

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