

HON. TERRY H. WHITTLE
Clerk of Court



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WINCHESTER CIRCUIT COURT

FREDERICK-WINCHESTER JUDICIAL CENTER
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TO: PROBATION OFFICERS, MEMEBRS OF THE WINCHESTER –FREDERICK COUNTY CRIMINAL DEFENSE BAR, AND THE COMMONWEALTH ATTORNEY’S OFFICE

FROM: TERRY WHITTLE, CLERK

IN RE: REVISED DEFERRED/INSTALLMENTPAYMENT PLAN POLICY

Attached is a copy of the Winchester Circuit Court’s Deferred/Installment Payment Plan Policy effective July 1, 2017. These changes to the payment plan policy of this Court are made to comply with legislative changes enacted this year during the 2017 General Assembly session and the newly revised Rule 1:24.

I have also attached a copy of the newly created ORDER FOR RESTITUTION form and the revised PETITON FOR PAYMENT AGREEMENT FOR FINES AND COSTS OR REQUEST TO MODIFY EXISTING AGREEMENT form.

RESTITUTION CHANGES

At the time of sentencing, the Court shall enter the amount of Restitution to be repaid by the defendant, the date by which all restitution is to be paid, and the terms and conditions of such repayment on ORDER FOR RESTITUTION. In most cases, the attorney for the Commonwealth or HIS DESIGNEE shall complete, to the extent possible, all portions of the form excluding the amount of restitution to be repaid by the defendant, and all terms and conditions of such repayment.

NOTE: A copy of this form shall be provided to the defendant at Sentencing. At the time of sentencing, please provide on the written plea agreement the address of the defendant. (We need this information because the Clerk is mandated when the Court has authorized deferred payment or installment payments to give notice to the defendant that upon his failure to pay as ordered he or she may be subject to further sanctions as outlined in Code Section 19.2-358 and his privilege to operate a motor vehicle will be suspended pursuant to 46.2-395.)

Any questions or comments, then please let me know.

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF WINCHESTER

DEFERRED/INSTALLMENT PAYMENT POLICY

Effective July 1, 2017 pursuant to Rule 1:24 of the Supreme Court and Virginia Code 19.2-354(A) & (B), 19.2-354.1, the Court does now enter this order for deferred or installment agreements for the payment of unpaid fines, restitution, and costs.

THEREFORE, it is ADJUDGED AND ORDERED that:

1. The Clerk of this Court, pursuant to Virginia Code 19.2-354 is authorized to establish and approve deferred or installment agreements for the payment of outstanding costs, fines, and restitution.
2. The guidelines established by the Court for the Clerk to apply to the entry of a deferred or installment agreements are:
 - A. Any defendant who is unable to pay in full fines, costs, and restitution for a particular offense within 30 days of conviction or other disposition by law will be allowed to enter into a deferred payment agreement, a modified deferred payment agreement or an installment payment agreement to those fines, costs and restitution.
 - B. If a payment plan is not set by the Court at sentencing, the Defendant is required to complete a form entitled "Petition for Payment Agreement for Fines and Costs OR Request to Modify Existing Agreement." Failure to enter into an agreement will result in the assessment of a 17% "collection fee." Decisions as to terms of payment plans are made on a case by case basis based on income, amount of fines, costs, and restitution assessed or ordered, period of probation, etc. A payment agreement shall include only those fines and costs for which the limitations period set forth in 19.2-341 has not run.
 - C. **As a condition of any payment agreement, the defendant must promptly inform the Court of any change of mailing address during the term of the agreement.**

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

A "**modified payment agreement**" is a deferred payment agreement in which the defendant also agrees to use best efforts to make monthly or other periodic payments.

An "**installment payment agreement**" is an agreement in which the defendant agrees to make monthly or other periodic payments until the fines and costs are paid.

There will be no down payment required to enter into an initial or first payment agreement. If defendant defaults on his initial payment agreement, then the defendant shall complete and submit the form provided by the Supreme Court of Virginia requesting to enter into a subsequent payment agreement. The Court shall require a down payment to enter into a subsequent payment agreement, provided that (i) if the fines and costs are \$500 or less, the required down payment shall not exceed 10 percent of such amount or (ii) if the fines and costs owed are more than \$500, the required down payment shall not exceed 5 percent of such amount or \$50, whichever is greater.

If defendant defaults on a payment agreement, then the Department of Taxation may institute collection proceedings through garnishments, tax set-offs, and other means available.

Community Service at approved locations in lieu of payments may be an option to discharge fines, and costs, but not restitution or the collection fee. The Community Service must be approved in advance by the Court. For Community Service to be approved, the defendant must provide in writing the name, address of the agency where the Community Service hours will be performed, the name of a contact person, and the work schedule of the hours to be performed. The hourly credit is \$7.50. Forms for Community Service hours are available at the Clerk's office.

If restitution is ordered, then restitution will be collected prior to the collection of court costs and fines. At the time of sentencing, the Court shall enter the amount of Restitution to be repaid by the defendant, the date by which all restitution is to be paid, and the terms and conditions of such repayment on a form prescribed by the Office of the Executive Secretary of the Supreme Court of Virginia. If the Attorney for the Commonwealth participated in the prosecution of the defendant, the Attorney for the Commonwealth or his designee shall complete, to the extent possible, all portions of the form excluding the amount of Restitution to be paid by the defendant and the terms and conditions of such repayment. A copy of the form, excluding contact information for the victim, shall be provided to the defendant at Sentencing. A copy of the form shall be provided to the attorney for the Commonwealth and to the victim, his agent, or his estate upon request and free of charge.

This order replaces and supersedes the order entered by this Court on June 17, 2015

ENTERED ON

June 2, 2017



Hon. Clifford L Athey, Judge

ORDER FOR RESTITUTION

Commonwealth of Virginia VA. CODE § _____

Case No(s) _____

- General District Court Circuit Court
- Juvenile and Domestic Relations District Court

CITY OR COUNTY _____

In re: _____

Commonwealth of Virginia **v.** _____

DEFENDANT JUVENILE

ADDRESS OF DEFENDANT JUVENILE

DATE OF BIRTH

SOCIAL SECURITY NO. (LAST 4 DIGITS ONLY)

CITY

STATE

ZIP

TELEPHONE NO.

Having considered all relevant and material evidence presented as to restitution, the court ORDERS as follows:

The defendant/juvenile is ordered to pay restitution of \$ _____ with interest, to the clerk's office of this court with payment due in full by _____

DUE DATE

The defendant/juvenile shall pay restitution as follows (if applicable):

as part of an approved payment agreement in accordance with Va. Code § 19.2-354 for the payment of any fines, costs, restitution and other amounts owed; however, payment of restitution is still due in full by the due date above beginning _____ _____ after release from incarceration.

DATE

PERIOD OF TIME

in payments of \$ _____ per _____

beginning _____ _____ after release from incarceration.

DATE

PERIOD OF TIME

as described in the payment plan submitted by the defendant/juvenile which is incorporated in this order.

Interest on restitution owed shall accrue at the legal rate from the date of this order

from the date of loss or damage of _____ from _____

DATE

DATE

Restitution shall be monitored by local community-based probation agency Probation and Parole (circuit court only).

No probation agency is ordered to monitor restitution. If restitution is not paid in full by the due date, a hearing will be held on _____, which is within 90 days of the due date, to review noncompliance with this order.

HEARING DATE AND TIME

Payment of restitution shall be made on behalf of the following victim(s):

Supplemental sheet attached.

Victim 1: _____ in the amount of \$ _____

Victim 2: _____ in the amount of \$ _____

Victim 3: _____ in the amount of \$ _____

A proportional percentage of a payment shall be paid to each victim. Each victim should be fully paid in the above order.

Restitution is ordered to be paid jointly and severally by the following:

Supplemental sheet attached.

DEFENDANT JUVENILE

DEFENDANT JUVENILE

DATE OF BIRTH

SOCIAL SECURITY NO. (LAST 4 DIGITS ONLY)

DATE OF BIRTH

SOCIAL SECURITY NO. (LAST 4 DIGITS ONLY)

ADDRESS

ADDRESS

TELEPHONE NO.

TELEPHONE NO.

The amount of restitution shall be docketed as a judgment.

Note: Any money paid by the defendant will be paid first to restitution, and collection costs associated with restitution (if applicable), prior to the payment of any fines, costs, forfeiture, and/or penalty.

DATE

JUDGE

I acknowledge that I received a copy of this page in court.

**PETITION FOR PAYMENT AGREEMENT
FOR FINES AND COSTS OR
REQUEST TO MODIFY EXISTING AGREEMENT**

Commonwealth of Virginia VA. CODE § 19.2-354.1

Case No(s)

- General District Court Circuit Court
 Juvenile and Domestic Relations District Court

CITY OR COUNTY

COURT ADDRESS

Commonwealth of Virginia v.
DEFENDANT/JUVENILE

.....

ADDRESS OF DEFENDANT/JUVENILE

SOCIAL SECURITY NO.

CITY

STATE

ZIP

TELEPHONE NO.

I cannot pay the fines, costs, forfeiture, restitution (if not otherwise ordered), and/or penalty of \$ in full at this time.

I respectfully petition the court to allow me to pay the fines, costs, forfeiture, restitution (if not otherwise ordered) and/or penalty plus any additional court-appointed attorney fee, if applicable,

in periodic payments OR

in one payment due in full on a future date

and I shall try to make periodic payments until that future date AND/OR

by doing community service work to earn credit for finest and costs only, if available.

I respectfully move the court to modify my existing payment agreement for the following reasons:

Court Debt Owed in Other Courts:

I currently owe unpaid fines, costs, forfeiture, restitution, and/or penalty in other courts.

I owe a total of \$ in those other courts. I do not know the total of unpaid court debt owed.
NO
TOTAL OWED

I pay a total of \$ per month towards that unpaid court debt. DMV summary attached.

I do not have unpaid court debt in other courts.

Financial Information:

The information provided to this court by defendant on Form DC-333, FINANCIAL STATEMENT – ELIGIBILITY DETERMINATION FOR INDIGENT DEFENSE SERVICES, as previously submitted, is unchanged.

OR

This information is provided to this court below in support of this Petition or Motion:

Public Assistance:

I currently receive the following type(s) of public assistance:

TANF \$ Medicaid Supplemental Security Income \$

SNAP (food stamps) \$ Other (specify type and amount)

I do not receive public assistance.

Employment:

I am employed.

I am not currently employed and it has been months since I was last employed.

Employer(s)

Occupation

Defendant self-employed

Spouse self-employed

Number of Dependents

Defendant

Spouse

Household Net Income:

Take-Home Pay (after taxes, etc.) \$ \$

Pay Period (weekly, every 2 weeks, twice monthly, monthly) \$ \$

Other Income Sources (specify) \$ \$

Income Contribution of Dependents \$ \$

TOTAL NET INCOME = \$

Assets:

Bank Accounts/Cash on Hand
Other Assets (specify)

Defendant

Spouse

\$

\$

with a
value of

\$

\$

Real Estate - \$
NET VALUE

\$

\$

Motor
Vehicles
YEAR AND MAKE YEAR AND MAKE

Other Personal Property: (describe)

\$

\$

TOTAL ASSETS =

\$

Debts Owed (amount paid per month):

Car payment
Rent/mortgage payment
Credit card payments
Other monthly payments (not including court debt payments)

\$
\$
\$
\$

\$
\$
\$
\$

TOTAL MONTHLY DEBTS =

\$

EXCEPTIONAL EXPENSES (Total Exceptional Expenses of Family)

Medical Expenses (list only unusual and continuing expenses) \$
Court-ordered child support payments/alimony \$
[] deducted from paycheck [] not deducted from paycheck
Child-care payments (e.g. day care) \$
Other (describe): } \$

TOTAL EXCEPTIONAL EXPENSES \$

THIS STATEMENT IS MADE UNDER OATH, ANY FALSE STATEMENT OF A MATERIAL FACT TO ANY QUESTIONS CONTAINED HEREIN SHALL CONSTITUTE PERJURY UNDER THE PROVISIONS OF VA. CODE § 18.2-434. THE MAXIMUM PENALTY FOR PERJURY IS CONFINEMENT IN THE STATE PENITENTIARY FOR A PERIOD OF TEN YEARS.

I hereby state that the above information is correct to the best of my knowledge.

.....
DATE
Sworn to and signed before me this

.....
DEFENDANT

..... day of, 20

.....
[] CLERK [] DEPUTY CLERK

FOR NOTARY PUBLIC'S USE ONLY:

State of [] City [] County of
Acknowledged, subscribed and sworn to before me this day of, 20

.....
NOTARY REGISTRATION NUMBER

.....
NOTARY PUBLIC
(My commission expires:))

ORDER FOR REQUEST TO MODIFY EXISTING PAYMENT AGREEMENT

Upon motion to modify an existing payment agreement,

- [] the request is granted based upon a good faith showing of need, and the new payment agreement is set forth on form
- [] DC-210, ACKNOWLEDGMENT OF SUSPENSION OR REVOCATION OF DRIVER'S LICENSE
- [] CC-1379, ACKNOWLEDGMENT OF SUSPENSION OR REVOCATION OF DRIVER'S LICENSE/ORDER AND NOTICE OF DEFERRED PAYMENT OR INSTALLMENT PAYMENTS.
- [] the request is denied, and the current payment agreement continues in full force and effect.

.....
DATE