probationer has violated a condition of probation, or if the probationer pleads guilty to a violation, the court may continue probation, modify the conditions of probation, extend the probation period, or revoke probation and impose a sentence of incarceration. The court may not sentence the probationer to prison without having considered a current presentence report. **The court may not sentence the probationer to prison or jail for failing to pay fines, costs, restitution, and other financial obligations imposed by the court without and** having complied with the provisions set forth in MCR 6.425(B) and (E).

(H) Review.

(1) In a case involving a sentence of incarceration under subrule (G), the court must advise the probationer on the record, immediately after imposing sentence, that

(a) the probationer has a right to appeal, if the underlying conviction occurred as a result of a trial, or

(b) the probationer is entitled to file an application for leave to appeal, if the underlying conviction was the result of a plea of guilty or nolo contendere.

(2) In a case that involves a sentence other than incarceration under subrule (G), the court must advise the probationer on the record, immediately after imposing sentence, that the probationer is entitled to file an application for leave to appeal.

Rule 6.610 Criminal Procedure Generally

(A) Precedence. Criminal cases have precedence over civil actions.

(B) Pretrial. The court, on its own initiative or on motion of either party, may direct the prosecutor and the defendant, and, if represented, the defendant's attorney to appear for a pretrial conference. The court may require collateral matters and pretrial motions to be filed and argued no later than this conference.

(C) Record. Unless a writing is permitted, a verbatim record of the proceedings before a court under subrules (D)-(F) must be made.

(D) Arraignment; District Court Offenses.

(1) Whenever a defendant is arraigned on an offense over which the district court has jurisdiction, the defendant must be informed of

(a) the name of the offense;

(b) the maximum sentence permitted by law; and

(c) the defendant's right

(i) to the assistance of an attorney and to a trial;

(ii) (if subrule [D][2] applies) to an appointed attorney; and

(iii) to a trial by jury, when required by law.

The information may be given in a writing that is made a part of the file or by the court on the record.

(2) An indigent defendant has a right to an appointed attorney whenever the offense charged requires on conviction a minimum term in jail or the court determines it might sentence to a term of incarceration, even if suspended.

If an indigent defendant is without an attorney and has not waived the right to an appointed attorney, the court may not sentence the defendant to jail or to a suspended jail sentence.

(3) The right to the assistance of an attorney, to an appointed attorney, or to a trial by jury is not waived unless the defendant

(a) has been informed of the right; and

(b) has waived it in a writing that is made a part of the file or orally on the record.

(4) The court may allow a defendant to enter a plea of not guilty or to stand mute without formal arraignment by filing a written statement signed by the defendant and any defense attorney of record, reciting the general nature of the charge, the maximum possible sentence, the rights of the defendant at arraignment, and the plea to be entered. The court may require that an appropriate bond be executed and filed and appropriate and reasonable sureties posted or

continued as a condition precedent to allowing the defendant to be arraigned without personally appearing before the court.

(E) Pleas of Guilty and Nolo Contendere. Before accepting a plea of guilty or nolo contendere, the court shall in all cases comply with this rule.

(1) The court shall determine that the plea is understanding, voluntary, and accurate. In determining the accuracy of the plea,

(a) if the defendant pleads guilty, the court, by questioning the defendant, shall establish support for a finding that defendant is guilty of the offense charged or the offense to which the defendant is pleading, or

(b) if the defendant pleads nolo contendere, the court shall not question the defendant about the defendant's participation in the crime, but shall make the determination on the basis of other available information.

(2) The court shall inform the defendant of the right to the assistance of an attorney. If the offense charged requires on conviction a minimum term in jail, the court shall inform the defendant that if the defendant is indigent the defendant has the right to an appointed attorney. The court shall also give such advice if it determines that it might sentence to a term of incarceration, even if suspended.

(3) The court shall advise the defendant of the following:

(a) the mandatory minimum jail sentence, if any, and the maximum possible penalty for the offense,

(b) that if the plea is accepted the defendant will not have a trial of any kind and that the defendant gives up the following rights that the defendant would have at trial:

(i) the right to have witnesses called for the defendant's defense at trial,

(ii) the right to cross-examine all witnesses called against the defendant,

(iii) the right to testify or to remain silent without an inference being drawn from said silence,

(iv) the presumption of innocence and the requirement that the defendant's guilt be proven beyond a reasonable doubt.

(4) A defendant or defendants may be informed of the trial rights listed in subrule (3)(b) as follows:

(a) on the record,

(b) in a writing made part of the file, or

(c) in a writing referred to on the record.

If the court uses a writing pursuant to subrule (E)(4)(b) or (c), the court shall address the defendant and obtain from the defendant orally on the record a statement that the rights were read and understood and a waiver of those rights. The waiver may be obtained without repeating the individual rights.

(5) The court shall make the plea agreement a part of the record and determine that the parties agree on all the terms of that agreement. The court shall accept, reject or indicate on what basis it accepts the plea.

(6) The court must ask the defendant:

(a) (if there is no plea agreement) whether anyone has promised the defendant anything, or (if there is a plea agreement) whether anyone has promised anything beyond what is in the plea agreement;

(b) whether anyone has threatened the defendant; and

(c) whether it is the defendant's own choice to plead guilty.

(7) A plea of guilty or nolo contendere in writing is permissible without a personal appearance of the defendant and without support for a finding that defendant is guilty of the offense charged or the offense to which the defendant is pleading if

(a) the court decides that the combination of the circumstances and the range of possible sentences makes the situation proper for a plea of guilty or nolo contendere;

(b) the defendant acknowledges guilt or nolo contendere, in a writing to be placed in the district court file, and waives in writing the rights enumerated in subrule (3)(b); and

(c) the court is satisfied that the waiver is voluntary.

(8) The following provisions apply where a defendant seeks to challenge the plea.

(a) A defendant may not challenge a plea on appeal unless the defendant moved in the trial court to withdraw the plea for noncompliance with these rules. Such a motion may be made either before or after sentence has been imposed. After imposition of sentence, the defendant may file a motion to withdraw the plea within the time for filing an application for leave to appeal under MCR 7.105(F)(2).

(b) If the trial court determines that a deviation affecting substantial rights occurred, it shall correct the deviation and give the defendant the option of permitting the plea to stand or of withdrawing the plea. If the trial court determines either a deviation did not occur, or that the deviation did not affect substantial rights, it may permit the defendant to withdraw the plea only if it does not cause substantial prejudice to the people because of reliance on the plea.

(c) If a deviation is corrected, any appeal will be on the whole record including the subsequent advice and inquiries.

(9) The State Court Administrator shall develop and approve forms to be used under subrules (E)(4)(b) and (c) and (E)(7)(b).

(F) Sentencing.

(1) For sentencing, the court shall:

(a) require the presence of the defendant's attorney, unless the defendant does not have one or has waived the attorney's presence;

(b) provide copies of the presentence report (if a presentence report was prepared) to the prosecutor and the defendant's lawyer, or the defendant if not represented by a lawyer, at a reasonable time, but not less than two business days before the day of sentencing. The prosecutor and the defendant's lawyer, or the defendant if not represented by a lawyer, may retain a copy of the report or an amended report. If the presentence report is not made available to the prosecutor and the defendant's lawyer, or the defendant if not represented by a lawyer, at least two business days before the day of sentencing, the prosecutor and the defendant's lawyer, or the defendant if not represented by a lawyer, shall be entitled, on oral motion, to an adjournment to enable the moving party to review the presentence report and to prepare any necessary corrections, additions or deletions to present to the court, or otherwise advise the court of circumstances the prosecutor or defendant believes should be considered in imposing sentence. A presentence investigation report shall not include any address or telephone number for the home, workplace, school, or place of worship of any victim or witness, or a family member of any victim or witness, unless an address is used to identify the place of the crime or to impose conditions of release from custody that are necessary for the protection of a named individual. Upon request, any other address or telephone number that would reveal the location of a victim or witness or a family member of a victim or witness shall be exempted from disclosure unless an address is used to identify the place of the crime or to impose conditions of release from custody that are necessary for the protection of a named individual.

(c) inform the defendant of credit to be given for time served, if any.

(2) The court shall not sentence a defendant to a term of incarceration for nonpayment unless the court has complied with the provisions of MCL 6.425(E)(3).

(23) Unless a defendant who is entitled to appointed counsel is represented by an attorney or has waived the right to an attorney, a subsequent charge or sentence may not be enhanced because of this conviction and the defendant may not be incarcerated for violating probation or any other condition imposed in connection with this conviction.

(34) Immediately after imposing a sentence of incarceration, even if suspended, the court must advise the defendant, on the record or in writing, that:

(a) if the defendant wishes to file an appeal and is financially unable to retain a lawyer, the court will appoint a lawyer to represent the defendant on appeal, and

(b) the request for a lawyer must be made within 14 days after sentencing.

(G) Motion for New Trial. A motion for a new trial must be filed within 21 days after the entry of judgment. However, if an appeal has not been taken, a delayed motion may be filed within the time for filing an application for leave to appeal.

(H) Arraignment; Offenses Not Cognizable by the District Court. In a prosecution in which a defendant is charged with a felony or a misdemeanor not cognizable by the district court, the court shall

(1) inform the defendant of the nature of the charge;

(2) inform the defendant of

(a) the right to a preliminary examination;

(b) the right to an attorney, if the defendant is not represented by an attorney at the arraignment;

(c) the right to have an attorney appointed at public expense if the defendant is indigent; and

(d) the right to consideration of pretrial release.

If a defendant not represented by an attorney waives the preliminary examination, the court shall ascertain that the waiver is freely, understandingly, and voluntarily given before accepting it.

Rule 6.933 Juvenile Probation Revocation

(A) General Procedure. When a juvenile, who was placed on juvenile probation and committed to an institution as a state ward, is alleged to have violated juvenile probation, the court shall proceed as provided in MCR 6.445(A)-(F).

(B) Disposition in General.

(1) Certain Criminal Offense Violations.

(a) If the court finds that the juvenile has violated juvenile probation by being convicted of a felony or a misdemeanor punishable by more than one year's imprisonment, the court must revoke the probation of the juvenile and order the juvenile committed to the Department of Corrections for a term of years not to exceed the penalty that could have been imposed for the offense that led to the probation. The court in imposing sentence shall grant credit against the sentence as required by law.

(b) The court may not revoke probation and impose sentence under subrule (B)(1) unless at the original sentencing the court gave the advice, as required by MCR 6.931(F)(2), that subsequent conviction of a felony or a misdemeanor punishable by more than one year's imprisonment would result in the revocation of juvenile probation and in the imposition of a sentence of imprisonment.

(2) Other Violations. If the court finds that the juvenile has violated juvenile probation, other than as provided in subrule (B)(1), the court may order the juvenile committed to the Department of Corrections as provided in subrule (B)(1), or may order the juvenile continued on juvenile probation and under state wardship, and may order any of the following:

- (a) a change of placement,
- (b) restitution,
- (c) community service,
- (d) substance abuse counseling,
- (e) mental health counseling,
- (f) participation in a vocational-technical education program,
- (g) incarceration in a county jail for not more than 30 days, and
- (h) any other participation or performance as the court considers necessary.

If the court determines to place the juvenile in jail for up to 30 days, and the juvenile is under 17 years of age, the juvenile must be placed separately from adult prisoners as required by law.

(3) If the court revokes juvenile probation pursuant to subrule (B)(1), the court must receive an updated presentence report and comply with MCR 6.445(G) before it imposes a prison sentence on the juvenile.

(C) Disposition Regarding Specific Underlying Offenses.

(1) Controlled Substance Violation Punishable by Mandatory Nonparolable Life Sentence For Adults. A juvenile who was placed on probation and committed to state wardship for manufacture, delivery, or possession with the intent to deliver 650 grams(1,000 grams beginning March 1, 2003) or more of a controlled substance, MCL 333.7401(2)(a)(i), may be resentenced only to a term of years following mandatory revocation of probation for commission of a subsequent felony or a misdemeanor punishable by more than one year of imprisonment.

(2) First-Degree Murder. A juvenile convicted of first-degree murder who violates juvenile probation by being convicted of a felony or a misdemeanor punishable by more than one year's imprisonment may only be sentenced to a term of years, not to nonparolable life.

(D) Review. The juvenile may appeal as of right from the imposition of a sentence of incarceration after a finding of juvenile probation violation.

(D) Determination of Ability to Pay. A juvenile and/or parent shall not be detained or incarcerated for the nonpayment of court ordered financial obligations as ordered by the court, unless the court determines that the juvenile and/or parent has the resources to pay and has not made a good-faith effort to do so.

Your Rights as a Defendant in the Municipal Courts in the State of New Jersey.

1. You are PRESUMED TO BE INNOCENT until proven guilty beyond a reasonable doubt.
2. You have the RIGHT TO BE INFORMED OF THE CHARGES against you.
3. You have the RIGHT TO REMAIN SILENT concerning the charges against you, and anything you say may be held against you.
4. You have the RIGHT TO RETAIN AN ATTORNEY.
5. You have the RIGHT TO BE ASSIGNED AN ATTORNEY if the judge determines that you cannot afford an attorney, and there is a likelihood that if you are convicted, you will either go to jail, receive a substantial fine or your driver's license will be suspended.
6. You have the RIGHT TO REQUEST A REASONABLE POSTPONEMENT so that you may have an opportunity to consult with your attorney and prepare a proper defense.
7. You have the RIGHT TO TESTIFY OR NOT TO TESTIFY on your own behalf.
8. You have the RIGHT TO CALL OR SUBPOENA WITNESSES to testify on your behalf.
9. You have the RIGHT TO APPEAL within 20 days of any conviction.

If you think you need the services of an interpreter, please notify the municipal court administrator prior to your appearance in court.



For more information regarding your case, contact the municipal court at the phone number found on the ticket or court notice. You may also find municipal court telephone numbers online at www.njcourtsonline.com or in the blue pages of your telephone book.

For general information regarding the municipal courts, you should contact one of the following regional offices:

MUNICIPAL DIVISION OFFICES

(Regional Offices)

ATLANTIC	609-343-2298
BERGEN	201-527-2270
BURLINGTON	609-518-2603
CAPE MAY	609-343-2298
CAMDEN	856-379-2383
CUMBERLAND	856-853-3482
ESSEX	973-693-5790
GLOUCESTER	856-853-3482
HUDSON	201-795-6108
HUNTERDON	908-231-7606
MERCER	609-571-4010
MIDDLESEX	732-981-2177
MONMOUTH	732-677-4219
MORRIS	973-656-3978
OCEAN	732-929-2042
PASSAIC	973-247-8102
SALEM	856-853-3482
SOMERSET	908-231-7606
SUSSEX	973-656-3978
UNION	908-659-4194
WARREN	908-231-7606

NEW JERSEY JUDICIARY



New Jersey Judiciary
Municipal Court Services Division
PO Box 986
R. J. Hughes Justice Complex
Trenton, NJ 08625-0986
609-984-8241 phone
609-292-4255 fax

THE NEW JERSEY JUDICIARY MISSION STATEMENT

We are an independent branch of government constitutionally entrusted with the fair and just resolution of disputes in order to preserve the rule of law and to protect the rights and liberties guaranteed by the Constitution and laws of the United States and this State.

List as Regional Court

Rev 2/20/06



NEW JERSEY JUDICIARY

MUNICIPAL COURTS

of the

STATE of
NEW JERSEY

Your Day in Court

Do I need to appear in court if I choose to plead guilty and pay the fine?

If the "Court Appearance Required" box has **not** been checked on the complaint **and** if the charge is listed on either the Statewide Violations Bureau Schedule or the Local Violations Bureau Schedule, you may pay the fine without appearing in court. The Statewide Violations Bureau Schedule is a list of state offenses that may be paid without going to court. The Local Violations Schedule is a list of municipal ordinances that may be paid without going to court. You may pay your fine at the court's payment window, by mail or by using the Internet at www.NJMCdirect.com. If you pay without going to court, you will be pleading guilty and giving up your right to a lawyer and your right to a trial.

Court appearances are always required in criminal matters.

If I can plead guilty without going to court, how much will I have to pay?

The amount of the fine is in the Statewide or Local Violations Bureau Schedules. These schedules are available for review at the Municipal Court office. The Statewide Violations Bureau Schedule is also posted on the Internet at www.njcourtsonline.com

What should I expect when I go to court?

- Prior to entering the courtroom, please turn off or silence your phone or pager.
- When you get to court, check in with court staff.
- Listen to instructions from court staff and from the judge. The proceedings are sound recorded, so please remain quiet until it is your time to speak.
- The judge will give an opening statement explaining court procedures, defendants' rights and penalties.

Cases are usually called in the following order:

requests for postponements
uncontested motions
first arraignments
guilty pleas
contested motions
pleas of not guilty (with attorney)
pleas of not guilty (without attorney)

- A case may be postponed to give you time to obtain representation by a private attorney or by a public defender (if you qualify) and prepare your defense. If you need a postponement, ask the court staff for assistance.
- If your case involves a dispute between you and another person, you may be required to participate in a discussion with a mediator to attempt to settle the dispute without going in front of the judge.



What is a plea agreement?

A plea agreement is a way to settle a case. Plea agreements are negotiated with the prosecutor, an attorney who represents the state. You will be given the opportunity to speak to the prosecutor to try to settle your case. You are not required to speak to the prosecutor. All plea agreements must be approved by the judge.

What happens if I plead guilty in court?

If you plead guilty in court, the judge will ask questions regarding the offense charged to make sure there are facts to support the guilty plea and to determine that your plea is voluntary. The judge will then make a finding and impose a sentence. If you plead guilty or are found guilty of traffic offenses in court, the penalties listed on the Violations Bureau Schedule do not apply.

What if I plead not guilty?

If you plead not guilty, the judge will preside over a trial to determine whether you are guilty or not guilty. The trial may be held that day, but in certain circumstances it may be rescheduled.

In a trial, the prosecutor first will call the state's witnesses (witnesses against you). They will answer the prosecutor's questions and present any other evidence they have. When the prosecutor is finished with each witness, you, or your attorney, will be permitted to ask them questions about their testimony.

When the prosecutor's case is complete, it will be your turn to call witnesses and present evidence on your behalf. You may

testify, although you are not required to do so. If you testify, the prosecutor can ask you questions (cross-examine you). After all witnesses and evidence have been presented, the judge will decide whether you are guilty or not guilty. If you are found guilty, the judge will impose a sentence.



Can I use the Internet to find more information or to plead guilty and pay a fine?

Yes. For certain offenses, where a court appearance is not required, you can find out the total amount that you must pay if you plead guilty and pay through the Internet at: www.NJMCdirect.com

You can obtain more information about the municipal courts and other parts of the New Jersey Judiciary at: www.njcourtsonline.com

If I am found guilty, what happens after court?

You will be required to pay all monetary penalties, as ordered by the judge. Under certain circumstances, the court may permit you to pay over a period of time.

You will be given instructions on how to comply with any other parts of your sentence.

How can I appeal a decision of the court?

If you disagree with the judge's decision, you may appeal, but if you appeal, you must file the appeal within 20 calendar days of your conviction. You will be required to pay a deposit that will be applied against the cost of preparing a transcript of the trial. You also will be required to pay a \$75 filing fee. Please ask the court staff to provide you with a copy of the appeal packet, "How to Appeal a Decision of a Municipal Court." Information on representing yourself in an appeal is also available at www.njcourtsonline.com, the Judiciary's Web site.

What happens when the court's orders are not obeyed?

People who do not come to court when summoned or subpoenaed, make payments as required, or comply with other requirements of their sentences, face additional punishments including fines, drivers' license suspensions, arrest and jail.

**PROPOSED INFORMATION FOR
24:1 MUNICIPALITIES
(NORMANDY SCHOOL
DISTRICT) TO DISTRIBUTE TO
DRIVERS, DISTRIBUTE IN
COURTROOMS, AND POST ON
COURTHOUSE WALLS AND
MONITORS**

Dear Driver,
Safety is important to our community. We have a responsibility to protect children and residents from accidents caused by traffic violations.

We are working with our 24:1 neighboring municipalities to answer questions you may have.

For more information, call our Court Department at XXX-XXX-XXXX.

FREQUENTLY ASKED QUESTIONS

1. How do I figure out what to do with my traffic ticket?

Read your "Notice to Appear." You will find: (1) The Name of the court that will decide your case; (2) The Deadline to pay the ticket or go to court; (3) What you

must do to respond to the ticket; and (4) The court's address.

2. What if I don't have money to pay my fine?

It is very important that you come to court. If you are unable to pay your fine or the installment of the fine due on that particular court date, you must appear in court and explain your inability to pay. If you appear, you will not be arrested. We will work with you to help you meet your obligation.

3. What if I do not go to court or pay for my ticket?

If you do not go to court or pay your fine, your driver's license can be suspended. A warrant can be issued for your arrest. And, you may not be able to renew your car's registration. Remember, we will work with you to create a payment plan if you need it.

4. Do I always have to go to court?

If you received a ticket for an ordinance violation, (like running a stop sign), you may pay without a court appearance by paying it by following the violations bureau notice you received.

5. What happens if I have a work conflict at the time of the court date?

If you are unable to appear in court on your first court date, you may contact the Court Department listed on your violation bureau notice and ask that your court date be rescheduled.

5. Can I bring my children to court?

Yes, children are welcome. We encourage you to bring some toys and snacks for them so that they are comfortable if there is a wait.

6. What happens if I get cited for a car insurance violation?

If you have insurance at the time of the violation, but didn't have proof to show the officer you will be given a ticket. You should appear in court with your proof to dismiss the ticket fully (or all but court costs).

If you do not have insurance, you must buy it. State statute requires that you appear before the Municipal Judge to display your proof of insurance. You will not receive points on your driving license and in some cases your fine may be reduced, once you supply proof of your insurance.



**SPRINGFIELD, MISSOURI
MUNICIPAL COURT
INFORMATION**

**625 NORTH BENTON
SPRINGFIELD, MO 65806
417-864-1890**

SPRINGFIELD MUNICIPAL COURT

What we are

The Springfield Municipal Court is a division of the 31st Judicial Circuit of Greene County. Municipal Court judges are attorneys and are appointed by the Springfield City Council.

The Springfield Municipal Court adjudicates violations under the ordinances and charter of the City of Springfield. We are committed to providing a forum for the fair and impartial consideration of those accused of violating Springfield ordinances. Everyone is entitled to reasonable bail, and if convicted of violating an ordinance, may be fined, jailed, or both fined and jailed.

Court Proceedings Generally

If you are given a date and time to appear in court, you must appear and be in the courtroom when your case is called. Continuances are granted only in extreme cases. All cases involving a traffic accident require an appearance in court before the judge. If you are in the courtroom and your case is not called, check with court personnel for assistance.

While you are in the courtroom, you are expected to do nothing that would disrupt the court proceedings. In the courtroom there is no smoking, eating, drinking, or talking. If possible, please do not bring small children to court as the wait is usually difficult for them. The bailiff is present in the courtroom to ensure that the proceedings run smoothly and safely.

You have a right (at your own expense) to employ an attorney to represent you at any time during the court proceedings. The court may appoint an attorney for you if it is likely you would be jailed if found guilty and if you cannot afford an attorney. You may waive your right to an attorney and represent yourself.

Your plea

The court presumes your innocence of the charge or charges against you. The prosecuting attorney must convince the judge of your guilt beyond a reasonable doubt. You may plead guilty or not guilty to the charge or charges against you.

If you plead guilty and the judge accepts your plea, the prosecutor is not required to prove your guilt, and the judge then sentences you. The judge will listen to you, the prosecutor, and any others that have relevant information as to an appropriate sentence.

If you plead not guilty and have a trial, the prosecutor must present evidence at a later trial establishing your guilt beyond a reasonable doubt, or you will be found not guilty. If you are found guilty by the judge or jury after a trial, you are not given a harsher sentence solely because you went to trial. If you are found not guilty at trial, the case ends. If you plead not guilty, you may also choose to have a pre-trial conference to talk to a prosecutor.

Trial

Trials are held before a judge, although, if requested, trial is held before a jury. If a jury trial is requested, the case is certified to the Circuit Court, 31st Judicial Circuit for further proceedings. Cases heard before a judge in municipal court are not "on the record" meaning that testimony is not kept by tape or stenographic record.

You have a right to testify in your trial, but are not required to do so. If you do not testify, your silence is not considered an admission of guilt. If you testify, the prosecutor may question you, and the judge or jury may consider any statement you make.

You have the right to have witnesses testify for you, and subpoenas will be issued on your behalf, if you request them. You also have the right to question all witnesses presented on behalf of the City.

Sentencing

If the Court finds you guilty at trial, or if you plead guilty, any or all of the following may be imposed :

- **Fine**—up to \$1000.00
- **Jail Sentence** - up to 180 days in the county jail
- **Court Costs**
- **Probation Programs**

If the judge orders you to pay a fine and/or court costs, you are expected to pay those costs at the time you appear in court. If you have a hardship paying the fine assessed, the judge may allow an extension to pay. You will be asked to sign an agreement stating you understand the conditions by which the judge is allowing you extended time to pay your fine. If you cannot pay by the due date and fail to appear on or before your due date to show cause why you cannot pay, a warrant for your arrest may be issued.

Fines and court costs may be paid by check, cashiers check, cash, money order, Discover, Visa or Mastercard. Fines may be paid Monday-Friday from 8:00 a.m. to 4:30 p.m. After hours, you may drop your payment (**BUT NO CASH**) in the drop box at the court.

Appeal

If you do not agree with the court's decision, you may seek an appeal which is a new trial heard in the circuit court. This is called a trial *de novo*. At a trial *de novo*, the prosecutor must again prove your guilt beyond a reasonable doubt. The filing for a trial *de novo* must be made within 10 days of your sentence in the municipal court. If you pay any part of your fines and costs during that 10-day period, the right to trial *de novo* is waived.

Court personnel are here to assist you, but under no circumstances can they give you legal advice. Complaints or concerns should be brought to the attention of the Court Administrator.

Municipal Court

Mission Statement



To provide for the just, fair and expeditious resolution of cases for the Springfield City Ordinance and City Charter.

To accomplish our mission, we will:

- treat court users fairly and respectfully
- ensure the effective and efficient use of judicial resources
- enhance the public's understanding of the court system

If we accomplish our goals, the results will be that:


- the public receives prompt, fair and courteous treatment by court personnel
- court cases are resolved within time standards without sacrificing the quality of justice
- and public has better understanding of the court process

Purpose

The Springfield Municipal Court is a division of the 31st judicial circuit of Greene County. Municipal Court is committed to providing a forum for the fair and impartial trial for persons accused of violating a Springfield ordinance.

Court's Services to the Community

- Cases that routinely come before the court include driving while intoxicated, common assault, probation hearings, and a variety of other violations of city ordinances ranging from traffic violations to shoplifting.

 [Enable Google Translate](#)

Fast Facts

The Municipal Court:

- Employs about 30 people
- Has an annual budget of about \$2 million, or 2% of the general fund budget
- Has two Municipal Court judges appointed by the City Council

Contact Us



Todd Thornhill

Chief Judge, Municipal Court

[Email](#)

625 N. Benton
Springfield, MO 65806

Ph: 417-864-1890
Fx: 417-864-1883

Business Hours

Monday - Friday
8 a.m. - 11:45 a.m.
12:45 p.m. - 5 p.m.

Front Window Hours

Monday - Friday

8:15 a.m. - 11:45 a.m.

12:45 p.m. - 4:30 p.m.

Municipal Court Frequently Asked Questions

FAQs

- When is the court open for payments?
- Do you take personal checks?
- May I mail my fine and costs?
- How do I know if my citation is violation-bureau eligible?
- I don't have the money to pay my ticket by my court date. What do I do?
- I have a payment due and I do not get paid until after you close, what do I do?
- If I don't go before the judge, why do I have to pay court costs?
- My citation is not Violation-Bureau eligible. How much is my fine?
- When is my payment due on a Violation Bureau ticket?
- May I ask the Court for a payment plan?
- May I have an extension or change my payment plan?
- May I bring someone to court with me?
- May my friend or family member appear at court for me?
- When is my court date?
- Do I have to have an attorney?
- I asked the clerk how I should plead when I speak to the judge. They said they couldn't help me. Why?
- I want to find out about my case and I was told that I need to speak to my attorney. Why?
- I'm coming to court. What should I expect?
- The judge said I have to be fingerprinted. Why?
- What are "walk-in" times?
- What do I do on my court date?
- What happens if I'm found guilty?
- Do I need to have a public defender assigned to my case?
- May I request a different court date?
- Do I have a warrant?
- I received a warrant in the mail. What does it mean?
- How can I contact the court? (Fax, email, mail, phone)
- I have too far to drive to make my court date. What can I do?

- I received a ticket that involved a traffic accident. Why can't I just pay it?
- If I didn't sign the ticket is it valid?
- I recieved a ticket for not having proof of motor vehicle insurance and I just didn't have it with me. What can I do?
- I would like to make a complaint about the officer that wrote this ticket.
- The officer gave me a ticket for parking in a lot requiring a permit or handicapped sticker. I have proof of my permit or handicap placard. Who can I talk to?
- The dog wasn't mine, why do I have to pay the ticket?
- The police officer said to just show the court staff my insurance card and they would dismiss the ticket.
- What is a Plea?
- What is a pre-trial conference?
- How do I post a bond?
- How do I get a bond back once I have posted the cash?
- I can't make my assigned probation class, can I reschedule?
- I can't make my probation appointment. What do I do?
- I have a question about my restitution.

[View All](#)

Pay a Parking Ticket

Secure on-line payment of Springfield Parking Violations may be made by major credit card. This method of payment is provided to you as a service of Springfield. If you prefer not to pay by credit card, please follow the instructions on your ticket for paying by mail.

All parking tickets are \$25 except handicap violations which are \$75.

Parking Ticket Number: **Ticket Issue**
Date:

(no dashes or spaces)

Reset

Submit Request

Contact Us



Todd Thornhill

Chief Judge, Municipal Court

[Email](#)

625 N. Benton
Springfield, MO 65806

Ph: 417-864-1890

Fx: 417-864-1883

Business Hours

Monday - Friday

8 a.m. - 11:45 a.m.

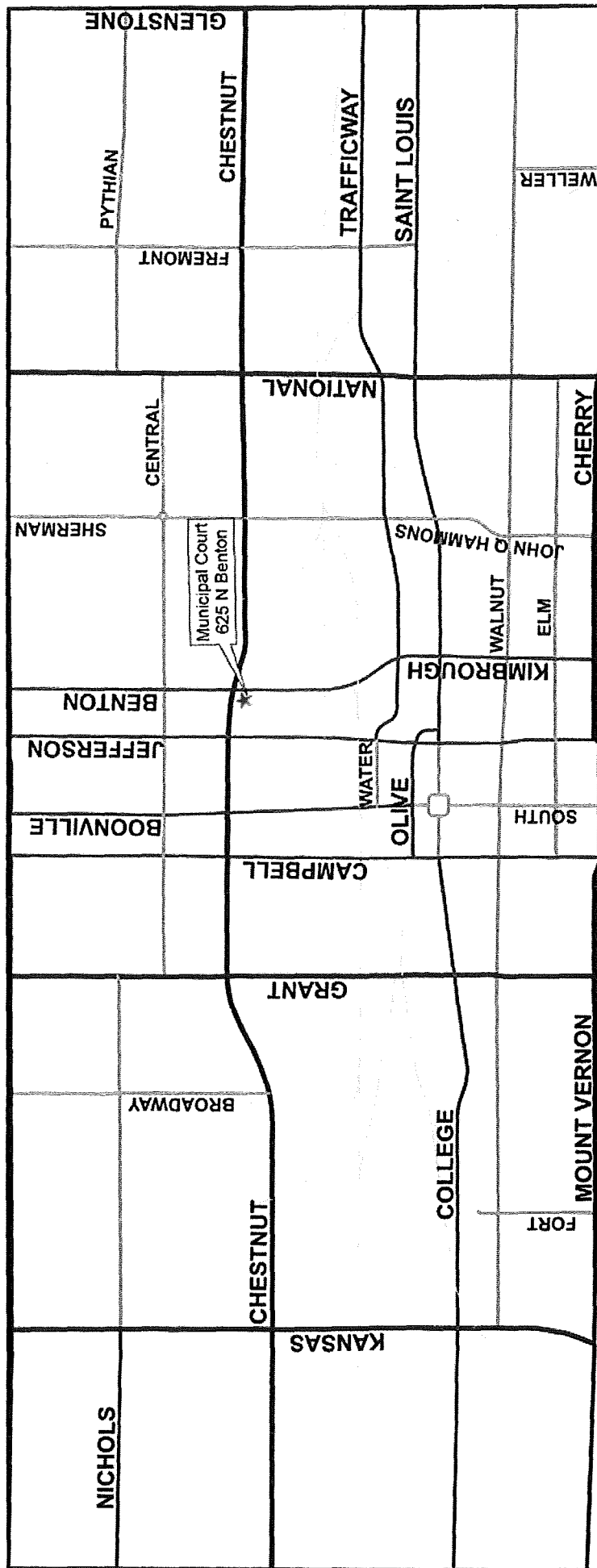
12:45 p.m. - 5 p.m.

Front Window Hours

Monday - Friday

8:15 a.m. - 11:45 a.m.

12:45 p.m. - 4:30 p.m.



The Municipal Court Websites of St. Louis County and St. Louis City

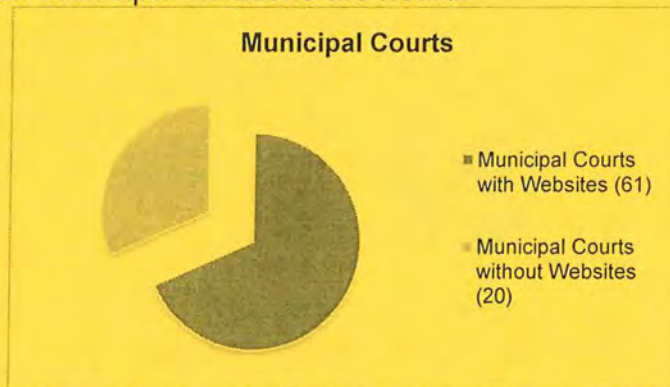
Summary

Municipality Data

- There are ninety-two (92) entities covered by the data review.
- Of the ninety-two (92) entities, eighty-one (81) entities have municipal courts.
- Of the ninety-two (92) entities, seventy-six (76) entities have municipal (or government) websites.

Municipal Court Websites Data

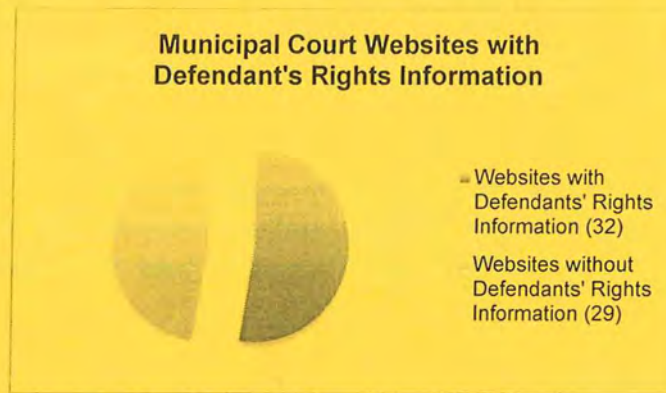
- Of the eighty-one (81) entities with municipal courts, sixty-one (61) entities have municipal court websites. No entities without their own municipal courts have any information directing visitors to where their municipal violations are heard:



- Only fifty-six (56) municipal court websites list information pertaining to the location and timing of the municipal court. Of those fifty-six (56) court websites that do have some information, many do not have up-to-date, correct, or easy-to-locate information on the location and timing:



- Only thirty-two (32) municipal court websites include any substantial information on defendants' rights:



- Only fifty-four (54) websites provide ability to pay online:



- Only forty-two (42) websites have any information on alternative payment methods, such as payment plans:



- Only six (6) websites have any information relating to community service alternatives:



- Contact information (either telephone number or email address) for the municipal court clerk was only available for fifty-five (55) municipal courts, through either the State Courts websites or individual municipal websites:



- At most sixteen (16) municipal court websites list current court dockets:



- Only twenty-nine (29) websites provide access to a fine schedule:



Methodology

- Data collected by Sam Stragand, third-year student at Washington University School of Law, with the assistance of Jenny Terrell, Jacob Blanton, and Remington Shepard.
- Data collected between October 15 – November 15, 2015.
- Data collected from a review of all the municipal websites of the geo-political entities in St. Louis City and County.
- Data confirmed by information collected in the Municipal Courts Website Audit by Laura Kinsell-Baer of the St. Louis Economic Development Partnership.
- Geo-political entities researched include St. Louis City, St. Louis County, and the ninety (90) municipalities within St. Louis County, for a total of ninety-two (92) different entities.

The Municipal Court Websites of St. Louis City and County - Data Grid

<u>Municipality</u>	<u>Has a Municipal Court</u>	<u>When, Where Court Is</u>	<u>Violator's Rights</u>	<u>Ability to Pay Online</u>	<u>Other Payment Options</u>	<u>Community Services Alternatives</u>	<u>Other Relevant Info</u>
Ballwin	X	Yes	Yes	Yes	Yes	No	Court procedures
Bel-Nor	X	No					
Bel-Ridge	X	Yes	Yes: right to counsel; how to plead; what happens when you plead	Yes	No	No	Info for attorneys, fine schedule
Bella Villa	X	No	No	Yes	No	No	No
Bellefontaine Neighbors	X	Yes	No	Yes	Yes	No	Fine schedule and some courtroom standards
Bellerive Acres	Normandy	No					
Berkeley	X	Yes	No	No	No	No	Not really; gives general overview of types of court
Beverly Hills	X	No		Yes			
Black Jack	X	Yes	No	Yes	Yes, limited info about acceptable forms of payment	No	No
Breckinridge Hills	X	No	No	No	No	No	No
Brentwood	X	Yes	Yes: Basic re pleas and what they mean (same language); Nothing re right to counsel	No	Yes	No	Schedule of fines; attorney procedures
Bridgeton	X	Yes	No	Yes	Yes	No	Fine schedule

The Municipal Court Websites of St. Louis City and County - Data Grid

<u>Municipality</u>	<u>Has a Municipal Court</u>	<u>When, Where Court Is</u>	<u>Violator's Rights</u>	<u>Ability to Pay Online</u>	<u>Other Payment Options</u>	<u>Community Services Alternatives</u>	<u>Other Relevant Info</u>
Calverton Park	X	No	Yes: right to counsel; how to plead; what happens when you plead; general courtroom process	No	No	No	No
Champ	NONE	No					
Charlack	X	Yes	Yes	Yes	No	No	Court procedure and fine schedule
Chesterfield	X	Yes	Yes	Yes	Yes	No	Court procedures
Clarkson Valley	X	Yes	No	Yes	Yes	No	No
Clayton	X	Yes	Yes - Right to counsel; basic plea info; same language plus a bit more	Yes	Yes	No	How attny enters appearance
Cool Valley	X	Yes	No	Yes	No	No	No
Country Club Hills	X	No					
Country Life Acres	NONE (StLCo)						
Crestwood	X	Yes	No	Yes	Yes	Contact for probation (but no further explanation, and this might be for non- traffic offenses)	How to obtain a copy of a police report
Creve Coeur	X	Yes	Yes	Yes	Yes	No	Court procedures
Crystal Lake Park	Frontenac	No	N/A				

The Municipal Court Websites of St. Louis City and County - Data Grid

<u>Municipality</u>	<u>Has a Municipal Court</u>	<u>When, Where Court Is</u>	<u>Violator's Rights</u>	<u>Ability to Pay Online</u>	<u>Other Payment Options</u>	<u>Community Services Alternatives</u>	<u>Other Relevant Info</u>
Dellwood	X	Yes	Yes: what to do and wear in court; how to plea/what plea means, how fines are assessed	Yes	Yes	No	How to pay before court; when you do/don't need to appear; violation bureau schedule
Des Peres	X	Yes	Yes	Yes	Yes	No	Court procedures
Edmundson	X	Yes	No	Yes	Yes	No	No
Ellisville	X	Yes	Yes	Yes	Yes	Yes, with forms and info on service locations	Court procedures
Eureka	X	Yes	Yes	Yes	Yes	No	No

The Municipal Court Websites of St. Louis City and County - Data Grid

<u>Municipality</u>	<u>Has a Municipal Court</u>	<u>When, Where Court Is</u>	<u>Violator's Rights</u>	<u>Ability to Pay Online</u>	<u>Other Payment Options</u>	<u>Community Services Alternatives</u>	<u>Other Relevant Info</u>
Fenton	X	Yes	Yes	Yes	Yes	Yes, community service included in the attached municipal operating order, but you would need to read through it (also the brochure of rights and procedures says nothing, which seems misleading)	Schedule of fines; operating order
Ferguson	X	Yes	Yes: right to counsel; how to plead; what happens when you plead; general courtroom process	Yes	Yes	No	Uniform fine schedule, what to bring to court
Flordell Hills	X	No					
Florissant	X	Yes	No	Yes	No	No	No
Frontenac	X	Yes	Yes	Yes	Yes	No	List of fines; when you must appear before the judge

The Municipal Court Websites of St. Louis City and County - Data Grid

<u>Municipality</u>	<u>Has a Municipal Court</u>	<u>When, Where Court Is</u>	<u>Violator's Rights</u>	<u>Ability to Pay Online</u>	<u>Other Payment Options</u>	<u>Community Services Alternatives</u>	<u>Other Relevant Info</u>
Glen Echo Park	Normandy	No					
Glendale	X	Yes	Yes: Very basic re how to plead, indigency determination; but missing a lot	Yes	No	No	No
Grantwood Village	X						
Green Park	NONE (StLCo)	No					
Greendale	X	No					
Hanley Hills	X	No					
Hazelwood	X	Yes	No	Yes	No	No	No
Hillsdale	X	No					
Huntleigh	NONE (StLCo)	No					
Jennings	X	No	No	No	No	No	Uniform fine schedule
Kinloch	X	No					

The Municipal Court Websites of St. Louis City and County - Data Grid

<u>Municipality</u>	<u>Has a Municipal Court</u>	<u>When, Where Court Is</u>	<u>Violator's Rights</u>	<u>Ability to Pay Online</u>	<u>Other Payment Options</u>	<u>Community Services Alternatives</u>	<u>Other Relevant Info</u>
Kirkwood	X	Yes	Yes: separate document (linked in multiple spots) for Ds rights which describes pleading, right to attny; plus aNother webpage detailing much of the same info and also explaining arraignments and other terms	Yes	Yes	Yes, includes the doc you would sign for community service; multiple other attached docs explain that payment plans and community service are options, but you would need to read through them	Community service agreement blank form; financial statement form; explanations for how to reinstate your license; Document certifying compliance w/SB-5; warrant amnesty information; courtroom standards; attny info
Ladue	X	Yes	Yes	Yes	No	No	Info for attorneys
Lakeshire	X	Yes	No	No	Yes	No	No
Mackenzie	X	No	No	No	No	No	No
Manchester	X	Yes	Yes	Yes	Yes	No	Court procedures

The Municipal Court Websites of St. Louis City and County - Data Grid

<u>Municipality</u>	<u>Has a Municipal Court</u>	<u>When, Where Court Is</u>	<u>Violator's Rights</u>	<u>Ability to Pay Online</u>	<u>Other Payment Options</u>	<u>Community Services Alternatives</u>	<u>Other Relevant Info</u>
Maplewood	X	Yes	No	Yes	No	No	Court rules (linked 3x in one space? Seems like they don't like people)
Marlborough	X	Yes	No	Yes	Yes	No	No
Maryland Heights	X	Yes	Yes (some info is out-of-date)	Yes	Yes	No	Some court procedures
Moline Acres	X	Yes	No	Yes	Yes	No	Uniform fine schedule
Normandy	X	Yes	No, except for kids allowed in court	Yes	Yes, payment plans	No	Includes new order that kids are now allowed in court; "preparing for court" (docs to bring etc); "court etiquette"; "Victim Bill of Rights" and how to access Crime Victims Compensation; info re subpoenas and warrants
Northwoods	X	No					
Norwood Court	NONE (StLCo)	No					
Oakland	X	Yes	No	No	Yes- payment by mail or in person	No	No
Olivette	X	Yes	Yes	Yes	Yes	No	No

The Municipal Court Websites of St. Louis City and County - Data Grid

<u>Municipality</u>	<u>Has a Municipal Court</u>	<u>When, Where Court Is</u>	<u>Violator's Rights</u>	<u>Ability to Pay Online</u>	<u>Other Payment Options</u>	<u>Community Services Alternatives</u>	<u>Other Relevant Info</u>
Overland	X	Yes	Yes	Yes	Payment plans	No	License reinstatement info, standardized fine schedule
Pacific	X (in 20th Circuit)	No					
Pagedale	X	Yes	No	No	No	No	Only attorneys can receive recommendations on court cases
Pasadena Hills	X	No		Yes			
Pasadena Park	X	No		Yes			
Pine Lawn	X	Yes	No	Yes	No	No	"Rules for Court"; minimum accepted payments
Richmond Heights	X	Yes	Yes	Yes	Yes	No	Standardized fine schedule, detailed court procedures, compliance with SB 5
Riverview	X	Yes	No	Yes	Yes	No	Violations Bureau Fine Schedule; How an attny can get info under the Sunshine Law
Rock Hill	X	Yes	Yes	Yes	Yes	No	Court operating rules

The Municipal Court Websites of St. Louis City and County - Data Grid

<u>Municipality</u>	<u>Has a Municipal Court</u>	<u>When, Where Court Is</u>	<u>Violator's Rights</u>	<u>Ability to Pay Online</u>	<u>Other Payment Options</u>	<u>Community Services Alternatives</u>	<u>Other Relevant Info</u>
Saint Ann	X	Yes	Yes	Yes	No	No	Info for attorneys; info on how trials work; what court staff can do; trial procedures; how to get a ride to court
Shrewsbury	X	Yes	No	Yes	Yes	No	No
St. John	X	Yes	No	Yes	Yes	No	Fine schedule, basic info re what happens if you don't appear
Sunset Hills	X	Yes	No	No	No	No	No
Sycamore Hills	X	No					
Town & Country	X	Yes	Yes	Yes	Yes	Yes, mentions as alternative	Court procedures
Twin Oaks	NONE (StLCo)	No					
University City	X	Yes	Yes: right to counsel; how to plead; what happens when you plead	Yes	Yes	No	Standardized fine schedule
Uplands Park	X	No	No	No	Yes	No	No
Valley Park	X	Yes	No	Yes	Yes	No	Senate Bill 5
Velda City	X	No	Yes	No	No	No	No
Velda Village Hills	X	No		Yes			
Vinita Park	X	No	No	Yes	No	No	No
Vinita Terrace	X	No					

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The Municipal Court Websites of St. Louis City and County - Data Grid

<u>Municipality</u>	<u>Has a Municipal Court</u>	<u>When, Where Court Is</u>	<u>Violator's Rights</u>	<u>Ability to Pay Online</u>	<u>Other Payment Options</u>	<u>Community Services Alternatives</u>	<u>Other Relevant Info</u>
Warson Woods	X	Yes	Yes: right to counsel; how to plead; what happens when you plead; plus shortened "msg from the court"	No	Yes	No	Courtroom standards which include avoiding bringing small children
Webster Groves	X	Yes	No	Yes	Yes	No	No
Wellston	X	No					
Westwood	NONE (StLCo)	No					
Wilbur Park	NONE (StLCo)	No					
Wildwood	X	Yes	Yes	Yes	Yes	No	Court procedures
Winchester	X	Yes	Yes: some, but Not many	No	Yes	No	No
Woodson Terrace	X	Yes	No	Yes	No	No	No
St. Louis City	X	Yes	No	Yes	Yes	Yes, mentions as an alternative	Compliance letter info
St. Louis County	X	Yes	Yes	Yes	Yes	Yes, mentioned as an alternative	Yes
Total							
92	81	56	32	54	42	6	

City Of
Ellisville

*Abatement/Amnesty
Program 2015*

*Alternative Community
Service*

*Attorney Entries &
Requests for
Recommendations*

*Court Trial &
Arraignment Schedule*

Courtroom Procedures

*Motion to Dismiss
Insurance Ticket*

Not Guilty Plea Form

Schedule of Fines & Cost

Your Rights

Municipal Court

Ellisville Municipal Court is a Municipal Division of the 21st Circuit Court of St. Louis County, state of Missouri. The Municipal court hears ordinance violations.

This Court is always open for purposes of receiving faxes, electronic entries of appearances and motions.

Ellisville Municipal Court cases are available on Missouri's Casenet for viewing case information and scheduled hearings.

<https://www.courts.mo.gov/casenet/base/welcome.do>

Services

- **Judicial Review / Due Process of Law:** The Municipal Court Department provides an opportunity for due process of law to accused persons.
- **Prosecution:** The City's Prosecuting Attorney, acting as an agent of the city, is responsible for prosecuting defendants in the Municipal Court. As a result, ordinance violations can be brought to the City by interested persons, and the City may prosecute the case.
- **Imposition of Penalties:** The Municipal Judge, through the Municipal Court Department, is responsible for imposing penalties and/or debt repayments to society on persons convicted of violations in an effort to prevent reoccurrence of such violations.
- **Communications, Public Information and Court**

Scheduling: The Municipal Court Clerk works with the Judge and Prosecuting Attorney, defense attorneys and defendants, to accommodate their needs throughout the judicial review process, beginning from issuance of the initial summons through final disposition of the case. The Municipal Court Clerk records scheduling changes to ensure that everyone has the right to due process of law. The Court Clerk also provides assistance and clarification with respect to the court process, and other State and local regulations of particular interest to defendants.

Mission Statement

A division of the St. Louis County Circuit Court, the Ellisville Municipal Court is responsible for providing both a process and a forum for ensuring due process of law. The Municipal Court records alleged violations of city codes or ordinances, issues summonses to defendants, subpoenas witnesses, issues warrants, reports to the Department of Revenue, hears evidence presented in court, rules on cases, records final dispositions, and receives and records fines and court costs.

The Ellisville Municipal Court strives to provide excellent support, guidance, and empathy when dealing with defendants to ensure a timely conclusion to all court cases while upholding justice.

Keeping communication open throughout the year between the Court, Police Department, City Hall, and the City Council will encourage the exchange of ideas on enhancing court procedures and addressing concerns.

Operate a streamlined and efficient court maintaining dignity and justice in all aspects of the judicial process.

Contact Us

Donald K. Anderson Jr.

Municipal Judge

Joanna Fiehler

Municipal Court Clerk

Email

37 Weis Ave.

Ellisville, MO 63011

Ph: 636-227-3729

Fx: 636-227-7744

Payment Hours

Monday - Friday

8:30 a.m. - 4 p.m.

Court closes daily for lunch
from 12pm - 1pm

Staff Directory

IN THE 21ST CIRCUIT COURT OF ST LOUIS COUNTY, MISSOURI
ELLISVILLE MUNICIPAL DIVISION

2015 ABATEMENT PROGRAM ORDER


COMES NOW Donald K Anderson Jr., Judge of the Ellisville Municipal Division of the St. Louis County Circuit Court, and hereby orders as follows:

1. The 2015 Abatement Program will be in effect for the Ellisville Municipal Division from August 5, 2015 to September 30, 2015.
2. All bonds will be \$100.00 unsecured.
3. The Program shall not apply to the following offenses:
 - a. Alcohol and Drug related offenses;
 - b. Assault offenses.

Defendants with outstanding warrants in the Ellisville Municipal Division can request a new court date by appearing in person at the office of the Ellisville Municipal Division clerk (#37 Weis Rd, Ellisville, Missouri, 63011) during Warrant Abatement business hours. All of the defendants' outstanding warrants in the Ellisville Municipal Division will be recalled and a new court date issued.

So Ordered:

August 4, 2015



Donald K Anderson, Jr., Judge
Ellisville Municipal Division
St. Louis County Circuit Court

Alternative Community Service

The Court will accept Alternative Community Service (ACS) in lieu of Traffic Violations Bureau (TVB).

Alternative Community Service must be at a not-for profit agency and filed with the Municipal Court Clerk prior to your scheduled court date. ACS must be completed within two months of initial court date.

To accept Alternative Community Service in lieu of a fine, please fill out the request and submit to the Municipal Court Clerk.

You must have the Alternative Community location fill out the ACS timesheet and submit that to the court once the hours are fully complete.

Alternative Community Service (ACS) in Lieu of a Fine

Alternative Community Services Information

Community Service Timesheet

Alternative Community Service (ACS) in Lieu of a Fine

Speeding violation (for double fine zone: double ACS hrs)

1-5 mph over limit: 5 hrs ACS
6-10 mph over limit: 8 hrs ACS
11-15 mph over limit: 10 hrs ACS
16-19 mph over limit: 15 hrs ACS
OTHER TVB MOVING: 10 hrs ACS

Expired Plates

1 week to correct: 4 hrs ACS
2 weeks to correct: 5 hrs ACS
3 weeks to correct: 6 hrs
4+ weeks to correct: 8 hrs ACS

Parking violation: 5 hrs ACS
Child Restraint violation: 5 hrs ACS

None for seatbelt

All ACS must be done with a not-for profit agency.
Request for ACS must filed with the Municipal Clerk prior to scheduled court date

ACS in Lieu of Fine

Print defendant name: _____ Charge: _____

Case # (ticket #) _____

I, said defendant, plead guilty to above charge and agree to complete Alternative Community Service in lieu of fine, within two (2) months of court date. If I do not complete the ACS hours, the total amount of the charge (fine and court cost) will be assessed on my case.

Defendant signature: _____ Date: _____

Current address: _____

When a condition of sentence is ordered, there will be a program that you may need to complete. This is a list of places that offer such programs.

For completion of DIP, ADEP, SATOP, TOP or other court mandated programs, contact one of the agencies below. *Please note that Judge Anderson does not accept online courses.*

Midwest Counseling Service

929 Fee Fee Road, Suite 203
Maryland Heights, MO 63043
314-469-5997

EMASS (Multiple locations)

2724 Droste Road
St. Charles, MO 63301
636-946-2815

St. Louis County Community Service, Inc.
St. Charles Community Service, Inc.
Jefferson County Community Service, Inc.
636-441-9002

Community Service can be completed at any *Non-Profit* agency. Proof of completion must be provided to the court in writing by the person supervising on Courts community service timesheet. If you need assistance finding service opportunities, contact:

Alternative Community Service sites:

Better Family Life

Community Outreach
5415 Page Blvd.
St. Louis, MO 63112
Contact- James Clark
314-381-8200
www.betterfamilylife.org

United Way of St. Louis

Downtown St. Louis
(Main Office)
910 N. 11th Street
St. Louis, MO 63101-1018
(314) 421-0700
www.stl.unitedway.org

Goodwill

1727 Locust Street
St. Louis, Missouri 63103
MERS/Missouri Goodwill Industries
314-241-3464
www.mersgoodwill.org

St. Vincent DePaul (Multiple Locations)

1310 Papin St.
St. Louis, MO 63103
Contact – Laura
314-881-6038
www.svdpstlouis.org

Habitat for Humanity

2117 Sams Drive
Des Peres, MO 63131
314-678-4596
<http://www.habitatstl.org/supportus/restore/>

American Red-Cross

10195 Corporate Square
Creve Coeur, MO 63132
Phone: 314-516-2800
www.redcross.org/mo/st-louis

Salvation Army

1130 Hampton Ave
St. Louis, MO 63139
Contact – Shawndell Williams
314-646-3000
www.stlsalvationarmy.org

Missouri Humane Society (Must be 18 yrs old)

1201 Macklind Avenue
St. Louis, MO 63110
Phone: (314) 647-8800
www.hsmo.org

Scholar Shop:

CLAYTON
8211 Clayton Rd.
St. Louis, MO 63117
314-725-3456
WEBSTER GROVES
7930 Big Bend Blvd.
St. Louis, MO 63119
314-961-2525
www.scholarshopstl.org

Stray Rescue

5415 Page Blvd
St. Louis, Mo 63120
Contact – Cassidy
314-381-8200
www.strayrescue.org

COMMUNITY SERVICE TIMESHEET



Defendants Name: _____

of hours Ordered: _____ Date to be completed by: _____

1. Please fill in all the blanks and return to Ellisville Municipal Court, 37 Weis Ave, Ellisville, MO 63011.
2. Include, on official letterhead, supervisors contact information, or provide official business card of supervisor.
3. Community Service hours **must** be submitted to the Court by the date given.

Community Service Agency:

Date:	Hours Worked:	Supervisors Initials:

Ellisville Municipal Court
37 Weis Ave
Ellisville, MO 63011
Telephone 636-227-3729
Facsimile 636-227-7744
www.ellisville.mo.us

Attorney Entries & Requests for Recommendations

Attorneys wanting to enter on a case may do so either by mail, fax, email, or online.

Court requires the following:

- Entry of appearance
- Request for recommendation

At the Prosecuting Attorney's request, please enclose a driving record of the Defendant.

All continuances must be submitted in writing to the court.

Mail to:

Ellisville Municipal Court
37 Weis Ave.
Ellisville, MO 63011

Fax:

Attention Court Clerk
636-227-7744 (fax)

Email:

joanna.fiehler@courts.mo.gov

Online:

[Law Source Live](#)

Once we have received your entry and request for recommendation, your client will be removed from the docket. Once the recommendation has been completed by the Prosecuting Attorney, you will receive a copy of the recommendation in the mail with an acceptance date. Please take note that all cases involving probation, driving while intoxicated, driving while suspended or revoked, assault, and resisting arrest must appear in court to plea.

When an attorney enters his or her appearance, warrants on routine traffic offenses, not to include DWI, DWR, DWS, leaving the scene of an accident, assault, and/or resisting arrest, shall be immediately recalled.

If you are needing to be placed on a payment plan, you must fill out the payment plan paper work and return to the court. Payments on payment plans are due on the first (1) of each month. A minimum of twenty five (\$25) is due on the payment date. Failure to make payment will result in collections and tax offset. For more information on the payment agreement, please click [here](#).

Court Trial & Arraignment Schedule

ELLISVILLE

MUNICIPAL COURT

Your presence in Municipal Court may be your first experience in any court. The following information has been prepared to help you understand the court proceedings and to inform you of your rights and duties. Every person should leave this court feeling that he or she has had a fair and impartial trial or hearing.

- Municipal Court is the judicial branch of city government, and is a part of the state judicial system.
- Misdemeanor criminal cases, which are Ordinance violations for which the maximum fine, upon conviction, does not exceed \$1,000 and/or 90 days in the county jail, are tried in Municipal Court.
- Trials are conducted under the rules set forth in the Missouri Revised Statutes and Rules of Evidence.

Before Court Begins

Proper attire is required for a court appearance. Sleeveless shirts, shorts and/or hats are not suitable for court.

As the Judge enters the courtroom, please rise. Afterwards, please be seated. Talking, drinking and smoking are prohibited while court is in session. When your name is called, come forward and wait to be summoned before the Judge. The violations that you are alleged to have committed will be read and at that time you should be prepared to plead either:

- Not Guilty
- Guilty, or
- Guilty with an explanation

If you signed a citation in front of an officer, you did not plead guilty, but only signed a promise to appear in court on your appearance date.

Your decision on what plea to enter is the most important decision you will have to make. We suggest that you read the following explanations before entering your plea. If you decide that you would like to seek the services of an attorney, please inform the Judge and you will be given time to do so.

Plea of Guilty

By a plea of guilty, you admit that you committed the act charged, that the act is prohibited by law, and that you have no defense for your act.

Before entering a plea of guilty, you need to understand the following:

- The city has the burden of proving its case against you. You have the right to hear the city's evidence and to require it to prove its case. The law does not require you to prove anything.
- If you were involved in a traffic accident at the time of the alleged offense, your plea of guilty could be used later in a civil suit for damages as an admission by you that you were at fault or were the party responsible for the accident.

You are URGED not to plead guilty if you do not feel that you are guilty.

Plea of Guilty with an Explanation

This plea has the same effect as a plea of guilty, but says that you would like to explain to the Judge the circumstances surrounding the offense with respect to the punishment only.

In both cases of a plea of guilty, a fine may be assessed. The explanation to the Judge may or may not have an effect on the amount of the fine assessed.

Plea of Not Guilty

A plea of not guilty means that you deny guilt and that the city must prove its charges against you. Your case will be set for trial and you will be given a date to appear. You will receive no other notice with regard to your trial date.

If you plead not guilty, you will need to decide whether to employ an attorney to represent you at trial. You may defend yourself, but no one else except an attorney may represent you.

At the time of the trial, the city will be required to prove all the allegations against you as contained in the formal complaint "beyond a reasonable doubt", before a verdict of guilty can be reached.

The Trial

Under Missouri law, you can be brought to trial only after a formal complaint has been filed. The complaint is the document that alleges what you are supposed to have done, and that your action was unlawful.

- You have the right to inspect the complaint before trial, and have it read to you at trial.
- You have the right to have your case tried before a jury if you desire. There is a fee of \$30.00 to be paid with the Court Clerk who will forward the money and the case files to the Circuit Court in Clayton so that the case can be certified to the St. Louis County Circuit Court. Please pay by either certified check or money order made payable to the St. Louis County Circuit Clerk to cover court costs. This is the cost of filing for a jury trial in the Circuit Court.
- You are entitled to hear all testimony introduced against you.
- You have the right to cross-examine any witness who testifies against you.
- You have the right to testify in your own behalf. You also have a constitutional right not to testify. If you choose not to testify, your refusal cannot and will not be used against you in determining your guilt or innocence. However, if you do choose to testify, the prosecutor will have the right to cross-examine you.
- You may call witnesses to testify in your behalf.
- You also have the right to subpoena your own witnesses. The court can provide you with the forms needed to do so.

Presenting the Case

As in all criminal trials, the city will present its case first by calling witnesses to testify against you.

After each prosecution witness has finished testifying, you will have the right to cross-examine him or her. Your examination must be in the form of a question. This is not a time to make a statement and you must not argue with the witness. You will have an opportunity to make a statement later in the trial.

After the prosecution has presented its case, you may present your case. You have the right to call any witness who knows anything about the incident.

The Verdict

The verdict of the Judge will be based on the testimony that sounds most reasonable and on the facts presented during the trial. In making his determination, he will only consider the testimony of the witnesses who are under oath.

If you are found guilty by the Judge, he will announce the penalty. You have the right to appeal within 10 days of the Judge's ruling. You may testify in your own behalf, but cannot be compelled to do so.

Fines

The amount of fine assessed by the court is affected by the facts and circumstances of the case. Mitigating circumstances may lower the fine. However, aggravating circumstances may increase the fine. In no case may the fine exceed \$1,000 plus costs. All fines are deposited in the General Fund of the City of Ellisville.

Court Costs

If you are found guilty of an offense, court costs will be added to the fine. Court costs are required by state law and are remitted both to the General Fund of the city and to the State Department of Revenue. Court costs are currently \$31.50 per case.

Right to Appeal

If you are not satisfied with the judgment (verdict) of the court, you have the right to appeal the verdict to the St. Louis County Circuit Court. If you do appeal, you must post \$30 (either certified check or money order made payable to the St. Louis County Circuit Clerk) to cover court costs with the Court Clerk who will forward the money and the case files to the Circuit Court in Clayton. You will be notified of a new court date by St. Louis County, and your case will be heard again by another judge in its entirety. You must file this appeal within 10 days of the judgment. If the judgment is not appealed within ten days, it becomes final and you must pay the fines and costs assessed by this Court.

The Municipal Court

The Judge will base his decision only on the State Law or City Ordinance involved and the facts as determined by the testimony and other evidence presented.

Court trials and arraignments are typically scheduled for the second Thursday of each month. Please refer to the City Calendar for the monthly court schedule.

- **Arraignment 12:00 p.m.**

- **Prosecutor conference 12:30 p.m.**
- **Continuances 1 p.m.**
- **Plea(s) 1:30 p.m.**
- **Trials 2 p.m.**

Courtroom Procedures

Ellisville Municipal court is usually, first come, first serve. Before entering the courtroom, please be dressed in appropriate attire. All cell phones must be turned off or silenced. There is no eating or drinking allowed in the courtroom. There is no smoking allowed in the building.

During court there is no talking allowed except to conduct court business. If anyone interrupts court proceedings they may be asked to leave the courtroom.

- If an accident has resulted from any moving violation, a court appearance is mandatory
- If a court appearance is mandatory, you must appear in court on the date / time listed on your ticket, failure to appear may result in a warrant for your arrest.
- Speeding in a school zone, on a play street, or construction zones are mandatory court appearances

Law & the Courts Resource Guide

Please click [here](#) to review your rights and resources available to you.

General Orders

The purpose of these General Orders is to reaffirm the Court's commitment to adherence to all statutory provisions and the mandates of the United States and

Missouri Constitutions. The Court shall provide open access to all with clearly defined procedures designed to afford defendants, the City, County and witnesses, with transparency, equal treatment and protections mandated by law.

Please click [here](#) to review the General Orders that are to be followed during court.

**ATTACH A COPY OF YOUR INSURANCE CARD AT THE TIME AND DATE OF YOUR TICKET
WITH THIS FORM, THE DATE MUST BE THE SAME AS THE DATE ON YOUR TICKET**

IN THE CIRCUIT COURT OF THE COUNTY OF SAINT LOUIS, STATE OF MISSOURI
CITY OF ELLISVILLE MUNICIPAL DIVISION

Honorable Donald K. Anderson, Jr.

CITY OF ELLISVILLE
V

Case No.(ticket #) _____

Defendant (your name) _____

MOTION TO DISMISS
VIOLATION OF FINANCIAL RESPONSIBILITY (INSURANCE)
WITH SUBMITTAL OF PROOF OF VALID INSURANCE

I am the defendant I the above named and numbered case. I request that this offense be **DISMISSED**.

In support of my request for Dismissal:

I enter my plea of "Not guilty" to the offense of VIOLATION OF FINANCIAL RESPONSIBILITY under the Missouri Revised Statute Chapter 303. Along with my plea, I am providing the court with proof of the existence of valid INSURANCE policy. The proof provided, is a copy of the written proof of insurance as provided to me by the issuing insurance company. In submitting this proof, I certify and swear that the insurance was:

1. VALID ON THE DATE I WAS ISSUED THIS CITATION
2. VALID FOR THE OPERATING VEHICLE, I WAS OPERATING, ON THE DATE AND AT THE TIME OF THE CITATION.
3. IF I WAS OPERATING A VEHICLE I DID NOT OWN, THE POLICY OR PROOF WAS VALID TO ME AS THE OPERATOR OF THE VEHICLE AND I WAS NOT AN "EXCLUDED DRIVER" UNDER THAT POLICY.
4. TRUE AND CORRECT, AND IF FOUND TO BE FRAUDULENT, SUBJECT TO PROSECUTION FOR PERJURY.

I understand that the above numbered offense will NOT BE DISMISSED until the policy has been verified as being in full force and effect on the date and time of the offense as alleged.

I UNDERSTAND THAT IF THE POLICY SUBMITTED CANNOT BE VERIFIED, THIS CASE WILL NOT BE DISMISSED, AND THAT I MUST APPEAR AT A HEARING ON A LATER DATE AND TIME AS NOTIFIED BY THE COURT.

My current mailing address for purpose of all notice related to this matter is:

Phone Number: _____

Further, I understand it is my responsibility to provide the Court Clerk in writing my current mailing address should it change during the pendency of this case.

Defendant signature: _____

Date of submission: _____

Not Guilty Plea Form

Only the prosecutor can amend a charge.

To have the ticket returned to the prosecutor, follow the directions below:

- 1) **Complete and sign the Not Guilty Plea Form.**
- 2) **Place the form and your ticket or a copy of your ticket in the pre-addressed envelope if possible, and mail to:**

George Restovich
Ellisville Prosecuting Attorney
c/o Ellisville Municipal Court Clerk
37 Weis Ave
Ellisville, MO 63011

You may **fax** the not guilty form and ticket to 636-227-7744, or **email** to courts@ellisville.mo.us

If you don't have your copy of the ticket and don't know the ticket number, call 636-227-3729 for assistance in determining your ticket number.

- 3) The Court Clerk will forward your ticket to the prosecuting attorney.
- 4) The court will notify you by mail of your court date.
- 5) The prosecutor is not bound by the Traffic Violation Bureau Schedule of Fines and the prosecutor may assess additional cost and possibly a higher fine.

NOT GUILTY FORM (do not fill out this form if you are pleading guilty and paying your fine)

City of Ellisville Municipal Court

I plead **NOT GUILTY**. I understand that my citation will be sent for disposition to the City of Ellisville prosecutor. I understand the court will notify me by mail of my court date. **PLEASE PRINT.**

Name: _____

Current Address: _____

City: _____ State: _____ Zip Code: _____

Daytime phone number (____) _____ - _____

Driver License number _____ State: _____

Ticket number _____ Date of ticket: _____

Signature: _____ Date: _____

Be Sure to Return Your Ticket or a Copy with Your NOT GUILTY PLEA



Your Missouri Courts



[Case.net](#) | [Courts Home](#) | [Pay By Web Info](#)

Your session has been inactive for at least 5 minutes. Please begin again.

Pay By Web

[Help](#)

You now can pay some court fees online! Here are things you need to know:

* There is a [convenience fee](#) assessed based on the amount of the transaction when payment is made by credit/debit card. There is a .50 cent flat rate fee when payment is made by electronic check.

To make a payment on a case, you can either:

1) Search on [Case.net](#) to find your case and then click the Pay By Web link on the case details page.

OR

2) Select your court and enter your case number below.

Required fields are denoted by an asterisk (*).

* Select Court
* Case Number

If you do not see the court you want in the dropdown menu, it may not be accepting Pay By Web payments at this time.

For help searching Municipal/Ordinance information, click [here](#).

To pay traffic, conservation and watercraft violation citations that are still eligible to be paid to the Fine Collection Center, click the Fine Collection Center link below.

[Fine Collection Center Online Payments](#)

Payment Plans

If you are needing to be placed on a payment plan, you must fill out the payment plan paperwork and return to the court. Payments on payment plans are due on the first (1) of each month. A minimum of twenty five (\$25) is due on the payment date. Failure to make payment will result in collections and tax offset. Fill out and sign the form and turn into the Court Clerk at 37 Weis Ave., Ellisville, MO 63011. Fax 636-227-7744 or email jfiehler@ellisville.mo.us

Payments only payment plans can be made online using Office of State Courts Pay by Web site through Casenet. You can search your case by your name, using litigant name and then click Pay by Web or go directly to Pay by Web, select the 21st Circuit and type your case number in. Credit Cards, Debit Cards and eChecks are accepted.

Payment Plan Agreement Form

Pay by Web

Casenet



IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI
MUNICIPAL DIVISION, CITY OF ELLISVILLE

AGREEMENT TO PAY

I UNDERSTAND THAT THE PAYMENTS ARE DUE BY THE **FIRST (1)** ON THE MONTH, UNTIL THE BALANCE IS PAID OFF. FURTHER, I UNDERSTAND THE FOLLOWING PAYMENT CONDITIONS:

1. I UNDERSTAND THERE IS **NO GRACE PERIOD** ON PAYMENT(S).
2. ALL PAYMENT(S) MUST BE PAID BY THE **FIRST** OF THE MONTH.
3. I AM OBLIGATED TO IMMEDIATELY ADVISE THE COURT OF ANY CHANGE OF ADDRESS OR TELEPHONE NUMBER.
4. THE CLERK WILL **NOT** GRANT AN EXTENSION BY TELEPHONE
5. **FAILURE TO COMPLY WITH THE PAYMENT SCHEDULE WILL REQUIRE APPEARANCE BEFORE THE COURT ON THE COURT DATE OF THE MONTH THE PAYMENT IS DUE.**

I UNDERSTANT, THAT SHOULD I FAIL TO MAKE A PAYMENTS ACCORDING TO THE SCHEDULE SET FORTH, LEGAL ACTION WILL BE TAKEN AGAINST ME AND THE COURT CAN WILL PURSUE COLLECTIONS THROUGH A COLLECTION AGENCY.

FURTHER, I UNDERSTAND THAT PAYMENTS MAY BE MADE BY MAIL BEING MAILED TO:

COURT CLERK, ELLISVILLE MUNICIAPL COURT

37 WEIS AVENUE

ELLISVILLE, MO 63011



DEFENDANT PAYMENT AGREEMENT



NAME: _____

STREET ADDRESS: _____

CITY, STATE ZIP _____

PHONE NUMBER _____

EMAIL ADDRESS: _____

SOCIAL SECURITY NUMBER: _____

SIGNATURE _____

Schedule of Fines & Costs

In accordance with the Missouri statutes and ordinances adopted by the City, total court cost shall be \$31.50. This includes Basic Court Cost of \$12.00, \$1 of the Basic Court Cost will be applied to the Appointed Counsel Fund. (COR 21.01(a)(5), Crime Victim's Compensation Surcharge of \$7.50 (RsMo 488.5339), Law Enforcement Training Fund of \$2.00 (RsMo 488.536.1), Peace Officer's Standard Training Fund of \$1.00 (RsMo 488.5366.1), Inmate Security Fund \$2.00 (RsMo 488.5026), and Judicial Information System \$7.00 (COR21.01(a)(4) & RsMo 476.056); for a total of \$31.50. Court Cost shall be paid in addition to the fine. Joanna Fiehler is appointed Violations Clerk, and said Clerk may designate assistants.

Click [here](#) to view the scheduled list of Violation Fines and Costs (TVB list).

Violations Bureau Fines & Costs

You may:

- Pay your fine by mail prior to court date, if the amount is on the Traffic Violations Bureau list
- Pay your payment plans online using a credit card or debit card by clicking here: **Pay by Web**.
- Pay your fine in person at the Ellisville Municipal Court Office located at 37 Weis Ave., Ellisville, MO 63011, weekdays 8:30 a.m. - 4 p.m.
- Drop off payment in the Ellisville Court Drop Box at the Ellisville Court, 37 Weis Ave., Ellisville, MO 63011
- Contest this complaint in court on the date, time and address on your ticket.

You have been summoned to come to court on the date shown on your ticket.

You may plead not guilty by coming to court and a trial will be set.

You may plead guilty by mail or by coming in the Ellisville Court to pay your fine.

If you plead guilty, you will be given a new date to pay if you can't pay the day of court.

If you want to plead guilty, but don't have the funds to pay your ticket, you still must come to court. You will not be arrested for not having money to pay.

If you do not come to court when you are summoned to do so, you are subject to a warrant being issued for your arrest.

The Traffic Violations Bureau has been established as a convenience for the public.

The Traffic Violation Bureau is not intended to replace a court appearance for pleas of not guilty.

If you believe you are not guilty, you should appear in court on the date and time indicated on your ticket.

****Please note appropriate attire is required in the courtroom.

Shirt and shoes are required.

No halter tops, shorts, hats, offensive t-shirts.

The fines listed in the TVB are effective June 19, 2014, and thereafter, until further notice.

FAILURE TO APPEAR OR PAY YOUR FINE BEFORE YOUR COURT DATE MAY RESULT IN A POSSIBLE WARRANT ISSUED.

Instructions to pay your fine by mail::

- Make check payable to Ellisville Municipal Court.
- Fill out the back of the ticket and mail with scheduled amount in this envelope.
- Enclose a self addressed stamped envelope if you wish to receive a receipt.

If you are needing to be placed on a payment plan, you must fill out the payment plan paper work and return to the court. Payments on payment plans are due on the first (1) of each month. A minimum of twenty five (\$25) is due on the payment date. Failure to make payment will result in collections and tax offset. For more information on the payment agreement, please click [here](#).

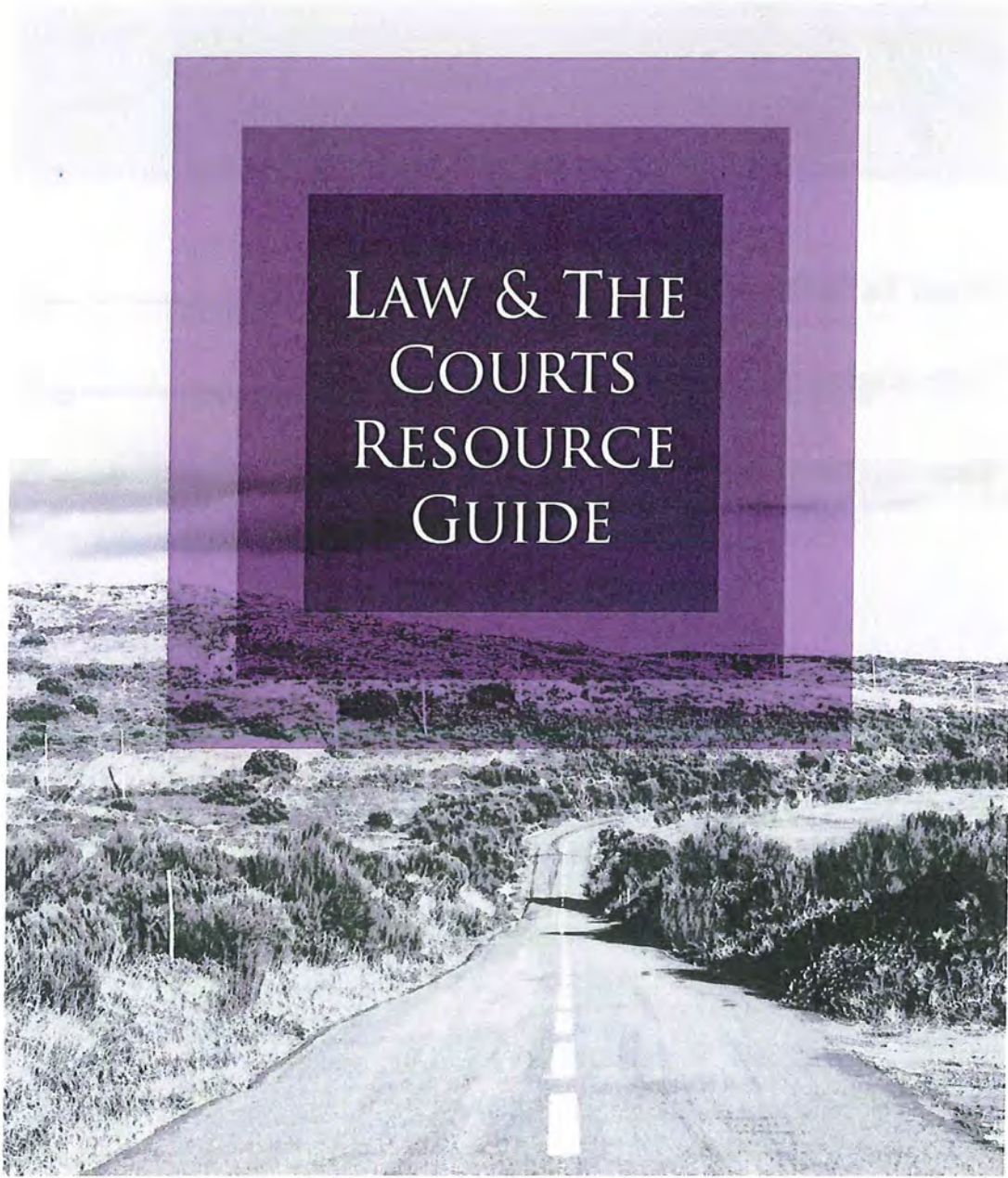
Your Rights

Your Rights in the Courtroom

- Please be advised the fine amount set forth for the Violations Bureau Schedule may not apply in court.
- You have a right to plead guilty, guilty with an explanation and not guilty.
- You are presumed to be innocent unless and until the city's prosecution proves your guilt beyond a reasonable doubt.
- If, after the charge is read and you understand it, you feel you have violated the law, you may enter a plea of guilty. If you wish to explain the circumstances surrounding the charge to the judge, you may ask the Municipal Judge to consider your explanation.
- If you believe you have not violated the law or have a defense to the alleged violation, you should plead not guilty. If in doubt, plead not guilty.

Your Right to an Attorney

- You have the right to be represented by an attorney. You may employ one to represent you before pleading to any charge, to defend you against charges and to protect your rights in any court procedure before or after the trial.
- At the first setting of your case, you have the right to obtain a continuance in order to obtain a lawyer or to prepare your defense. If you desire a continuance, you should request it after your case is called and before entering your plea.
- If you are indigent and unable to hire an attorney, the court will appoint an attorney for you if you can show that you cannot afford one in a case where a conviction would possibly lead to jail time. However, you may waive such right if you choose. You must appear on your scheduled court date to present your request to the Municipal Judge. The Judge will advise if your case and circumstances fit the criteria for appointment of an attorney.



LAW & THE COURTS RESOURCE GUIDE



- what to do in case of an auto accident
- your rights in traffic court
- your rights if arrested

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WHAT TO DO IN CASE OF AN AUTO ACCIDENT

Keep this pamphlet with a pencil and paper and your insurance card in your car.

What These Words Mean

Scene – The place where the accident happened.

Witness – A person who saw the accident happen.

Stop At The Scene

You cannot drive away from an accident. You must stay until you have given your name and address to a police officer or the other driver.

Get Help For The Injured

Call 911 or “0” on a telephone or ask someone to call for you. Do not try to move an injured person.

Give Warnings

Ask another person to volunteer to wave to other cars to warn them of the accident. Use lights or a flashlight at night to warn other cars.

Tell A Police Officer

Tell a police officer, a county sheriff or the Missouri Highway Patrol that you had an accident. The police report can help you later if you forget facts.

Give them your name and address and show them your driver’s license.

You do not need to tell any person, other than a police officer, how you think the accident happened. You may learn later that you did not do anything wrong. You should not sign any papers at the scene except the agreement to appear in court if asked by an officer.

Get Witnesses’ Names, Addresses, and Phone Numbers

Ask all witnesses to write down their names, addresses and telephone numbers.

Write answers to questions on a blank page in this booklet. Draw a picture of the accident scene, also.

Get Insurance Information

Be sure to have your insurance card ready. Write down the information found on the insurance card of the other driver, and allow him or her to write down the information found on your card.

Towing

If you cannot drive your car, you must have it moved from the scene. If the police officer calls a tow truck, you should ask how much it will cost, tell the tow driver where to take your car, and ask for his name, address and telephone number if you do not go with him.

Call Your Insurance Agent

If the police report filed in connection with the accident indicates that you were at fault, you will want to contact your insurance company as soon as possible. However, if another party is listed as being at fault, you will only want to contact the other party's insurance company. To inform your insurance company of an accident that is not your fault could result in an increase in your rates and/or a decrease in available coverage for you.

See A Doctor

You may not know if you are hurt because you may be upset. It is a good idea to see a doctor.

Call A Lawyer

Talk to a lawyer before talking to anyone else about the accident. A lawyer knows how to help you.

Lack of Insurance

Under Missouri law you are required to insure your vehicle and should do so immediately if you have not already. If you are involved in an accident where the other party does not have insurance, or cannot produce proof of insurance, you must provide written notification of the accident to the Missouri Director of Revenue within 30 days of the accident. You must only provide this notice if the accident involves more than \$500 in property damage or if any person is injured or killed.

You can get forms to provide this notice from the police department, the Missouri Department of Revenue, your insurance company or your lawyer. You should also notify your own insurance company of the accident in order to protect any rights you may have under any uninsured motorist coverage you might have.

Pay Nothing

Do not pay anyone money unless your lawyer tells you to pay.

For Legal Advice See Your Lawyer

For legal advice see your lawyer. If you need help finding a lawyer, call The Missouri Bar Lawyer Referral Service at 573/636-3635.

In St. Louis call 314/621-6681.

In Springfield call 417/831-2783.

Accident Information Form

*Fill out this form at the scene
of the accident if it is safe to do so*

THE OTHER DRIVER AND HIS CAR

Name of other driver _____

Street address _____

City _____ State _____

Vehicle registration (car license) number _____

Make and type of car _____ year _____

Number of driver's license of other driver _____

Has he apparently been drinking? _____

Any verbal statements made by other driver as to cause of accident?

**NAMES AND ADDRESSES OF
PASSENGERS IN OTHER CAR**

Name _____
Address _____
Name _____
Address _____
Name _____
Address _____

**NAMES AND ADDRESSES OF ALL
POSSIBLE WITNESSES TO ANY FACT**

Name _____
Address _____
Name _____
Address _____
Name _____
Address _____

**SPECIAL CONDITIONS TO NOTE
IMMEDIATELY FOLLOWING ACCIDENT**

Position of your car after accident _____

Position of other car after accident _____
Location of any tire marks, blood, broken glass, dirt, etc. on road or
side of road _____

Location of point of impact in relation to center of road or some
physical object _____

Did other car skid — if so, how many feet? _____
Road conditions _____
Traffic conditions _____
Weather conditions _____
Traffic controls (traffic lights, stop signs, etc.) _____
Place of impact on other car _____
Name and address of any wrecker that removes other car _____

Other conditions that might have bearing on accident _____

**THE FOLLOWING MAY BE FILLED OUT EITHER AT
THE SCENE OR SHORTLY AFTER LEAVING THE SCENE**

Date of accident _____ Time _____

Location of accident _____

Type of road (grade, curve, etc.) _____

Speed of your car just before accident _____

Speed of other car just before accident _____

Direction of your car _____

Direction of other car _____

Were you or other driver turning? _____

Did other driver signal properly (with arm, horn, lights, etc.)? _____

If at night, were the other driver's headlights on? _____

How far were you from other car when you first saw it? _____

Other pertinent facts _____

YOUR RIGHTS IN TRAFFIC COURT

The court's job is to decide all cases as the law requires, which should make driving safe, and help people obey the law. You need to know your rights and the meaning of words that are used in court BEFORE you go to court. Then you can better understand court operations and be ready for court when you get there. (Don't forget to read the traffic ticket and the instructions on it.)

What These Words Mean

Traffic Ticket or Summons – command by court order to appear in court. Failure to appear may result in a warrant for your arrest.

Charge – what you are accused of doing.

Plead – to answer the charge in court.

Plead Guilty – to admit the charge.

Plead Not Guilty – to not admit the charge, or assert your innocence, or require the prosecutor to prove the charge. This is the default plea unless and until you plead guilty.

Defendant – the person charged with the traffic violation.

Continuance – having the judge change the trial to another day in the future.

Subpoena (“sa-pee-na”) – an order from the court that compels a person to come to court.

Prosecutor – the lawyer for the city or county.

Court Costs – the money needed to pay for the operation of the court system.

Testify – to speak under oath (swear to tell the truth) in court.

Witness – a person who testifies in court about something they know.

Appeal – to try to have a higher court hear the case again or overturn a guilty verdict.

Arraignment – the reading of the charge(s) and formal entry of a plea of “Guilty” or “Not Guilty.”

When You Get To Court

If you don't know if your name is on the list for that day, ask the clerk. Then sit down in the court room.

When your name is called, walk up to the judge. The judge may ask you

questions. You may answer the questions, or you may ask the judge to wait to answer the questions until you have a lawyer, or you may remain silent.

If you are charged with breaking the law, you are the defendant.

The judge will read the charge. If you do not understand it, ask the judge to explain it.

When the judge asks how you plead, you must say “guilty” or “not guilty.”

If You Plead Guilty:

The judge may ask you questions. You must answer them.

The judge will tell you how much money to pay as a fine and court costs or what sentence you must serve. Before you plead guilty, you have the right to ask the judge if you will go to jail.

Some of the money you pay is a fine, turned over to the government.

Some of the money you pay is for court costs for the operation of the court system.

You Should Plead Not Guilty:

- If you did not do what you are accused of doing.
- If you are not sure that what you did was against the law.
- If you are also asking for more time to get a lawyer, find witnesses of your own, or otherwise be more prepared.

Trial

If you do not have a lawyer and you, your family or a friend think you need the help of one, you should contact one **BEFORE** going to court. You may also choose to proceed without a lawyer and represent yourself. However, the court is required to advise you of the dangers and disadvantages of representing oneself at trial.

The judge may set your trial for another day (continuance), but only for a good reason.

You have the right to bring witnesses to the trial. If you need the court to help you bring witnesses, the court will give them subpoenas to tell them they must come to court for you.

If you want a trial by jury, you may ask for one; the judge will tell you if the law allows it in your case.

The burden of proof is on the municipality to prove you guilty beyond a reasonable doubt.

The prosecutor must bring witnesses to tell what they saw and heard. You or your lawyer may ask them questions. The prosecutor has the right to ask your witnesses questions and, if you testify, to ask you questions.

(You don't have to testify if you don't want to.) There is no significance attached to not testifying in court.

If the judge decides that you are not guilty, the trial is over, and you may leave.

If the judge decides that you are guilty, the judge will tell you what the penalty is and what then to do.

Penalties

- Fine
- Jail
- Both fine and jail
- Other. The judge may include in the penalty an order to go to driver's school, alcohol safety school or other schools to help you better understand how to drive safely on the public street or highways. You must go to the school so you won't face more penalties, including a jail sentence.

Appeal

Also known as "trial de novo," which means new trial.

If you think what the judge or jury decides is unfair or wrong, you may ask for your case to be sent to a higher court. Tell the judge you want to appeal. You must file the necessary paperwork and post bond within 10 days. You cannot appeal if you pay any portion of the fine or costs the judge set in your case.

Rights

Remember, you have the right to:

- Have a reasonable time after you are charged with a traffic violation to get ready to answer the charge in court.
- Have a lawyer. The judge may provide you with a lawyer if you are poor and if you face the possibility of going to jail.
- Ask witnesses to speak for you.
- Ask for a jury if the law permits you to have one in that court.
- Testify or not testify.
- Ask the court to issue subpoenas for witnesses.

For Legal Advice See Your Lawyer

If you need help finding a lawyer, call The Missouri Bar Lawyer Referral Service at 573/636-3635.

In St. Louis, call 314/621-6681

In Greene County, call 417/831-2783

YOUR RIGHTS IF ARRESTED

What These Words Mean

Bond – A promise to appear in court, which often includes a guarantee of money, and which is required for a person who has been arrested to get out of jail while waiting for a trial (sometimes called bail or a bail bond).

Charge – The formal statement that details what the arrested person is accused of doing. A charge may be brought: by an information, which is a sworn statement filed in court by a prosecutor; or by an indictment, which is filed by a grand jury.

Defendant – The person who is accused of committing a crime.

Evidence – Anything that can be used in court to show what is true and what is not.

Information and Indictment – The two types of documents that may be used to state the charge or charges against the defendant.

Guilty – Found, by either a judge or jury, to have committed the crime charged.

Grand Jury – Twelve citizens chosen from the community who hear evidence presented by the prosecutor and then decide whether the person arrested should be held for a trial. Grand jury meetings are held in private and are not open to the public or to a potential defendant.

(Petit) Jury – Twelve citizens chosen from the community who are asked questions to determine if they can be fair, who hear the evidence in a trial and decide what is true and whether the defendant is guilty or not guilty.

Not Guilty – The verdict required if the prosecution does not prove guilt beyond a reasonable doubt.

Preliminary Hearing – A court proceeding where a judge hears evidence to decide if the person arrested should be held for trial. This is an alternative to a grand jury.

Probation – An alternative to time in prison or jail. Conditions can be set by the judge, and may be supervised by a probation officer. Violation of conditions may result in revocation of probation and imposition of time in prison or jail.

Prosecutor – The lawyer for the government, either state or federal.

Sentence – The length of time in prison, in jail or on probation that is ordered by the judge. In some cases, the sentence is set by the jury. For some crimes, the sentence can be a fine instead of time in jail.

Voir Dire – The process of questioning potential jurors to determine if they can be fair.

Waive – To voluntarily give up a right.

Types of Offenses

Offense – A violation of law. In Missouri, offenses can be either crimes (felonies or misdemeanors) or infractions.

Ordinance – A local law of a city, town or county. Technically, ordinance violations are not really crimes or infractions. Examples of ordinance violations would be a traffic ticket, a peace disturbance, or a petty theft. Punishment is usually by a fine. (Note: Some traffic tickets and other minor offenses can be charged either as an ordinance violation or a misdemeanor.)

Infraction – A violation of state laws punishable only by a fine, not by imprisonment.

Misdemeanor – A violation of state laws, punishable by a sentence of up to one year, to be served in the county jail or workhouse, or by a fine, or both. Trespassing and possession of under 35 grams of marijuana are examples of misdemeanors.

Felony – A more serious offense, punishable by a sentence to be served in the Missouri Department of Corrections. Murder, robbery, and burglary are felony offenses. Possession of heroin, cocaine, or more than 35 grams of marijuana are also felonies. Some felonies may also be punished by a fine.

Federal Offense – A violation of laws passed by the United States Congress. These cases are heard in the United States district courts, and prosecuted by the U.S. Attorney. Sentences are served in the Federal Bureau of Prisons.

When Can You Be Arrested?

- If a police officer has a warrant for your arrest.
- If a police officer believes that you have violated the law.
- If a police officer sees you violate, or try to violate, the law.

What Can The Police Do To You If You Are Arrested?

- Search your body and clothing.
- Search your belongings.
- Search your car if you are in it when the police stop you.
- Fingerprint you.
- Put you in a lineup.

You have the right to refuse any of the following requests unless the police have a court order:

- Answer questions.
- Ask you to sign or write out or record a statement.
- Ask you to provide a sample of your handwriting.
- Ask you to consent to having a sample taken of your breath, blood, semen or hair.
- Ask you to consent to a search of your home or other property you own.

When Do The Police Need a Search Warrant?

If you do not agree to allow the police to search your home, or some other property you own or control, the police can apply to a judge for a search warrant, which is a court order that allows the police to carry out the search without your consent. The police can also apply for an order to require you to provide a sample of your handwriting, breath, blood, semen or hair.

Can The Police Test You For Alcohol or Drugs?

The police can apply for an order to require you to submit to testing for alcohol or drugs under certain circumstances.

If you have been driving a motor vehicle, a police officer may ask you to perform simple tests, such as trying to walk a straight line heel-to-toe,

to decide if you are under the influence of drugs or alcohol. If you are arrested for driving under the influence of drugs or alcohol, Missouri laws allow the police to ask you to consent to chemical tests for alcohol or drugs, and the results of the tests can be used against you in court. You have the right to refuse to submit to the tests, but the fact that you refused may also be used against you in court. In addition, your driver's license may be revoked or suspended if you refuse to submit to the tests.

What Are Your Rights After Arrest?

- You may refuse to talk to the police or answer any questions.
- You may ask for a lawyer at any time – even after you have answered some questions.
- You may stop the questioning at any time just by saying that you do not want to answer any more questions.
- You may refuse to sign or write out or record a statement. You must be allowed to call a lawyer. If you cannot pay for a lawyer, you may insist that a lawyer be provided for you before you answer any questions.
- Before you are asked any questions, the police must advise you of your “Miranda” rights.
- You may refuse to consent to any search or seizure of your person, property, home or vehicle, or to provide samples requested by the police.

What Are Your “Miranda” Rights?

The name “Miranda” comes from a case decided by the United States Supreme Court. The Court's decision requires the police to advise you of certain rights before they ask you any questions. This is sometimes referred to as the “Miranda warning” and will go something like this: “You have the right to remain silent. Anything you say may be used against you in a court of law. You have the right to talk to an attorney and to have an attorney present during any questioning. If you cannot afford an attorney, one will be appointed for you.”

What Does “Waive Your Rights” Mean?

To voluntarily choose to give them up. For example, you may decide not to talk with a lawyer before answering questions. You may decide to answer questions and talk with the police. You may decide to write out or record a statement. You may decide to allow the police to search your home. You may decide to submit to certain tests. Any of these decisions waive your rights. You are never required to waive your rights. If you

choose not to waive your rights, the fact that you did so cannot be used against you in court.

Do You Have To Stay In Jail Until Your Trial?

No, in almost all cases bond will be set by a judge. You can be held by the police for *up to 24 hours* while waiting for the bond to be set. The judge will determine the conditions of the bond, including any amount of money that must be posted to guarantee that you will appear in court on the day required. You may be released simply upon signing a promise to appear in court, if the judge decides that is appropriate.

Your family and your friends may help by sponsoring your bond. They may have to deposit an amount of money with the court to meet the conditions set by the judge; or, they may have to prove that they own property in the amount of the bond. Posting bail means meeting the conditions set by the judge that allow you to be released from jail. However, if you fail to appear in court on the day required, your family and friends may lose the money or property that was posted.

You may decide to go to a bail bondsman to post bail for you. You or your family or friends pay the bondsman a fee, and in return the bondsman posts bail for you. The fee is kept by the bondsman after your case is over as payment for the bond service. The police will usually have a list of bail bondsmen in the area, or you can look in the yellow pages of the telephone book under Bail Bonds.

When Do You Go To Court?

For minor offenses, the police may give you a summons that tells you when you have to go to court. For more serious offenses, a judge will set the dates. If you have a lawyer, your lawyer will advise you when you need to appear in court. You may have to return to court several times before your case is finished.

Why Do You Need A Lawyer In Court?

A lawyer is trained in the court rules and procedures that govern how your case will be handled. In addition, a lawyer is trained to evaluate the facts and circumstances of your case, and give you the best advice as to what you should do. It is best for you to have a lawyer helping you.

The judge will give you a chance to find a lawyer. If there is a chance that you could go to jail, and you cannot afford a lawyer, you may apply for a public defender to serve as your lawyer.

What Will Your Lawyer Do?

Your lawyer will first try to learn as much as possible about the facts of your case. Your lawyer will ask you about the circumstances that led to your arrest. It is in your interests to cooperate with your lawyer. What you tell your lawyer is private, and your lawyer is required to keep your conversations confidential. Your lawyer cannot reveal to the police or to the court what you say. You should try to help your lawyer all you can. Tell the lawyer all you know about your case. Your lawyer will also seek information from other sources by asking the prosecutor to hand over any police reports about the incident and by interviewing possible witnesses. You should give your lawyer the names of any witnesses and any other information that will help your lawyer investigate your case.

What Happens In Court?

The judge will ask you if you plead “guilty” or “not guilty.” Your lawyer will advise you how you should answer, and what the possible results will be depending upon your answer. Almost all defendants plead “not guilty” when first asked, unless they have accepted a plea agreement.

If you plead “not guilty,” the judge will set a date for your trial.

If you plead “guilty,” the judge will decide your punishment according to your crime and the circumstances of your case. Different crimes have different possible punishments. Your lawyer will explain to you the possible punishments in your case. In some cases, the judge may decide to put you on probation rather than put you in jail or prison. If so, the judge may put certain conditions on your probation. If you violate the conditions of your probation, you may be brought back into court, and the judge may revoke your probation and put you in jail or in prison, depending upon your crime.

Sometimes your lawyer will work out a “plea agreement” with the prosecutor.

What is a Plea Agreement?

Sometimes the prosecutor and your lawyer negotiate an agreement to settle your case without a trial. If you agree to plead guilty to a certain charge, then in return the prosecutor agrees to recommend a specified punishment to the judge, which can either be a specific sentence or a recommendation for probation. Your lawyer will advise you whether it is a good idea to agree to the terms of the plea agreement and plead guilty, or whether you should refuse and go ahead with the trial.

Does the Judge Have To Accept The Plea Agreement?

NO! The final decision on punishment is up to the judge. However, if the judge refuses to accept the plea agreement, the judge must allow you to withdraw your plea of guilty, and you still have the right to a trial.

Can You Answer “Not Guilty” Even If You Are Guilty?

Yes. You are entering a plea, not giving testimony. Under the law, you are presumed to be innocent until you are proven guilty. Furthermore, you have the right to have your case decided by a trial. You may have a trial only if you plead “not guilty.” Your lawyer will advise you about whether you should plead “guilty” or “not guilty,” but the final decision is up to you.

What Kind Of Trial Will You Have?

You have the right to a jury trial, but in a misdemeanor or infraction case you must ask for it. In a felony case, you will have a jury trial unless you intentionally give up that right. The jury will hear the evidence against you, and any evidence that you bring forth, and will decide whether you are guilty or not guilty. If you do not have a jury trial, a judge will hear the evidence and decide if you are guilty or not. Your lawyer will advise you whether you should have a jury trial.

Is Court Any Different For A Felony Charge?

Yes. Because felonies involve more serious crimes, more is involved.

After you are arrested, the prosecutor must present the evidence against you either to a judge in a preliminary hearing, or to a grand jury.

A preliminary hearing is held in a public courtroom, and you have the right to be present. A judge hears the evidence and decides whether you should be held for trial. The charge or charges against you will then be filed by the prosecutor in an information.

The grand jury meets in private, and you do not have the right to be present. The 12 citizens on the grand jury hear the evidence, and decide whether you should be held for trial. The charge or charges against you will then be filed by the grand jury in an indictment.

What Happens If You Are Found Guilty In A Trial?

In some cases, the jury will also recommend a punishment. The final decision as to punishment is up to the judge, but cannot be greater than the punishment recommended by the jury. In cases where the jury does not

recommend punishment, the judge may sentence you to any punishment that is within the range of punishment for the particular crime as set forth in Missouri law. Most laws set a certain minimum and maximum punishment for a particular crime. As an alternative, the judge may put you on probation with certain conditions. Such conditions may include restitution to be paid to the victims of the crime and community service work. You may also be required to undergo drug and alcohol testing, and to take certain classes or training. If you are put on probation and you violate the conditions of your probation, you can be brought back into court and the judge can revoke your probation and impose a punishment according to your crime.

For Legal Advice, You Must Talk With A Lawyer

Lawyers have the training and experience necessary to answer the questions you will have if you are arrested and to give you the best advice about what to do.

If you need help finding a lawyer, call The Missouri Bar Lawyer Referral Service at 573-636-3635.

In St. Louis, call 314-621-6681.

In Springfield, call 417-831-2783.



ST. LOUIS CITY MUNICIPAL COURT

Gordon Schweitzer

Administrative Judge

Catherine Ruggeri-Rea

Court Administrator

[Online Ticket Access](#)

[Home](#)

[Violation Search](#)

[Parking Tickets](#)

[Court Calendar](#)

[Court Holidays](#)

[Unclaimed Funds](#)

[Unclaimed Bond Money](#)

[Defendant Out of Town
Instruction](#)

[How To Obtain A
Compliance Letter](#)

[Location and Hours](#)

Welcome

to the Online Ticket Access System for the City of St. Louis.

This site will allow citizens to view information regarding
Traffic Tickets and Non-Traffic Tickets.

Francis G. Slay

Mayor, City of St. Louis



Camera Cases Refund

Tuesday, October 6, 2015

Cases paid with violation dates between **February 11, 2014 through August 19, 2015** shall be receiving a refund from the Court.

This will occur after a final Court Order is signed by the State Court Judge, Steven Ohmer.

Any further questions,
please call 314-622-3231

Municipal Court - City of St. Louis

DRESS CODE

Wednesday, April 17, 2013

NOTICE: Attorneys - Please inform your clients of this dress code.

Shirts and shoes are mandatory on persons of all ages.

Tank tops, spaghetti straps and plunging necklines are not allowed.

Bare backs and shoulders are not permissible [No halter-type tops or dresses].

Sleeveless ...

News Release - Municipal Court Adopts New Rule Making it More Fair and Just for Violators to Settle Fines

[News Release](#)

Administrative Order Regarding Fines,
Installments, and Ability to Pay

[Administrative Order](#)

Your Rights in Municipal Court

[English](#)

Your Rights, Armenian

[Armenian](#)

Your Rights, Bosnian

[Bosnian](#)

Your Rights, French

[French](#)

Your Rights, Spanish

[Spanish](#)

Your Rights, Vietnamese

[Vietnamese](#)

Best Practices for Missouri Municipal Court Websites

Compiled by Sam Stragand, JD'15, Washington University

Essential Elements

- ✓ Basic Information on a Court Appearance
 - Court date, time of docket, court address, and directions to court by car and public transportation
- ✓ Contact Information for the Municipal Court Clerk
 - Email, phone number, and address of court
- ✓ Information on Court Procedures and Policies
 - An overview or timeline of courtroom procedureⁱ
 - "What to Bring to Court" information sheetⁱⁱ
 - Information on role of all court personnelⁱⁱⁱ
 - Trial Procedures^{iv}
- ✓ Information on a Defendants' Rights and Responsibilities^v
- ✓ The Ability to Pay Online
- ✓ Information on All Payment Options
 - Schedule of fines^{vi}
 - Payment plans^{vii}
 - Probation options^{viii}
- ✓ Information on "ability to pay" assessments and community service alternatives
 - Including a community service portal through which commitment can be made to complete community service^{ix}
 - Ability to pay procedure^x
- ✓ Information in multiple languages^{xi}

Other Best Practices

- ✓ Information on the Violation's Effects on a Driver's License
 - Missouri Department of Revenue Drivers License Bureau Point System^{xii}
 - Compliance letter for license reinstatement^{xiii}
- ✓ The Bench Card used by the Municipal Judge
- ✓ Information on filing a complaint against police officer and/or municipal court
- ✓ Letter of Compliance with Senate Bill 5^{xiv}
- ✓ Portal through which to find any outstanding charges and/or warrants in all other Missouri jurisdictions
 - In practice, this portal would lead to the Missouri State Court's website and/or Missouri Casenet on which all charges would be listed.

ⁱ See, e.g., Your Rights in Court, City of Fenton, *available at* <http://www.fentonmo.org/DocumentCenter/View/4704> (last viewed Nov. 11, 2015).

ⁱⁱ See, e.g., What to Bring to Court, City of Normandy, <http://www.cityofnormandy.gov/index.aspx?NID=578> (last viewed Nov. 11, 2015).

ⁱⁱⁱ See, e.g., Court Staff Assistance, City of St. Ann, <http://www.stannmo.org/544/Court-Staff-Assistance> (last viewed Nov. 11, 2015).

^{iv} See, e.g., Trial Procedures, City of St. Ann, <http://www.stannmo.org/497/Trial-Procedure> (last viewed Nov. 11, 2015).

^v See, e.g., Your Rights, City of Kirkwood, *available at* <http://www.kirkwoodmo.org/mm/files/MunicipalCourt/2015%20Documents/Your%20Rights%20In%20Court.pdf>.

^{vi} See, e.g., A Message from Brentwood Municipal Court, City of Brentwood, *available at* <https://www.brentwoodmo.org/DocumentCenter/Home/View/517> (last viewed Nov. 11, 2015).

^{vii} See, e.g., Payment Plans, City of Ellisville, <http://www.ellisville.mo.us/448/Payment-Plans> (last viewed Nov. 11, 2015).

^{viii} See, e.g., Probation Services, City of Springfield, <http://www.springfieldmo.gov/2179/Probation-Services> (last viewed Nov. 11, 2015).

^{ix} See, e.g., Alternative Community Service, City of Ellisville, <http://www.ellisville.mo.us/453/Alternative-Community-Service> (last viewed Nov. 11, 2015). Ellisville's website includes forms on: applying for alternative community service, information on community service providers, and a community service timesheet.

^x See, e.g., Administrative Order Regarding Fines, Installments, and Ability to Pay, St. Louis City Municipal Court, *available at* http://www.stlcitycourt.org/Misc/administrative_order.pdf?r=f4ade649-a6a4-4a30-8d50-1a433636930e (last viewed Nov. 11, 2015).

^{xi} See, e.g., Home Page, St. Louis City Municipal Court, <http://www.stlcitycourt.org/frmHome.aspx> (last viewed Nov. 11, 2015) (offering information in Armenian, Bosnian, French, Spanish, and Vietnamese).

^{xii} See, e.g., Missouri Department of Revenue Drivers License Bureau Point System Violation Description Table, St. Louis County, <http://www.stlouisco.com/LawandPublicSafety/MunicipalCourts/DriverLicensePointSystem> (last viewed Nov. 11, 2015).

^{xiii} See, e.g., How to Obtain a Compliance Letter, St. Louis City Municipal Court, *available at* <http://www.stlcitycourt.org/Misc/HOW%20TO%20OBTAIN%20A%20COMPLIANCE%20LETTER%2011-1-13.pdf> (last viewed Nov. 11, 2015).

^{xiv} See, e.g., Municipal Judge's SB5 Compliance Order, City of Kirkwood, *available at* <http://www.kirkwoodmo.org/mm/files/MunicipalCourt/2015%20Documents/SB5%20Compliance%20Order.pdf> (last viewed Nov. 11, 2015).



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GlobalHack V tackles municipal courts

By [MARIA ALTMAN \(/PEOPLE/MARIA-ALTMAN\)](#) • SEP 10, 2015

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The problems plaguing the municipal court system in St. Louis County have been in the spotlight a lot lately. This weekend, coders will come together at GlobalHack V (<http://globalhack.org/>) to see if they can develop some tech solutions.

It's a shift for GlobalHack, which has focused on corporate problem-solving since it launched two years ago. Executive director Matt Menietti said the non-profit's goal is to improve the city's tech community, but they wanted to see if they could do more.

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http://mediad.publicbroadcasting.net/p/kwmu/files/styles/x_large/public/201509/GlobalHack_0.jpg

CREDIT (COURTESY GLOBALHACK)

"Can we do that in a way that benefits St. Louis more so than just bringing people together to write code?" Menietti asked. "Can we actually solve some problems that are going to make the city better and potentially the world?"

The incentive for developers to give up their weekend includes \$60,000 in prize money. It's also an opportunity to get to know new programming languages, meet coders who are further along in their careers, and even find a new job. Menietti said tech recruiters are increasingly using hack-a-thons to find good candidates.

"It's sort of an interview on steroids," he said. "You get to see these people work on a team in a limited amount of time delivering a solution to a real world problem, and they have to show up on Sunday with a finished product."

Working with stakeholders

GlobalHack is partnering with the Civic Tech and Data Collaborative, which includes St. Louis County, Rise Community Development, and OpenDataSTL. The effort includes getting input from municipal court judges and clerks to identify what problem coders will be asked to solve over three days.

"We're trying very hard not to solve the first problem we come across," explained Eleanor Tutt, a data management coordinator at Rise and a volunteer with OpenDataSTL. "We're trying to keep in the problem identification phase as long as possible, so that we end up doing something really useful."

Tutt said judges, clerks and community members will be among those who decide what the winning solutions are and how they get implemented. Once the hack-a-thon is done, she said the Civic Tech and Data Collaborative will continue to work with the winning prototypes.

"Our goal is to have handful of solid prototypes and kind of keep kicking the tires, as well as continue to build them out with volunteers from OpenDataSTL and other groups," she said.

That will include testing the solutions and making sure the community is happy with the results before putting them in place.

The future of GlobalHack

Former Missouri secretary of state Robin Carnahan joined GlobalHack's advisory board this year when the non-profit decided to plan a civic hack-a-thon. She said GlobalHack can play an important role in bridging technology with civic organizations and government.

"We can't stay in these 19th and 20th century models of service delivery when it comes to government services when the rest of the things in our life have moved onto the 21st century," Carnahan said.



http://mediad.publicbroadcasting.net/p/kwmu/files/styles/x_large/public/201509/GlobalHackV_0.jpg

CREDIT (COURTESY GLOBALHACK)

<http://news.stlpublicradio.org/post/globalhack-v-tackles-municipal-cou...>

PLACE	PRIZE
1st place team	\$30,000
2nd place team	\$15,000
3rd place team	\$5,000
Top college team	\$5,000
Top high school team	\$5,000

http://mediad.publicbroadcasting.net/p/kwmu/files/styles/x_large/public/201509/GlobalHackGraph_0.png

CREDIT (BRENT JONES, ST. LOUIS PUBLIC RADIO)

Menietti said the non-profit is looking to do more civic hack-a-thons and much bigger events. GlobalHack is planning to scale up next year and offer \$1 million in prize money.

"We're looking at ways to truly put a spotlight in St. Louis and make this more a national event instead of a regional event," he said.

The goal is to attract 2,000 to 3,000 developers rather than the 150 to 300 participants that GlobalHack's events now draw.

Menietti said as soon as GlobalHack V is over, they'll get started on fundraising.

Follow Maria on Twitter: @radioaltman

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ST. LOUIS POST-DISPATCH
COMMUNITY JUSTICE COURTS

Community justice courts can be an innovative reform



MAY 05, 2015 12:00 AM • BY KAREN TOKARZ AND SAM STRAGAND

Revamping the municipal courts in St. Louis County and beyond is imperative given the growing public mistrust and the myriad of problems, inequities and inefficiencies. More is at stake with municipal court reform than just changing policies and procedures. Change in Missouri's municipal court system is crucial in the process of restoring public confidence in government, eliminating civil rights violations, repairing community

relations, and ensuring that the judiciary is perceived as independent, transparent, and fair.

How might municipal court reform come about? One option would be for multiple municipalities (such as the 24 municipalities in Normandy school district) to vote to operate a joint, full-time, professional municipal court located in their geographic area, with a full-time judge, prosecutor, bailiff, court administrator who runs the pay docket, and court clerk who documents court records, and possibly defense attorneys and social workers. This would maintain some local control, while providing a professional, full-time court.

Almost inevitably, such a court would be better run, more available to the public, less beholden to outside pressures — and, in the end, less costly and more efficient than the current system of multiple part-time courts, with part-time employees, some with arguable conflicts of interest, that meet a couple of evenings a month.

Or, municipalities could vote to join the existing St. Louis County Municipal Court, which runs three courts on a full-time basis. To encompass all the municipalities would require at least three or four additional courts that could be regionally located, perhaps one in each of the seven St. Louis County Council districts. Unfortunately, it seems unlikely that either of these options will come to fruition.

Meanwhile, the Missouri Supreme Court and the Missouri Legislature have taken important steps. The court took quick action as to the Ferguson Municipal Court and made important rule changes regarding individual's inability to pay. They are likely to do more to mandate that municipal courts state-wide abide by the Supreme Court Rules.

In a major bipartisan effort, the Legislature has developed comprehensive municipal court reform legislation that addresses concerns about detention, fines for failure to appear, suspension of driver's licenses, excessive fines and fees, community sentencing

alternatives, electronic payment systems, and accessibility of the courts. Among other proposed reforms, the legislation articulates minimum standards for budget keeping, accounting, audits, and police processes, and tightens restrictions on the percentage of a city's annual general operating revenue that can come from traffic tickets and fines. Although some refinements are needed, this legislation if passed by the General Assembly could go a long way to rebuild public trust in the municipal courts..

After the dust of this legislative session settles, however, the ultimate questions remain: What could true municipal court reform look like? What else could be done to improve public safety, increase trust in government, enhance community relations, and address some of the root causes of disparity, i.e., to truly move forward beyond Ferguson?

At this point, the goal has to be more than remediation of the problems, inequities, and inefficiencies. True reform could be accomplished through the development of innovative, problem-solving, community justice, municipal courts that might serve as a model for the rest of the country. A community-based, municipal justice approach would divert low-level offenders facing municipal violations to a community justice center, perhaps starting with a pilot program for youthful offenders from 16 to 18 or 16 to 21.

These community justice courts would include case management and social work services, providing judges and prosecutors with a broad range of alternative sentencing options, such as access to social services, community restitution, community service, and group counseling. These courts would provide citizens with limited legal advice on how to avoid future violations and connect people to organizations that can assist with housing, employment, mental health, and credit counseling needs that not infrequently underlie traffic and other municipal violations.

Following in the footsteps of the innovative and successful Red Hook Community Justice Center and Midtown Community Court in New York, municipal community justice courts could improve access to justice by connecting individuals with the services and community support needed to maintain public safety, diminish the likelihood of future interactions with the court, and improve community engagement. Such courts could be advanced by the Missouri Supreme Court, the Missouri legislature, the Ferguson Commission, or municipalities themselves.

Municipal courts are Missourians' first — and sometimes their only — impression of the legal system. Increasingly, it is a bad impression. For some, it is the beginning of the poverty-to-prison pipeline. We all have to be worried when a disproportionate number of poor and nonwhite people get caught up in the legal system. We all have to be concerned when the public begins to lose faith in courts, judges, and government. Now is the time for true court reform, true community justice.

Karen Tokarz is professor of law and director of the Negotiation and Dispute Resolution Program at Washington University. Sam Stragand is a third-year legal intern, Civil Rights and Community Justice Clinic, Washington University School of Law.

Community Justice Centers: Alternatives to Fines and Incarceration

Jacob Blanton, JD/MSW'16, Washington University

<p style="text-align: center;">Community Service</p> <p>Community service, as an alternative to fines and incarceration, can be an effective way of addressing the needs of the community and the offender, while still holding the person accountable for violation community standards.</p> <p>EXAMPLE:</p> <p>Seattle's Community Court, which started in 2005, allows defendants to choose community service alternatives, wherein they work under the guidance of AmeriCorps teams with partner organizations throughout the city.ⁱ</p>	<p style="text-align: center;">Community Restitution</p> <p>Restitution, like community service, is intended to repair the harm caused by a particular violation. Restitution may be monetary, or it may be in the form of community service projects. For instance, a person who fails to properly maintain their property may be required to spend time maintaining the property of elderly or disabled residents who have difficulty doing so on their own.</p> <p>EXAMPLE:</p> <p>The Red Hook Community Justice Center in Brooklyn utilizes community restitution in order to "make[] justice more visible to local residents and acknowledge[] that communities can be victims just like individuals."ⁱⁱ</p>
<p style="text-align: center;">Community Mediation</p> <p>Community mediation provides an alternative means of addressing nuisance-related disputes. Instead of going to court for noise or property violations, community members would first attempt to resolve their issues through a mediation process.</p> <p>EXAMPLE:</p> <p>Community Mediation Services of St. Louis and St. Louis Mennonite Peace Center, a charter member of The St. Louis Area Restorative Justice Collaborative, help to resolve resident concerns over sound, boundaries, and property maintenance without relying on fines or incarceration.ⁱⁱⁱ</p>	<p style="text-align: center;">Community Social Service Referrals</p> <p>Courts across the country have begun to utilize social service referrals in order to address the various life circumstances that make interaction with the justice system more likely (ex. alcohol/substance abuse, unemployment or underemployment, homelessness, sexual exploitation, inability to manage anger, etc.) Social service referrals in lieu of fines or incarceration aim to hold violators accountable while also helping to prevent future interaction with the justice system.</p> <p>EXAMPLE:</p> <p>Milwaukee's Community Advocates Program utilizes five full-time case managers who determine defendants' custody and treatment histories, establish links with essential service referrals, and</p>

	report clients status/progress to the courts. ^{iv}
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ⁱ <http://www.seattle.gov/communitycourt/>

ⁱⁱ <http://www.courtinnovation.org/project/red-hook-community-justice-center>

ⁱⁱⁱ <http://mediationstl.org/services/neighborhood/>

^{iv} http://communityadvocates.net/j2k/programs__services/municipal_court_program/

KALAMAZOO COUNTY ANIMAL SERVICES
Telephone: 383-8775

KALAMAZOO HUMANE SOCIETY
Telephone: 345-1181

KALAMAZOO RIVER WATERSHED COUNCIL
Telephone: 978-4606

INHOUSE HOSPICE
Telephone: 353-1822

LAKEWOOD COMMUNITY ASSOCIATION
Telephone: 349-8364

MARCH OF DIMES
Telephone: 343-5586

MEALS ON WHEELS
Telephone: 382-0515

MINISTRY WITH COMMUNITY
Telephone: 343-5880

PCOC (Portage Community Outreach Center)
Telephone: 323-1942

PORTAGE SENIOR CENTER
Telephone: 329-4555

SALVATION ARMY
Telephone: 344-6119

VOLUNTEER CENTER OF KALAMAZOO
Telephone: 382-8350
Website: volunteerkalamazoo.org

YMCA
Telephone: 345-9622
Application and interview required



8th District Court Locations

North
227 West Michigan Avenue
Kalamazoo MI 49007
(269) 384-8171

Crosstown
150 East Crosstown Parkway
Kalamazoo MI 49001
(269) 384-8171

8TH DISTRICT COURT



Guide to Community Service

Participation in community service through the 8th District Court happens in two ways. Community Service may be assigned by the Court as a condition of sentence imposed or by requesting participation to assist with payment of fines and costs.

If you have been ordered to complete community service as part of your sentence, the probation officer assigned to your case will provide instruction regarding completion of community service.

If you would like to participate in the community service program to help pay off court ordered fines and costs, you are required to complete a **Community Service Application** and return the completed application to the clerk. Participation is voluntary and is based upon economic need. You must be unemployed and able to work, or have a financial need.

Upon approval by the Judge or Magistrate, you will be sent a copy of the Order allowing community service.

Participation in this program does not release you from responsibility for your court fines and costs. It may, however, reduce the amount you will be required to pay.

Credit will be given against your outstanding balance for every hour of community service completed at the rate of \$8.00 per hour. No money is exchanged.

Only authorized hours at a pre-approved site will be credited towards your fines and costs. You will be given a **Community Service Confirmation** for the agency to complete

verifying the hours worked. Please have the person supervising your work sign the confirmation form before returning it to the Court. The Community Service Confirmation form must be returned to the court to apply your community service hours to the outstanding due. It is your responsibility to return the confirmation sheet. Should you need extra forms, please contact the Court.

Community Service may not be completed for the fees listed below:

- Restitution
- Driver's License Reinstatement Fees
- Forensic Fee
- Crime Victim Fee
- Cost Recovery
- Expenses Recovered
- Justice system fund/minimum state costs

Please remember to dress appropriately for the work you will be completing. Follow the instructions of the supervisor and obey the rules of the agency.

Listed below are agencies that have been approved to offer Community Service. Please contact the agency directly to schedule community service. This list is a guide. You may complete community service at a non-profit organization other than what is listed, however, *if you have any question regarding the agency and whether your hours worked will be honored, contact the court before you begin working.*



CARES (Community Aids Resource & Education Services)
Telephone: 381-2437
Interview/screening required

COMSTOCK COMMUNITY CENTER
Telephone: 345-8556

DISABILITY RESOURCE CENTER
Telephone: 345-1516
Monday – Friday 8 am – 5 pm

DOUGLAS COMMUNITY ASSOCIATION
Telephone: 343-6185
Monday – Friday 9 am – 6 pm

EASTWOOD HOUSE OF RECOVERY
Telephone: 345-3599

FORT CUSTER RECREATION AREA
Telephone: 731-4200

GOODWILL INDUSTRIES
Telephone: 382-0490

GOSPEL MISSION
Telephone: 345-2974

HABITAT FOR HUMANITY
Telephone: 344-2443

HOUSING RESOURCES
Telephone: 382-0287
Emergency shelter facility

KALAMAZOO AVIATION HISTORY MUSEUM
Telephone: 382-6555
Mon – Sat 9 am – 5 pm; Sun – Noon to 5 pm

KALAMAZOO CIVIC THEATRE
Telephone: 343-2280

8th DISTRICT COURT

PETITION TO COMPLETE COMMUNITY SERVICE

☐ 150 E. Crosstown Parkway, Kalamazoo, MI 49001 (269) 384-8171
☐ 227 West Michigan Avenue, Kalamazoo, MI 49007 (269) 384-8171

TO SPEAK WITH A COLLECTION OFFICER CALL
 If your last name is A - K (269) 384-8011
 If your last name is L - Z (269) 383-8911

APPLICANT INFORMATION

Last Name		First Name		Middle
Address				
City		State	Zip Code	
Date of birth	SSN	Phone		
<input type="checkbox"/> Own	<input type="checkbox"/> Rent	Monthly payment or rent \$	How long?	
Marital Status: <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Divorced		Spouse Name		
No. of Dependents	Monthly Household Expenses			

EMPLOYMENT INFORMATION

Employer		Length of Employment
Employer address		Phone
City	State	Zip Code
Position	<input type="checkbox"/> Hourly <input type="checkbox"/> Salary	Hourly Rate
Spouse employer		
Position	<input type="checkbox"/> Hourly <input type="checkbox"/> Salary	Hourly Rate

PETITION FOR COMMUNITY SERVICE AND PAYMENT PLAN

I request the Court's permission to complete community service for fines and costs. I understand that not all costs are eligible for community service and I agree to make payments on the balance in the amount of \$_____ per ☐ week ☐ two weeks ☐ month beginning _____ I further understand failure to comply with this order may result in a bench warrant being entered for my arrest.

Defendant Signature

Date

ORDER REGARDING COMMUNITY SERVICE AND PAYMENT PLAN

- ☐ Order for Community Service is denied. IT IS HEREBY ORDERED the defendant shall pay \$_____ ☐ week ☐ two weeks ☐ month beginning on _____ until paid in full.
- ☐ IT IS HEREBY ORDERED the defendant may complete _____ hours of community service by _____ and shall pay ineligible fees totaling \$_____ at the rate of \$_____ per ☐ week ☐ two weeks ☐ month beginning on _____ until paid in full.

Judge/Magistrate

Date

TICKET/CASE #		TICKET/CASE #	AMOUNT	TICKET/CASE #	AMOUNT

I certify on this date a copy of this petition was served upon the defendant by ordinary mail.

Deputy Clerk

Date

<http://www.kalcounty.com/courts/district/locations.htm>

Form 812 Rev. 7/2014

CALCULATOR

Total Fines and Costs _____
 Ineligible Costs - _____
 Eligible Costs = _____
 Divided by \$8.00/hr _____/hrs

8th District Court COMMUNITY SERVICE PROCEDURE

A judge or magistrate may order community service work in lieu of payment to assist defendants in satisfying their debt to the court when there is a demonstrated inability to pay.

Defendants applying for community service must meet the following criteria:

- Be unemployed or show financial need and be able to perform community service work.
- Must complete a Community Service Application and file it with the Court.

The application is forwarded to a judge or magistrate to review for authorization.

- If authorized, the total number of hours to complete is calculated along with any additional monies that will need to be paid and a due date is set.
- The original is filed with the court and a copy is sent to the defendant.
- The information is updated in our court database for monitoring.

Upon order of community service:

- Hours must be completed at a nonprofit agency. The list of agencies is available at all court locations and in the probation department.
- Verification forms are to be returned to the court by the due date given.

Upon receipt of verification form:

- Hours completed are verified by court staff.
- Credit is applied at the rate of \$8.00 for each hour completed.
- Verification form is then held at the court.

Community Service work may not be applied to:

- Restitution
- Driver's License Reinstatement Fees
- Forensic Fees
- Crime Victim Fees
- Expense Recovery Fees
- Cost Recovery Fees
- Justice system fund/minimum state costs
-

Noncompliance with the order for community service will result in either a show cause hearing being scheduled or a bench warrant.

8th District Court Approved Agencies for Community Service Work

- ☐ North Location 227 W. Michigan Avenue, Kalamazoo, MI 49007 (269) 384-8171
☐ Crosstown Location 150 E. Crosstown Parkway, Kalamazoo, MI 49001 (269) 384-8171

* Annual Event only (one time volunteer opportunity)

Agency	Phone	Website/Email
Alpha & Omega House	345-3814	
American Cancer Society	349-8719	www.cancer.org
American Red Cross	353-6180	www.greaterkzooredcross.org
Area churches		
Area hospitals		
Area libraries		
Area schools		
Big Brothers/Big Sisters	382-6800	reginamiller@bbbsmi.org
Boys and Girls Club	349-4485	www.bgckzoo.org
Bronson Nursing and Rehabilitation Center, Lawton	624-4311	
Canine Safe Harbor	375-2736	www.caninesafeharbor.com
CARES	381-2437	www.caresswm.org
Catholic Family Services	381-9800	www.catholicfamilyservices.org
Cheff Therapeutic Riding Center	731-4417	www.cheffcenter.com
Community Advocates for Persons w/Developmental Disabilities*	388-2830	deb@eventkalamazoo.com
Community Living Options	343-6355	www.communitylivingoptions.org
Comstock Community Center	345-8556	www.comstockcc.com
Disability Network Southwest Michigan	345-1516	www.dnswm.org
Douglass Community Association	343-6185	www.douglasscommunity.org
Downtown Kalamazoo, Inc.	388-2830	
Eastside Neighborhood Association	381-0700	
Eastwood House of Recovery	345-3599	
Ecumenical Senior Center	381-9750	
Edison Neighborhood Association	382-0916	www.edisonneighborhood.com
Family & Children Services	344-0202	www.fcsource.org
Fire Historical and Culteral Collaborative	344-6659	www.fire@thisisfire.com
Fort Custer Recreation Area (October-April)	731-4200	
Galesburg Memorial Library	665-7839	www.galesburgmemoriallibrary.org
Girl Scouts of America	343-1516	www.gsgec.org
Goodwill Industries	382-0490	www.goodwillswmi.org
Greater Kalamazoo United Way	343-2524	www.kalamazoounitedway.org
Green Earth Michigan	779-4848	www.greeneearthmichigan.org
Guardian Finance & Advocacy Services	963-3253	www.guardian-inc.org
Habitat for Humanity	344-2443	www.habitatkalamazoo.org
Housing Resources	382-0287	www.housingresourcesinc.org
Humane Society	345-1181	www.kazoohumane.org
Inhouse Hospice Solutions	353-1822	www.inhousecaresolutions.com
Kalamazoo Aviation History Museum	382-6555	www.airzoo.org
Kalamazoo County Animal Services	383-8775	www.kalcounty.com/ac/
Kalamazoo Deacon's Conference	344-7333	www.kazoodc.org

Kalamazoo Department of Parks & Recreation	337-8191	www.kalamazoocity.org
Kalamazoo Drop-In Child Care Center *No convictions of violent crimes or crimes against children.	382-3640	www.kdccc.org
Kalamazoo Gay Lesbian Resource Center	349-4234	www.kglrc.org
Kalamazoo Gospel Mission	345-2974	www.kzoogospel.org
Kalamazoo Junior Girls Organization	344-2330	
Kalamazoo Loaves & Fishes	343-3663	www.kzoolf.org
Kalamazoo Right to Life	372-8123	
Kalamazoo River Watershed Council	978-4606	www.kalamazoosriver.org
Lending Hands of Michigan, Inc.	567-4381	www.lendinghandsmi.org
March of Dimes	343-5586	www.marchofdimes.com
Ministry with Community	343-5880	www.ministrywithcommunity.org
New Village Park Neighborhood Network Center	341-9438	www.thelifoundation.org/new-village-park.htm
Planned Parenthood	372-1205	www.plannedparenthood.org/ppscm/
Portage Community Outreach Center (PCOC)	323-1942	www.portagecommunitycenter.org
Richland Community Center	629-9430	www.richlandareacc.org
Safe House	342-0296	
Salvation Army *No convictions of violent crimes.	344-6119	www.usc.salvationarmy.org/kalamazoo
Senior Services *No convictions of theft or violent crimes.	382-0515	www.seniorservices1.org
South County Community Services (Vicksburg)	649-2901	www.sccs.us/support.php
SPCA of Southwest MI *Must complete a minimum of 30 hours.	344-1474	www.spcaswmich.org
Stuart Area Restoration Association	344-7432	www.stuartarea.org
Vine Neighborhood Assoc	349-8463	www.vineneighborhood.com
Volunteer Center for Greater Kalamazoo	382-8350	www.volunteerkalamazoo.org
Youth for Christ Kalamazoo	349-0849	www.yfc.org
YMCA	345-9622	www.kzoymca.org
YWCA	345-5595	www.ywcakalamazoo.org
YWCA – Portage (Richard Haynor)	324-9622	

COMMUNITY SERVICE CONFIRMATION				Case Number	
Name of Volunteer					
Mailing Address		City		State	Zip
DATE	HOURS COMPLETED	DATE	HOURS COMPLETED	DATE	HOURS COMPLETED
Community Service Agency Name			Supervisor Name/Telephone Number		
I hereby certify the above named defendant completed community service as indicated above.					
Supervisor Signature					

61st District Court



Alternative Sentencing Programs



Alternative Sentencing

The mission of the Alternative Sentencing Department is to provide an alternative to incarceration and to provide a practical alternative to resolving fine and cost issues; this is achieved through the use of court authorized monitoring programs and assignments to community based improvement initiatives.

- Work Crew
- Community Service
- Work Program
- Electronic Monitoring

Work Crew

- Work Crew is an alternative sentencing program designed to help reduce jail overcrowding while benefiting the community.
- An offender is ordered to Work Crew in lieu of incarceration.
- Participants required to sign Liability Waiver
- 61st District Court contracts with Kent County, City of Grand Rapids and MDOT
- Program overseen by Supervisor and 4 Work Crew Supervisors operating 7 days a week.

Work Program

- Work Program is a voluntary program for defendants who are unable to afford their monthly payments.
- The court will credit \$10.00 for every hour worked towards a defendant's fines and court costs.
- Participants required to sign Liability Waiver
- The Work Program follows the same guidelines and performs the same tasks as Work Crew clients.

Community Service

- The Community Service Program is similar to the Court's Work Crew. A defendant is ordered to complete community service hours in lieu of serving days in jail.
- Community Service defendant's are placed at a non-profit agencies.
 - Goodwill
 - God's Kitchen
 - Alano Clubs
 - Local Churches

Electronic Monitoring

- A defendant is ordered to participate in the electronic monitoring program as the result of a bond condition, judgment or probation order. The 61st District Court uses four primary electronic monitoring devices:
 - GPS Tether
 - House Arrest Tether
 - SCRAM – Alcohol Tether
 - Soberlink 2 – Portable PBT unit

SoberLink





SOBERLINK Home Archive Settings Reports Admin

SMALL, CHRISTOPHE... .098 Set As Monitor

BIAC LEVEL

Type: RETEST
 Status: POSITIVE
 Scheduled: Sat, July 19, 2014 6:29 AM EDT
 Submitted: Sat, July 19, 2014 6:29 AM EDT
 Received: Sat, July 19, 2014 6:29 AM EDT
 Device ID: 20007902
 Sent From: 214371104
 Test Window: 10 Minutes

GRAND RAPIDS, MI

GPS ACCURACY: 11 m

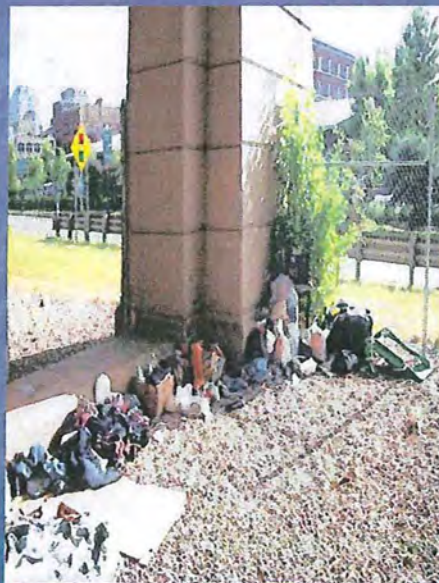
Work Crew Contractual Services

- Vacant Lots
- Nuisance Abatement
- Recycle Center
- County Property
- Alley Cleanup
- Traffic Islands
- Bridge Underpasses
- Public Services
- Residential Cleanup
- Sidewalk Cleanup

Roadside Maintenance

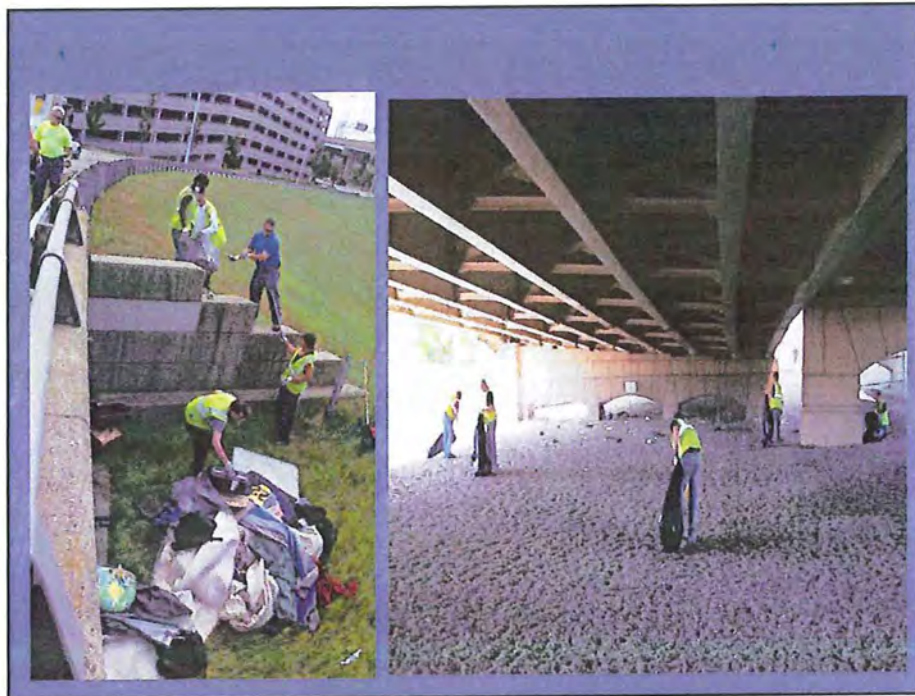


Before



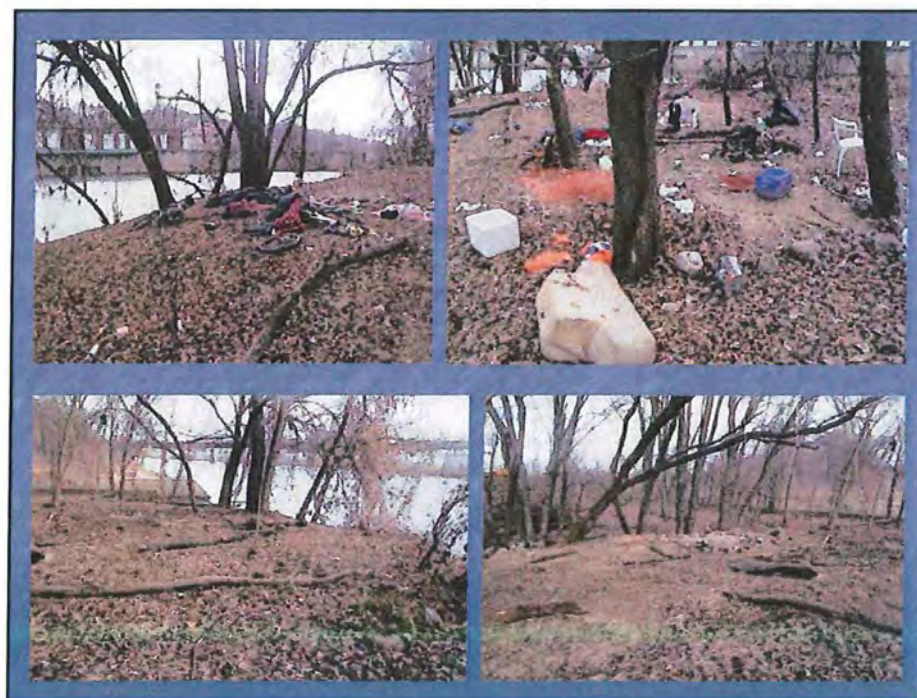
After





City Environmental Cleanup







Neighborhood Development



Before



After

Before



After







Kent County Recycling Center



2013/14 Fiscal Year Community Benefit

- Defendant Work Hours: 76,840
- Days of Electronic Monitoring: 3,463
- Jail Bed Savings: 18,729 days / \$749,160.00
- Revenue FY14 : \$292,798.71
- **Expenditures FY14: \$53,481.10**
- **Cost Forgiven through WP: \$153,080.00**
- Community Benefit: \$972,781.76

*Community Benefit = Jail Bed Savings + Revenue + (CSW hours * \$8.15) - (Expenditures + Cost Forgiven)*

Total Sample study for demographic success Work Program

Total numbers from July 2013 through June 2014

	<u>Termination</u>		<u>Completes</u>		<u>Total</u>	
	#	%	#	%	#	%
Total Clients	404	62.4%	243	37.6%	647	100.0%
Total Men	277	61.4%	174	38.6%	451	69.7%
18-30 years	176	68.5%	81	31.5%	257	39.7%
30+ years	101	52.1%	93	47.9%	194	30.0%
Total Women	127	64.8%	69	35.2%	196	30.3%
18-30 years	79	66.9%	39	33.1%	118	18.2%
30+ years	48	61.5%	30	38.5%	78	12.1%

Total Sample study for demographic success Work Crew

Total numbers from July 2013 through June 2014

	<u>Termination</u>		<u>Completes</u>		<u>Total</u>	
	#	%	#	%	#	%
Total Clients	573	36.8%	982	63.2%	1555	100.0%
Total Men	371	32.9%	758	67.1%	1129	72.6%
18-30 years	246	34.9%	458	65.1%	704	45.3%
30+ years	125	29.4%	300	70.6%	425	27.3%
Total Women	202	47.4%	224	52.6%	426	27.4%
18-30 years	146	51.6%	137	48.4%	283	18.2%
30+ years	56	39.2%	87	60.8%	143	9.2%

Total Hours Performed for Alternative Sentencing - Fiscal 2013-2014

	WC Hours	WP Hours	CSW Hours	Total
2013 - July	4433	2567	2759	9759
2013 - August	3624	1902	2057	7583
2013 - September	2734	1297	1505	5536
2013 - October	5264	2419	2308	9991
2013 - November	4039	1427	1505	6970
2013 - December	3871	1795	953	6618
2014 - January	3276	906	953	5136
2014 - Feb	3276	736	1104	5116
2014 - March	3529	798	953	5280
2014 - April	3938	320	1003	5261
2014 - May	2876	474	1104	4453
2014 - June	3816	668	652	5137
Total	44676	15308	16857	76840

* Hours based on average case assignments from previous 6 months.

Electronic Monitoring:	49 Defendants
Days Monitored:	3463

Jail Bed Saving: $((\text{Total WC Hours} / 4) + (\text{Total CSW Hours} / 8) + (((\text{Total WP} \times 0.65) \times \$10) / \$50)) \times \40

Jail Days saved: 18,729 Days

Savings from Jail Bed: \$749,160

Costs Forgiven: **WP Total Hours * \$10 = \$153,080**

Revenue: **\$292,798.71**

Expenditures: **\$53,481.10**

Revenue per hour: $\text{Revenue} / (\text{WC Hours} + \text{WP Hours})$

Revenue per hour = **\$4.88**

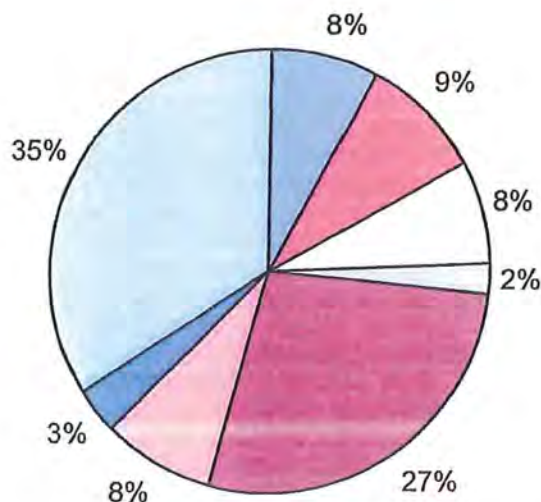
Expenditure Per hour: $\text{Expenditures} / (\text{WC Hours} + \text{WP Hours})$

Expenditure Per hour = **\$0.89**

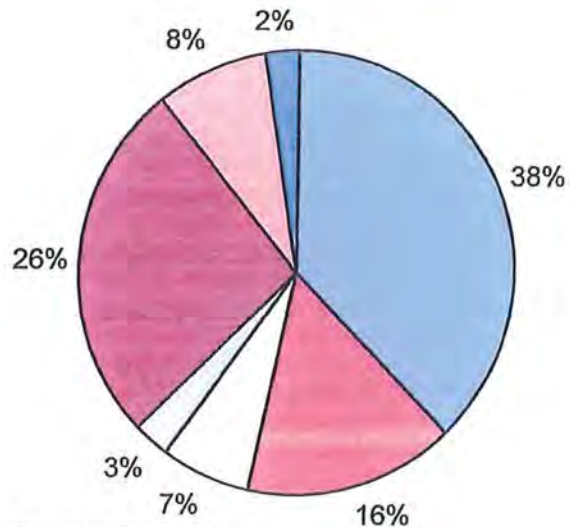
Community Benefit: $\text{Jail Bed Savings} + \text{Revenue} + (\text{CSW hours} \times \$8.15) - (\text{Expenditures} + \text{Cost Forgiven})$

Community Benefit: **\$972,781.76**

Work Program Charge Composition



Work Crew Charge Composition



OWI	A&B/DV
Marijuana	Cont Sub. Use
DWLS	RPNO
MIP	CI: cases

Total Sample study for demographic success WC

Total numbers from July 2013 through June 2014

Work Crew

	<u>Termination</u>		<u>Completes</u>		<u>Total</u>	
	#	%	#	%	#	%
Total Clients	573	36.8%	982	63.2%	1555	100.0%
Total Men	371	32.9%	758	67.1%	1129	72.6%
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Total Women	202	47.4%	224	52.6%	426	27.4%
18-30 years	146	51.6%	137	48.4%	283	18.2%
30+ years	56	39.2%	87	60.8%	143	9.2%

Total Sample study for demographic success WP

Total numbers from July 2013 through June 2014

Work Program

	<u>Termination</u>		<u>Completes</u>		<u>Total</u>	
	#	%	#	%	#	%
Total Clients	404	62.4%	243	37.6%	647	100.0%
Total Men	277	61.4%	174	38.6%	451	69.7%
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18-30 years	79	66.9%	39	33.1%	118	18.2%
30+ years	48	61.5%	30	38.5%	78	12.1%

61ST DISTRICT COURT VOLUNTEER AGREEMENT

I agree to perform _____ unpaid hours of service and abide by the following conditions. These hours are in lieu of my fines & costs.

I agree to perform _____ hours in lieu of jail time. These hours are mandatory.

1. I will wear **long pants and a shirt**, including a jacket and boots when necessary; **short pants are strictly prohibited. No cell phones or electronic devices** are permitted.
2. I will report as scheduled. **One unexcused absence is allowed, two unexcused absences will result in termination.** Excused absences will only be given in the event of a medical appointment/emergency or mandatory court function; verification must be presented to Suite 2200 within 72 hours of the missed shift.
3. **I will not consume any alcohol or drugs before/during reporting to my work assignment.** The court may require random urine analysis and/or preliminary breath testing. Positive results may result in termination. Smoking is allowed only in designated areas AND permission of the Crew Supervisor.
4. I will report to the community service office immediately for any changes in work schedule.
5. **I will perform the work as directed by the supervisor.** Any disrespect directed towards a supervisor, refusal to work and/or walking away from a work site will result in termination from the program.
6. I will report any injury to my supervisor immediately.
7. **I will not engage in any violent, threatening or obscene behavior, verbally or physically.**
8. Please list any allergies, handicaps or limitations that could interfere with your ability to do this work. _____
9. The city does not assume responsibility or liability for any injury caused due to your negligence, nor does it accept the same in regard to injury or damage caused by or to you involving a third party. Therefore, in consideration of the permission granted you to participate in this program, you for yourself, heirs, and administrators, release 61st District Court, the City of Grand Rapids, its employees and agents, from all claims, demands, and actions for injury sustained to your person and/or property during your participation in this program. You also agree to hold 61st District Court, the City of Grand Rapids, its employees and officials, and anyone affiliated with the various work sites, harmless from any lawsuits or claims arising there from, and agree to indemnify the same in the full amount of judgments obtained. You also acknowledge your participation in this program is voluntary, and you are not in any way an employee, servant, or agent of the Court, the City of Grand Rapids, or the work site.

I have read, or had read to me, the conditions under which I will be assigned and understand that any violation of these rules will result in seeing the Judge and/or termination from the program.

Participant _____ Date _____

Court personnel _____

Frequently Asked Questions

1. **What shifts do you offer?**
 - We offer shifts in 4 hour increments, 7 days a week.
2. **Is the work supervised?**
 - Yes, a Work Crew Supervisor will be with you at all times.
3. **Is there a dress code?**
 - No opened-toe shoes or shorts are allowed. Make sure you dress for the weather; there is a chance you could be outside.
4. **I had an emergency and missed my schedule shift, what should I do?**
 - You need to contact the Alternative Sentencing Department as soon as possible. They will explain what type of documentation will be necessary to excuse your shift.
5. **I am a non-profit organization; can I become a referral site for community service?**
 - Yes, you may contact Daniel Fischer at (616) 632-5614 to see if you qualify for becoming a referral site for community service clients.



For more information concerning the
61st District Court's Alternative
Sentencing Program:

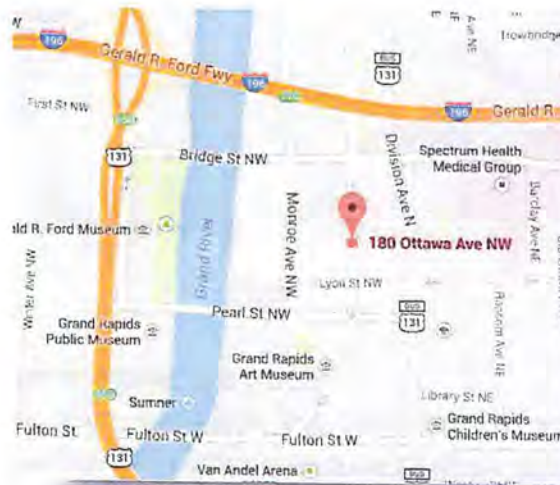
Phone: 616.632.5614

Fax: 616.632.5618

Email: Daniel.Fischer@grcourt.org

Or visit

www.GRCourt.org



61st District Court Alternative Sentencing Dept
180 Ottawa NW Suite 2200
Grand Rapids, Michigan 49503

61st District Court Alternative Sentencing



A Grand Rapids Court Program

Alternative Sentencing: Mission

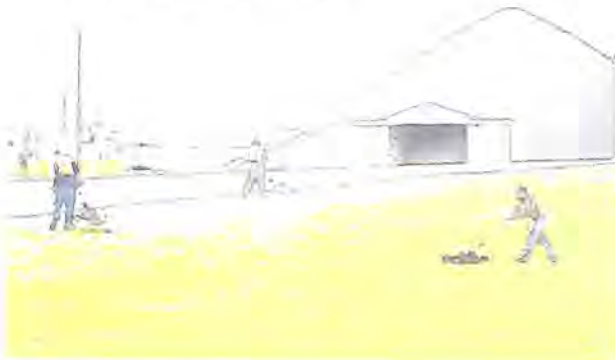
The mission of the Alternative Sentencing Department is to provide an alternative to incarceration and to provide a practical alternative to resolving fine and cost issues; this is achieved through the use of court authorized monitoring programs and assignments to community based improvement initiatives.

Work Crew:

Work Crew is an alternative sentencing program designed to help reduce jail overcrowding while benefiting the community. An offender is ordered to Work Crew in lieu of incarceration.

Duties include, but are not limited to:

- Cutting grass
- Raking leaves
- Shoveling snow
- Cleaning up trash
- Sorting recyclables



Work Program:

Work Program is a voluntary program for defendants who are unable to afford their monthly payments. The court will credit \$10.00 for every hour worked toward a defendant's fines and court costs. The Work Program follows the same guidelines and performs the same tasks as Work Crew clients.



Community Service:

The Community Service Program is similar to the Court's Work Crew. A defendant is ordered to complete community service hours in lieu of serving days in jail. However, instead of being placed in the Work Crew force, the defendant is placed at a non-profit agency.

Electronic Monitoring Program:

A defendant is ordered to participate in the electronic monitoring program as the result of a bond condition, judgment or probation order. The 61st District Court uses four primary electronic monitoring devices:

- **GPS** – Attached to the ankle, this device monitors the GPS coordinates of the defendant.
- **SCRAM** (*Secure Continuous Remote Alcohol Monitoring*) – Attached to the ankle, the unit monitors alcohol consumption by measuring the amount of alcohol that migrates through the defendant's skin.
- **Soberlink** – This unit is a portable, cell phone sized, PBT machine. The court establishes a testing schedule and defendant must provide breath samples as directed. The unit is equipped with a camera to help ensure the integrity of the test.
- **Tether** – The tether is the traditional method used for placing a person on house arrest. The tether is attached to the defendant's ankle and it communicates with a receiver unit located in the defendant's house. The court is notified if the defendant leaves the established radius of the receiver unit.

8th CIRCUIT COURT-FAMILY DIVISION, COMMUNITY SERVICE PROGRAM

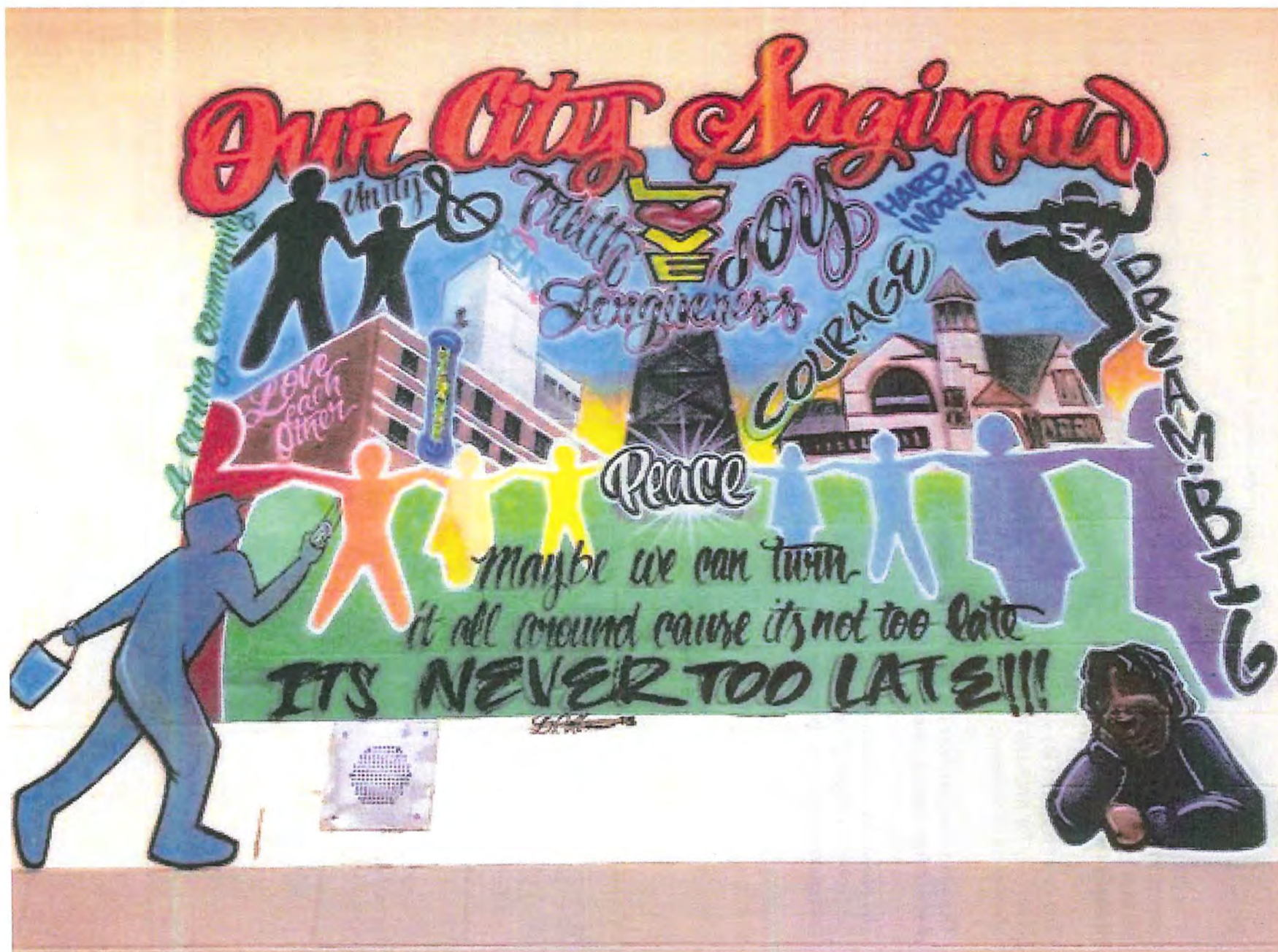
At a juvenile delinquency disposition, juvenile probationary terms are ordered as well as financial assessments.

If as the case progresses, it is found that there is an inability to pay by the juvenile and/or the parent, the court may allow the juvenile to serve community service in lieu of discretionary assessments. The juvenile is still responsible for the state mandated fees. Probation officers compile data on ability to pay.

The court is liberal for which community service the juvenile and/or the parent may use, especially for juveniles as it is hard for a juvenile to find a community service program that will allow them to volunteer.

The court also provides for a road clean-up option that is counted towards community service three to four times a year.

The probation oversight fee of \$40/month or 6 hours of community service per month in lieu of the probation oversight fee is allowed from the time of assessment. The majority of juvenile delinquency cases use the community service option.



Saginaw County Juvenile Facility; Local Airbrush Artist: Devaughn Collins worked with a group of teens to create a mural for the gymnasium wall.