



THE SUPREME COURT of OHIO

OFFICE OF JUDICIAL SERVICES

COLLECTION OF COURT COSTS & FINES IN ADULT TRIAL COURTS

Court practices to enforce appropriately assessed fines, costs, and other financial sanctions are an important part of enforcing the consequences of misconduct. The responsibility of the courts in general, and individual judges in particular, is to ensure that any fines, costs, and other financial sanctions arising out of a criminal case are reasonable and take into account a defendant's ability to pay.

Fines are a criminal sanction, while costs are a civil obligation. Although separate and distinct, the purpose of both is *not* to generate revenue for the local municipality, county, or the State of Ohio.

IMPOSING FINES, COSTS, AND OTHER FINANCIAL SANCTIONS

COURT COSTS

- Court costs and fees are **civil, not criminal**, obligations and may be collected only by the methods provided for the collection of civil judgments.¹
- Trial courts must impose court costs at time of sentencing.² Costs must be:
 - Stated at sentencing hearing and included in sentencing entry.³
 - **Segregated from fines.**⁴
- Trial courts retain jurisdiction to **waive, suspend, or modify the payment of costs** at the time of sentencing or any time thereafter.⁵
- A court **may not** order a person to appear or issue a warrant for unpaid court costs.⁶
 - The court may order the defendant to perform community service if the defendant fails to pay court costs.⁷

FINES

- Fines are a financial sanction and criminal penalty.⁸
- Financial sanctions may include restitution, fines, reimbursement for assigned counsel, incarceration, and other fees.⁹
- Fines are a **discretionary** financial sanction, unless there is a mandatory fine attached to the offense.¹⁰
- **Ability to pay** must be considered when assessing and collecting fines (see below for details).¹¹
- A person may be jailed for a **willful refusal** to pay a fine that he or she has the ability to pay (see "Incarceration for Non-Payment of Fines," below).¹²
- The court may order the defendant to perform community service in lieu of fines.¹³

When both fines and court costs are owed, the court **must segregate** the amounts if jail time is imposed for nonpayment of fines.¹⁴

INCARCERATION FOR NON-PAYMENT OF FINES

R.C.2947.14 is the sole and exclusive method for imposing a jail sentence for willful refusal to pay a fine.¹⁵ Incarceration for nonpayment should only be used as a last resort and after compliance with all statutory and procedural safeguards.

Before a court may impose a jail sentence for non-payment of court fines, the court must:

- Segregate fines from court costs and other financial sanctions.¹⁶
- Give reasonable notice to the defendant of a hearing.¹⁷
- Conduct an evidentiary, economic ability-to-pay hearing.¹⁸
- Advise the defendant of the right to counsel.¹⁹

- Provide the defendant with an opportunity to be heard.²⁰
- Make a specific finding that the defendant:²¹
 - Has the ability to pay fines; and
 - Willfully refuses to pay fines.

Additional Notes about Incarceration:

A person cannot be ordered to serve additional days for failure to pay a fine if the maximum jail sentence was imposed and served.²²

Any person jailed for failure to pay a fine shall receive credit upon the fine at the rate of \$50.00 per day or per fraction of a day.²³ No commitment pursuant to this statute shall exceed six months.²⁴

FACTORS COURTS MAY CONSIDER WHEN ASSESSING OFFENDERS' ABILITY-TO-PAY²⁵

- **Income**, specifically whether annual income is at or below 125% of the Federal Poverty Guidelines.

For 2019, 125% of FPG:²⁶

| | |
|----------------------------|----------------------------|
| \$15,613 for an Individual | \$32,188 for a Family of 4 |
| \$21,138 for a Family of 2 | \$37,713 for a Family of 5 |
| \$26,663 for a Family of 3 | \$43,238 for a Family of 6 |

- Receipt of needs-based, means-tested **public assistance**, such as TANF, SSI, or SSDI.
- **Financial resources**, assets, financial obligations, and dependents.

- Where the person **resides**; for example, whether the person is homeless or institutionalized.
- Basic living **expenses**, such as food, rent/mortgage, utilities, medical expenses, transportation, and child support.
- Offender's efforts to acquire additional resources, including any **limitations to secure paid work** due to disability, homelessness, institutionalization, lack of transportation, or driving privileges.

PERMITTED METHODS OF COLLECTING COURT COSTS AND FINES
(Any Method Not Permitted is Prohibited)

| PERMITTED COLLECTION METHODS | COSTS | FINES |
|---|-------|-------|
| Voluntary Payment ²⁷ | X | X |
| Payment Plan ²⁸ | X | X |
| Collection Agency ²⁹ | X | X |
| Community Service ^{30, 31} | X | X |
| Attachment of Prisoner Accounts ³² | X | X |
| Execution of Civil Judgment ³³ | X | X |
| Registration Block ³⁴ | X | X |
| Imposing Jail ^{35, 36} (see Fines front) | | X |
| Driver's License Forfeiture (limited to Traffic cases only) ^{37, 38} | | X |
| Driver's License Warrant Block ³⁹ | | X |
| Extension of Probation (if within maximum allowable term of probation and if made a condition of probation) ⁴⁰ | | X |

**NON-PERMITTED METHODS
OF COLLECTING COSTS, FINES,
OR OTHER FEES**

- Contempt of Court⁴¹
- Forfeiture of Confiscated Money⁴²
- Refusal to Accept Filings⁴³
- Violation or Revocation of Probation⁴⁴
- Setting Bond based on Amount Owed⁴⁵
- Automatically applying bond to amount owed if:
 - Defendant is indigent or ⁴⁶
 - A third party posted the bond ⁴⁷

**CANCELLATION/DISCHARGE
OF COSTS OR FINES**

If at any time the court finds that an amount owed to the court is due and uncollectible, in whole or in part, the court may direct the clerk of the court to **cancel all or part of the claim**.⁴⁸ The court retains jurisdiction to waive, suspend, or modify the payment of the costs of prosecution at the time of sentencing or at any time thereafter, pursuant to R.C. 2947.23(C).⁴⁹ If a court waives any of the court costs, it must waive all imposed costs.⁵⁰

LIMITATIONS OF CONTEMPT FOR COLLECTION OF COSTS AND FINES

Contempt may be imposed:

- If a defendant fails to appear for a court-ordered hearing, including a hearing for non-payment of fines.
- The defendant must be served with a separate citation for contempt of court, notice, and advised of:⁵¹
 - Right to counsel (including appointed, if applicable).
 - Right to present a defense and explanation.
 - Right to bond. Bond must be based on failure-to-appear and/or comply, not based on amount owed.⁵²

Contempt may NOT be imposed:

- In lieu of R.C. 2947.14 to impose jail time to collect fines.⁵³
- To collect costs as a civil judgment.⁵⁴
- For failure to perform if community service is assigned in lieu of either fines or court costs.⁵⁵
- To create a punishment based on the underlying offense or as a method to collect fines or court costs.⁵⁶
- For failure to appear if hearing was related to the payment or non-payment of court costs.⁵⁷

While a charge of contempt of court for non-appearance at a hearing or community-control supervision/probation violation may result in a jail sentence being issued, **neither may be used to coerce or obtain the payment of a fine, court cost, or any other financial sanction**.⁵⁸

COMMUNITY SERVICE AS PAYMENT FOR COURT COSTS

A court may convert court costs to community service when a defendant fails to pay court costs or comply with a payment plan to pay court costs at the time of sentencing or post-judgment proceeding.⁵⁹

- Notice should be given to the defendant and the prosecuting attorney that failure to pay court costs may result in community service.⁶⁰
- An evidentiary hearing must be held.⁶¹
- Defendant is entitled to credit at no less than the federal minimum wage.⁶²

COMMUNITY SERVICE SCHEDULE

| Offense | Limitation | Statutory Authority |
|--|---|--|
| Minor Misdemeanor | Maximum 30 hours | R.C. 2929.27(B) |
| Second-, Third-, and Fourth-Degree Misdemeanor | Maximum 200 hours | R.C. 2929.27(A) |
| First-Degree Misdemeanor | Maximum 500 hours | R.C. 2929.27(A) |
| Unclassified Misdemeanor | Maximum 500 hours | Suspended License Offenses ⁶³ |
| Felony | Maximum 500 hours | R.C. 2929.17; R.C. 2951.02 |
| Satisfaction of Court Costs | No less than federal minimum hourly wage rate; hearing required | R.C. 2947.23; R.C. 1901.44; R.C. 1907.25 |
| Satisfaction of Fines ⁶⁴ | Not specified; hearing not required | R.C. 2929.28 |

The staff of the Supreme Court of Ohio would like to thank Judge **Patrick Carroll** of the Lakewood Municipal Court for his contributions to the development of this bench card.

FOR A LIST OF REFERENCES, SEE:

sc.ohio.gov/Publications/JCS/finesCourtCosts_Ref.pdf