

House Appropriations Committee



Briefing on the Collection of Court Costs and Fines

Steven L. Dalle Mura,
Director of the Department of Legal
Research
Office of the Executive Secretary
Supreme Court of Virginia

January 23, 2017

Fines and Court Costs

Fines.

- Punishment.
- Can fall within a range, can be suspended, unless mandatory minimum or set amount. Va. Code § 18.2-12.1.

Court costs.

- Imposed by statute upon conviction or other specified disposition. Va. Code § 16.1-69.48:1.
- Cannot be suspended.

Civil Judgment.

- Fines and costs “constitute a [civil] judgment and, if not paid at the time they are imposed, execution may issue thereon in the same manner as upon any other monetary judgment.” Va. § 19.2-340.

Statute of Limitations.

- Circuit Court: 20 years from the date of the offense.
- District Court: 10 years from the date of the offense.

Collection of Fines and Costs and License Suspension

1971 ACTS OF ASSEMBLY, Ex. Session.

- Ch. 249, License suspended if fines and costs not paid.
- Ch. 250, Payment plans authorized.

1985 ACTS OF ASSEMBLY, ch. 244.

- Courts “may” establish community service option for discharge of fines and costs.

Pre-1994, license suspension for failure to pay applied only to violations of Title 46.2 (motor vehicle laws).

Most Title 46.2 violations are traffic infractions, not criminal violations.

1994 ACTS OF ASSEMBLY, ch. 841.

- Collection and license suspension process applies to all violations.
- Courts “shall” establish community service option for discharge of fines and costs.

2015 ACTS OF ASSEMBLY, ch. 265.

- Each court must reduce its payment plan guidelines to writing; post in clerk’s office and on website.

Increased Concerns About Use of License Suspension as Collection Tool

THE END OF DEBTORS' PRISONS: EFFECTIVE COURT POLICIES FOR SUCCESSFUL COMPLIANCE WITH LEGAL FINANCIAL OBLIGATIONS: 2015-2016 POLICY PAPER, Conference of State Court Administrators and National Center for State Courts.

Department of Justice letter to State Court Chief Justices. March 14, 2016.

DRIVEN DEEPER INTO DEBT: UNREALISTIC REPAYMENT OPTIONS HURT LOW-INCOME COURT DEBTORS, May 4, 2016 (Charlottesville Legal Aid Justice Center Report on GDC collection practices).

Stinnie v. DMV, U.S.D.C. Charlottesville Division, July 6, 2016 (class action suit brought by Charlottesville Legal Aid Justice Center).

Supreme Court Rule 1:24

Judicial Council of Virginia, RECOMMENDATIONS FOR THE COLLECTION OF UNPAID FINES AND COURT COSTS AND THE SUSPENSION OF DRIVING PRIVILEGES (May 18, 2015).

- Courts must offer opportunity for payment agreements.
- Down payment is not required, but any down payment should not thwart access to a payment plan.
- Subsequent payment plans available.

2016 ACTS OF ASSEMBLY, ch. 282

- “Any payment agreement authorized under this section shall be consistent with the Rules of the Supreme Court of Virginia.”

Summer 2016 Study Group

- Convened by Chief Justice Lemons.
- Study group consisted of two GDC judges, two J&DR judges, two circuit judges, clerks from each type of trial court, a Legal Aid attorney, and Randy Rollins of the “Drive to Work” initiative.
- Proposed a rule for payment plans to the Supreme Court of Virginia.

Supreme Court Rule 1:24

Promulgated November 1, 2016, effective February 1, 2017.

Major features:

- Any defendant who cannot pay within 30 days may enter into a payment plan.
- Court to consider defendant's financial condition. Colloquy or written form.
- Down payment not required. Amount of any down payment limited.
- Encourages the court to use community service work as a tool to defray fines and costs "especially when the defendant is unable to make substantial payments."
- Payment within 10 days of due date considered timely.
- Defendant can request modification of plan.
- Defendant who defaults on payment plan may request a subsequent plan.

2016 Fines and Costs Snapshot

- Total fines and costs assessed: \$429,000,000.
- Total fines and costs collected: \$360,000,000.
- Fines and costs discharged through community service: \$6,200,00.

(All figures FY2016)

License Suspensions for Failure to Pay Fines and Costs

- Suspension Orders sent to DMV from GDC: 281,000 (FY2016).
- Total current suspended VA drivers for failure to pay fines and costs: 650,000.
(Source: “GOP proposes alternative on suspended driver’s licenses,” AP, 01/17/17.)

Fines and Costs for Sample Violations

Defendant #1 was convicted of first time DUI, having been tested for a .10 blood alcohol content. He was found to be indigent and was appointed counsel by court.

- Fine \$250 (mandatory minimum). Va. Code § 18.2-270.
- Costs: \$326 (\$61 misdemeanor court costs + \$100 DUI fee + \$20 Ignition Interlock + \$15 Internet Crimes Against Children Fund + \$10 Courthouse Security Fee + \$120 Court Appointed Counsel). Va. Code §§ 16.1-69.48:1 B, 16.1-69.48:1.01, 17.1-275.12, 53.1-120.
- Since he entered into a payment plan, he was charged an additional fee of \$10, as required by statute. Va. Code §19.2-354.
- Total owed: \$586.

Defendant #2 was convicted of speeding in a residence zone.

- Fine: \$200 (amount set by statute). Va. Code § 46.2-878.2.
- Costs: \$61 (\$51 traffic infraction court costs + \$10 Courthouse Security Fee). Va. Code §§ 16.1-69.48:1 D, 53.1-120.
- Total owed: \$261.

Fines and Costs for Sample Violations

Defendant #3 was convicted of going 32 mph in a school crossing zone and “prepaid” his fines and costs ahead of his trial date.

- Fine: \$49 (\$7 per mile over limit as set by statute). Va. Code §§ 46.2-873,46.2-878.3
- Costs: \$61 (\$51 traffic infraction court costs + \$10 Courthouse Security Fee). Va. Code §§ 16.1-69.48:1 D, 53.1-120.
- Total owed: \$110.

Defendant #4 was convicted of § 18.2-250.1, represented by counsel appointed by the court and given 10 day active jail sentence. Defendant requested a time to pay agreement.

- Fine: \$100.
- Costs: \$316 (\$136.00 Fixed Drug Fee + \$120 Court Appointed Counsel + \$15 Internet Crimes Against Children + \$25 Jail Admission Fee + \$10 Courthouse Security Fee + \$10 Time to Pay Fee). Va. Code §§ 15.2-1613.1, 16.1-69.48:1 C, 17.1-275.12, 53.1-120.
- Total owed: \$416.