



THIRD JUDICIAL CIRCUIT OF MICHIGAN



Collections Unit

Criminal Justice Center
5301 Russell, C.1132
Detroit, MI 48211
(313) 224-6154
Fax: (313) 237-9226
Email: tccu@3rdcc.org

Claudia Wilson
Collection Coordinator

It is the policy of The Third Circuit Court to require a party in any action before this court to reimburse the Court for assigned/appointed counsel fees, court ordered cost and other fees as determined by the Jurist. It is the responsibility of the Third Circuit Court Collections Unit to enforce the order of the court by:

- A Delinquency Notice is sent to the defendant/responsible party at the last known address providing documentation of all attorney fees, costs, and fines, and related late fee assessments.
- Initiate and monitor monthly payment schedules.
- Monthly payment reminder Robo-calls.
- Enter a wage assignment order.
- If the defendant is incarcerated, an Order to Remit and Judgment of Sentence is sent to the Department of Correction to remit funds from the prisoners account.
- Initiate State Income Tax garnishments.
- In the Juvenile Division, complete a Financial Evaluation to determine the ability to pay based on the Federal Guidelines. If it is determined the responsible party does not have the ability to pay, fees are waived.
- Initiate locate activities.
- Refer accounts to a third-party collection agency contracted by the court to perform ongoing collections activity. Such activity includes a progressive letter series companion, skip-tracing, as well as predictive dialer, interactive dialer and manual telephone contact.

The Third Circuit Court Collections Unit is located at:

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CRIMINAL DIVISION

I. INTRODUCTION

Third Circuit affirms that collecting court attorney fees, costs and fines is an integral part of the judicial system. Consistent enforcement of all court ordered costs, sends a clear message that the court intends to and will enforce its orders. Third Circuit expects that this initiative will result in a gradual increase in future voluntary compliance with fee payments.

Realizing that the lack of collecting court attorney fees, costs and fines calls into question the authority and efficacy of the Court and its right to assess costs as sanctions in administering justice and denies revenues to a jurisdiction, Third Circuit uniformly expects payment at the time of assessment, except when the Court allows otherwise, for good cause shown, pursuant to MCR 1.110. “A commitment to improve court collections will improve the credibility and integrity of the court and, at the same time, increase revenue for the recipients of these funds.” Third Circuit further requests that anyone who has contact with defendants, including staff, judges, Department of Corrections (MDOC) personnel, attorneys, etc., will inform defendants that payment is due on the day of assessment.

2003 Public Acts 70-79, 95-102, and 138 clearly defines the court’s obligation to consistently assess and enforce all provisions defined in its orders.

Experience demonstrates that a prompt and graduated response to noncompliance is the most effective approach. Third Circuit has therefore established an enforcement initiative that in conjunction with a private collection agency will ensure that regular progressive action will be taken for failure of a defendant to pay various types of court ordered assessments.

II. OVERVIEW

A defendant in a criminal proceeding will not be denied counsel because of inability to pay. Third Circuit Court judges may determine the ability of a defendant to pay part or all of the ordered court costs and attorney fees. It is within the discretion of the Third Circuit Court judge to make a finding of indigence on behalf of a defendant. The result could mean a waiver of the obligation to reimburse the Court for these fees or costs, except where fees are mandated by the state.

III. ASSESSMENTS AND PAYMENTS

Judges should provide a consistent message regarding the assessment, payment, and enforcement of court ordered financial obligations. At the initial hearing defendants will be informed from the bench that payment is expected at the time of assessment.

IV. PAYMENT DUE AT TIME OF ASSESSMENT

- a) Pursuant to MCR 1.110, the court expects payment at the time of assessment, except when the court allows otherwise. This expectation shall be communicated to defendants by attorneys, court staff, judges, etc., as soon as possible throughout the adjudication process.
- b) Payments are directed to the Wayne County Clerk Financial Services Unit, Criminal Justice Center, 5301 Russell St. Suite 100, Detroit, Michigan, 48211.
- c) Failure to pay attorney fees, costs, or fines in full within 56 days of due date is subject to a 20% late penalty on the balance owed (MCL 600.4803)
- d) If the defendant indicates their inability to pay in full at assessment, the assigned judge may allow the defendant the opportunity to enter into an installment plan.
- e) Requests for additional time to pay should be initiated by the defendant, **not** by the Court.

V. FAILURE TO FULFILL PAYMENT OBLIGATIONS COULD RESULT IN ONE OR MORE OF THE FOLLOWING ACTIONS:

- a) A 20% late penalty on attorney fees, court costs, or fine balance that is over 56 days old;
- b) Referral to a collection agency;
- c) The debt reported to a credit bureau;
- d) Seizure and sale of real or personal property;
- e) Tax refund interception;

- f) Show cause hearings;
- g) Garnishment of wages.

VI. COURT ORDER INSTALLMENT PAYMENTS

If a defendant indicates an inability to pay in full at the time of the assessment, the Judge may order payment installments, and instruct that an initial payment is due immediately. The installment plan must consider the defendant's overall account balance (multiple cases) in determining the monthly payment amount.

- a) The installment payment plan will be documented on the sentencing order or amended court order.
- b) It is encouraged that installment payment plans shall not exceed the term of probation. Monthly installment payments should consider the defendants ability to pay and attempt to not extend past the length of probation or be equal to payment in full by the close of probation.
- c) If installment terms are not met, the account will be subject to the court's collection procedure.
- d) Defendant accounts are closely monitored for compliance, and action is taken promptly for non-compliance.

VII. STATE PRISON ACCOUNTS

If a defendant is incarcerated in a state prison facility, an Order to Remit Prisoner Funds (MC288) shall be completed along with the Sentencing Order. Each order should follow the defendant throughout incarceration until discharged or account is paid in full.

- a) Accounts will be monitored for payments and coded as a State of Michigan Remittance.
- b) When an account is determined paid in full, an Order for Satisfaction of Financial Obligation (MC290) will be entered and forwarded to the MDOC regional facility by the Cashier's Office.
- c) Any overpayments will be returned to the MDOC's regional office, accompanied by an Order for Satisfaction of Financial Obligation (MC290) to be re-credited to the prisoner's account.

VIII. DETERMINATION OF ABILITY TO PAY

A uniform policy and practice will aid to eliminate bias, real or perceived, in the determination of who is indigent. The following description outlines the court's practice when determining a party's ability to pay, contribute or reimburse toward a specified cost or fee.

The Court defines an "Indigent" as a person who comes before the court who lacks sufficient income or other resources to employ a qualified lawyer to defend without undue hardship. A party may be determined "indigent" or having a substantial financial hardship if any combination of the following factors or conditions is present:

- a. Food stamps
- b. Aid to Families with Dependent Children (AFDC)
- c. Medicaid
- d. Disability Insurance
- e. Housed in a Mental Health Facility
- f. Resides in Public Housing

A determination of indigence however does not prevent a person from partially or fully reimbursing the court attorney fees, costs and fines in the future.

IX. ENFORCEMENT

All defendants will be instructed to pay their account in full immediately following their sentencing hearing. Further the Bench may request proof of payment in full prior to closing the case.

Failure to comply with court ordered payment terms will result in the assessment of the 20% late fee penalty as applicable.

The Collections Unit will manage delinquent accounts as follows:

- a) A Delinquency Notice will be sent to the defendant at the last known address providing documentation of all attorney fees, costs, and fines, and related late fee assessments.
- b) If the court has entered a wage assignment order, the employer information will be confirmed and the wage withholding executed, with copy of order to the defendant.
- c) Initiate locate activities.
- d) Delinquent account notices will be sent in intervals with progressive severity as appropriate.

- e) Create reports for monitoring payments on wage assignments, and incarcerated defendant account payments.
- f) Initiate State Income Tax garnishments.

The Collections Unit refers accounts to a third-party collection agency to coordinate further enforcement action.

X. INACTIVE DEBTS

A. Inactive Debts Policy

“Inactivation” is an administrative procedure to remove a debt from the list of accounts that the court cannot reasonably collect. Inactivation of an uncollectible debt from the court’s accounts receivable ledger does not forgive or discharge the debt; an inactive debt is still payable by the debtor. Inactivation can be temporary or indefinite. If circumstances allow collection efforts to resume, an inactive debt shall be reinstated to active status.

B. Cancellation of Debt

1. A defendant’s discretionary debt may be cancelled by filing a Motion and Order to Modify or Cancel Discretionary Attorney Fees, Court Costs and Fines, that is, the court shall forego collection activity, in the following instances:
 - a) The defendant/debtor is deceased and the estate is closed;
 - b) The defendant/debtor has satisfactorily completed community service on the applicable categories;
 - c) Determination by the judge to waive an unpaid balance or;
 - d) The debt is deemed uncollectible by operation of law.
2. A defendant can be deemed indigent by a Judge’s Order:
 - a) Based on testimony, PSIR or any other evidence
 - b) Recommendation by Collection’s committee or vendor of the court
3. Bankruptcy Proceedings-Stay of Obligation

When the court receives proof of Bankruptcy or Stay of Obligation, the account will be placed on enforcement hold, inactive status, pending settlement of Bankruptcy or Stay of Obligation.

XI. THIRD PARTY COLLECTION AGENCY

The collection agency vendor shall perform regular and ongoing collections enforcement activities on files transmitted by the Court. Such activities include, but are not limited to, notice mailings, telephone contacts, and other acceptable methods that are reasonable to increase payment on accounts that have not been paid in full.

Any party that is subject to the court's collection's activity shall be treated with dignity and respect. The collection agency vendor will execute collection proceedings as outlined in the contract to the fullest extent of the law.

XII. SCAO ANNUAL REPORTS

- a) Statistical report will be generated by Collection's Coordinator.
- b) Any inconsistencies will be remitted to SCAO promptly.

JUVENILE – FAMILY DIVISION

I. OVERVIEW

The Third Circuit Court Family Division shall require that the appropriate parties of a minor shall reimburse this Court for all services provided to the family once the Court has acquired jurisdiction. When a minor turn 18 or is otherwise emancipated, the Court may require the emancipated minor to contribute to outstanding fess or fines owed to the Court.

The collection guidelines assist the Court in establishing the family's overall ability to pay for services, with every effort being made to not cause further financial jeopardy. In cases of hardship and/or indigence, the Court policy defines an objective review process of the family's financial circumstances which may result in a reduction in court ordered costs commiserate to the family's ability to pay.

Consistent with the charge of government to provide responsible services at a reasonable cost to Wayne County taxpayers, it is the goal of the Wayne County Circuit Court to order reasonable reimbursement for the cost of care or service in addition to collecting other sums authorized by law in juvenile proceedings consistent with responsible parties' ability to pay.

II. ASSESSMENT AND PAYMENTS

Jurist should provide a consistent message regarding the assessment, payment, and enforcement of court ordered financial obligations. At the initial hearing responsible parties will be informed that payment is expected at the time of the assessment.

Costs shall be billed 50% to each parent unless proof is provided that one parent has no responsibility for juvenile. However, in delinquency cases, once a juvenile has reached the age of 18, he or she may be required to pay reimbursement to the Court on any outstanding balance and payments made to the Court by a juvenile will be split in equal ratios to the parents, guardian or custodian's outstanding balance.

Responsible parties are assessed a flat rate for attorney fees, court costs, fines. Additional assessments may include:

- a) Restitution: Pursuant to MCL 780.794 - 780.795, a child convicted of an 'offense' (defined in MCL 780.794(1)) can be ordered by a judicial officer to pay restitution, which is designed to reimburse a victim for his or her loss. Restitution is to be ordered at the dispositional hearing of a juvenile. MCL 780.766(2); MCL 780.794(2) and MCL 780.826(2). If given an opportunity for a hearing, a parent(s) can be ordered to pay all or part of restitution owed by a youth. See MCL 780.794(15) and MCL 780.766(15)(a).
- b) Program fees: These are fees which help defray the expense of a program designed to educate and/or modify the behavior of youth under the jurisdiction of the Court.

- c) Oversight fees: These are fees authorized by law to be ordered by a judicial officer to help defray the expense of supervising an individual who is in a probation or probation-like program following adjudication or disposition.
- d) Cost of care or service: Persons responsible for a minor can be ordered by a judicial officer to reimburse the cost of care or other service expenses incurred by taxpayers on behalf of a child. Examples are placement in the Juvenile Justice Center, other out-of-home placement, medical and other care while under the jurisdiction of the Family Division. For a more detailed discussion of 'costs of care and/or services' see SCAO Reimbursement Guideline, pg. 2.

If the court determines after a hearing, trial or appeal that the responsible party is not responsible, any remaining balance on an interim assessment and late fees is dismissed (See MCL 769.1k).

V. DETERMINATION OF ABILITY TO PAY

It is the policy of the Wayne County Circuit Court not to initiate collection efforts against individuals who are 'indigent.' For purposes of this collection program, individuals are 'indigent' if they solely have means tested income (various types of public assistance) or earn an annual income less than 133% of the federal poverty guidelines and do not have other financial or property resources. Therefore, absent other income or assets, it is the policy of the Court not to initiate or continue collection efforts against persons who are receiving social security benefits or another form of means tested public assistance.

SCAO approved Financial Statement JC 34 is to be used to obtain income information. Upon completion and return to the Court, it should be reviewed to determine if it is complete as to all income available.

When individuals previously found to be indigent experience a material change of circumstances such that they are no longer indigent, their reimbursement obligation is to be reviewed and their obligation to reimburse, consistent with ability to pay as determined by a judicial officer, is to be implemented.

VI. MODIFICATION OF ORDERS DUE TO CHANGES IN CIRCUMSTANCES

Orders are subject to modification by a judicial officer pursuant to Michigan law at all times due to a material change of circumstances. Orders may only be modified by a judicial officer.

Should there be a material change in circumstances; a person may request a hearing to address the potential need to modify an order for reimbursement in full or part. SCAO approved Motion and Order form, JC52, should be utilized for this purpose.

The County Clerk will distribute, upon request, the Motion Packet, JC52 – MOTION AND ORDER TO MODIFY OR CANCEL DISCRETIONARY COURT COSTS & FEES and the JC34 – FINANCIAL STATEMENT. Forms are available with the Wayne County Clerk, Lincoln Hall of Justice, Courtrooms, and Court Services, Rm. 330, Building A. 1025 E. Forest, Detroit, MI 48207.

VII. RESPONSIBILITY FOR COSTS AND ASSESSMENTS

Pursuant to MCR 1.110, restitution, fines and costs imposed by the Court must be paid at the time of assessment, except when the judicial officer allows otherwise, for good cause shown. If the judicial officer allows otherwise, fines and costs shall be added to the case, to be paid by the youth, responsible parties at the monthly rate determined in the next paragraph.

Responsible parties include a child under the jurisdiction of the Court, parent(s), guardian(s) or custodian(s), as authorized by law. MCL 712A.18(2) and (5). Responsible parties who have requested and have received the appointment of counsel are to reimburse Wayne County for the costs, consistent with their ability to pay, as determined by a judicial officer. MCL 712A.17c(8) and MCR 3.915(D).

In the absence of a court order to the contrary, parents are jointly and severally responsible for the cost of care, costs borne by Wayne County on behalf of youth (attorney fees, guardian ad litem fees, transcripts, experts, etc.) and assessments (CVRS fees, State Minimum Costs, court costs, etc.).

VIII. ENFORCEMENT

All responsible parties should receive an order at disposition based on the determination of the court. The order will include the amounts assessed for each financial category, the total balance due, where to direct payments and notice of the 20% late fee penalty as applicable for failure to comply.

All responsible parties will be instructed to pay their account in full immediately following their disposition hearing. Further the Bench may request proof of payment in full prior to closing the case.

The Collections Unit will manage delinquent accounts as follows:

- a) A Delinquency Notice will be sent to the responsible party at the last known address providing documentation of all attorney fees, costs, and fines, and related late fee assessments.
- b) If the court has entered a wage assignment order, the employer information will be confirmed and the wage withholding executed, with copy of order to the responsible party.
- c) Initiate locate activities.
- d) Delinquent account notices will be sent in intervals with progressive severity as appropriate.

IX. THIRD PARTY COLLECTION AGENCY

The collection agency vendor shall perform regular and ongoing collections enforcement activities on files transmitted by the Court. Such activities include, but are not limited to, notice mailings, telephone contacts, and other acceptable methods that are reasonable to increase payment on accounts that have not been paid in full.

Any party that is subject to the court's collection's activity shall be treated with dignity and respect. A process will be developed to transmit predetermined account data to the collection agency vendor for collection purposes on a daily basis. The collection agency vendor will execute collection proceedings as outlined in the contract to the fullest extent of the law.

ON-GOING REVIEW OF REIMBURSEMENT AND COLLECTIONS EFFORTS

The Collections Unit shall make reports to the Court on its assessment and collections activities on a regular basis in the format and frequency directed by the Court.

The Collections Unit shall conduct its operations in such a way that the receivables reporting required by the Michigan Supreme Court can be provided to the Michigan Supreme Court, beginning with assessments made January 2, 2007 and thenceforth annually in July.

Paying Court Ordered Fees

Adult Cases:

At the Cashier Window:

Criminal Justice Center
5301 Russell St.; Suite 100
Detroit, MI 48211

By mail: Send CERTIFIED CHECK or MONEY ORDER payable to: **Wayne County Clerk**

******Include your name, address, case number and CTN number on your payment.

Criminal Justice Center
Financial Services Unit
5301 Russell St.; Suite 100
Detroit, MI 48211

By Phone: 1-888-604-7888

Pay Online: www.allpaid.com

Pay Location Code (PLC): 5443 (Criminal cases only)

Juvenile Cases:

At the Cashier Window:

Lincoln Hall of Justice
1025 E. Forest; Building A, Room 238
Detroit, MI 48207

By mail: Send CERTIFIED CHECK or MONEY ORDER payable to: **Wayne County Clerk**

******Include your name and address, Case number/Petition number and the juvenile's name on the payment.

Lincoln Hall of Justice
Cashier's Office
1025 E. Forest
Building A, Room 238
Detroit, MI 48207

By Phone: 1-888-604-7888

Pay Online: www.allpaid.com

Pay Location Code (PLC): 6214 (Juvenile cases only)