

**VIRGINIA: IN THE CIRCUIT COURT OF NORTHUMBERLAND COUNTY**

**IN RE: INSTALLMENT PAYMENT AGREEMENT GUIDELINES FOR FINES,  
COURT COSTS, FORFEITURES AND PENALTIES**

**ORDER**

Pursuant to Virginia Code §§19.2-339, 19.2-354 and 19.2-354.1 and pursuant to Rule 1:24 of the Rules of the Supreme Court of Virginia, the Court adopts the following as the Court Payment Plan for the collection of fines, court costs, forfeitures, and penalties.

1. Any defendant who is unable to pay fines and costs within thirty days of sentencing for a violation of any criminal law, upon conviction of a traffic violation, or upon a finding of not innocent in the case of a juvenile may enter into either a deferred payment plan, a modified deferred payment plan, or an installment payment plan, as defined below, to pay those fines and costs.

For purposes of this Order:

“Deferred Payment Plan” means an agreement in which no installment payments are required and the defendant agrees to pay the amount of the fines and costs at the end of the agreement's stated term.

“Fines and Costs” means all fines, court costs, forfeitures, and penalties assessed in any case by a single Court against a defendant for the commission of any crime or traffic infraction. “Fines and costs” includes restitution unless the Court orders a separate payment schedule for restitution pursuant to Virginia Code §§19.2-305.1, 19.2-305.2, 19.2-349 and 19.2-386.15.

“Installment Payment Agreement” means an agreement in which the defendant agrees to make monthly or other periodic payments until the fines and costs are paid in full.

“Modified Deferred Payment Agreement” means a deferred payment agreement in which the defendant also agrees to use best efforts to make monthly or other periodic payments.

2. All fines and costs which a defendant owes for all cases in this Court may be incorporated into one payment plan. Anyone seeking to set up a payment plan for more than one case must inform the Clerk of their desire to include all outstanding fines and costs.
3. The defendant will be given notice of all fines and costs at the conclusion of the case. Defendant’s payment plan may be stated on the record at the conclusion of the sentencing.
4. The Court shall not deny the defendant the opportunity to enter into a deferred, modified deferred, or installment payment agreement solely (a) because of a category of offense for which the defendant was convicted or found not innocent, (b) because of the total amount of all fines and costs, (c) because the defendant previously defaulted under the terms of a payment agreement, (d) because the fines and costs have been referred for collection pursuant to Virginia Code §19.2-349, (e) because the defendant has not established a payment history, or (f) because the defendant is eligible for a restricted driver’s license under subsection E of Virginia Code §46.2-395.

5. In determining the length of time to pay under a deferred, modified deferred, or installment payment agreement and the amount of the payments, the Court shall take into account the defendant's financial resources and obligations, including any fines and costs owed by the defendant in any other Courts. In assessing the defendant's ability to pay, the Court shall use a written financial statement setting forth the defendant's financial resources and obligations or conduct an oral examination of the defendant to determine his financial resources and obligations. The Court may require the defendant to present a summary prepared by the Department of Motor Vehicles of the other Courts in which the defendant also owes fines and costs. The length of a payment agreement and the amount of the payment shall be reasonable in light of the defendant's financial resources and obligations and shall not be based solely on the amount of fines and costs. The Court may offer a payment agreement combining an initial period during which no payment of fines and costs is required followed by a period of installment payments. The Clerk of this Court is authorized to make the determinations pursuant to Virginia Code §19.2-354(A)(ii).
6. The Court may require a down payment as a condition of a defendant entering a deferred, modified deferred, or installment payment agreement. Any down payment shall be a minimal amount to demonstrate the defendant's commitment to paying the fines and costs. In the case of an installment payment agreement, the required down payment shall not

exceed (a) if the fines and costs owed are \$500.00 or less, 10% of such amount, or (b) if the fines and costs owed are more than \$500.00, 5% of such amount or \$50.00, whichever is greater. A defendant may make a larger down payment than set out in this subsection.

7. Any payment received within ten days of its due date shall be considered to be timely made.
8. Upon request, the Court may authorize community service in lieu of paying fines and costs. Community service cannot be used to satisfy any portion of restitution, including any interest owed on a restitution obligation. Pursuant to Virginia Code §19.2-354(A) and (C) the hourly amount to be credited toward fines and costs is the federal minimum wage rate. In order to be given credit for community service, a defendant is required to perform community service for a nonprofit or government agency and provide sufficient proof of work documented by the supervising agency to the Court. ANY FALSE DOCUMENTATION IS SUBJECT TO PROSECUTION.
9. At any time during the duration of a payment agreement, the defendant may request a modification of the agreement in writing and the Court may grant such modification based on a good faith showing of need.
10. The Court shall consider a request by a defendant who has defaulted on a payment agreement to enter into a subsequent payment agreement. In determining whether to approve the request for a subsequent payment agreement, the Court will consider any change in the defendant's circumstances. The Court shall require a down payment to enter into a

subsequent payment agreement, provided that the down payment required to enter into the subsequent payment agreement shall not exceed (a) if the fines and costs owed are \$500.00 or less, 10% of such amount or (b) if the fines and costs owed are more than \$500.00, 5% of such amount or \$50.00, whichever is greater. When a defendant enters into a subsequent payment agreement, the Court shall not require a defendant to establish a payment history on the subsequent payment agreement before restoring the defendant's driver's license.

11. While subject to any payment plan, the defendant shall promptly inform this Court of any change of address.
12. Any payment plan will be detailed on FORM CC-1379 and signed by the defendant. The Clerk of this Court is ordered to provide each defendant a written copy of the payment plan policy unless otherwise provided by the Court. A certified copy of this Order shall be posted in the Clerk's Office and on the Court's available website.
13. Restitution shall be addressed pursuant to Virginia Code §§19.2-305.1, 19.2-305.2, 19.2-349 and 19.2-368.15. 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 terms and conditions of such repayment on an order for restitution (FORM DC-317). 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

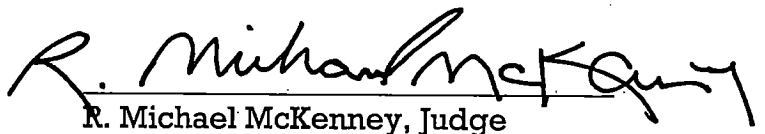
to be paid by the defendant and the terms and conditions of such restitution repayment. A copy of the Order for Restitution, excluding contact information for the victim, shall be provided to the defendant at sentencing. A copy of the Order for Restitution shall be provided to the Attorney for the Commonwealth and to the victim, his agent, or his estate upon request and free of charge.

14. Unreasonable failure to execute the plan by the defendant shall result in revocation of probation or imposition of the suspended sentence. A hearing shall be held in accordance with the provisions of the appropriate code relating to revocation of probation or imposition of a suspended sentence before either such action is taken.

An Order for Restitution will be docketed as provided in Virginia Code §8.01-446. The Court may provide in the Order for Restitution for interest on the restitution total. If the Court orders the payment of interest, it shall accrue from the date of loss or damage unless the Court specifies a different date in the Order.

If the defendant owes court ordered restitution and enters into a deferred, modified deferred, or installment payment agreement, any money collected pursuant to such agreement shall be used first to satisfy the restitution order.

Enter this 30<sup>th</sup> day of June, 2017

  
R. Michael McKenney, Judge