

RULES OF SUPREME COURT OF VIRGINIA
PART ONE
RULES APPLICABLE TO ALL PROCEEDINGS

Rule 1:24. Requirements for Court Payment ~~Plans~~ Agreements for the Collection of Fines and Costs.

The purposes of the statutory court collection process are (i) to facilitate the payment of fines, court costs, penalties, restitution and other financial responsibilities assessed against defendants convicted of a criminal offense or traffic infraction, (ii) to collect the monies due to the Commonwealth and localities as a result of these convictions, and (iii) to assure payment of court-ordered restitution to victims of crime. To achieve these purposes and the additional purpose of enabling defendants to restore their driver's licenses pursuant to § 46.2-395, this Rule is intended to ensure that all courts approve deferred and installment payment ~~plans~~ agreements pursuant to § 19.2-354 consistent with §§ 19.2-354, 19.2-354.1, and the provisions of this Rule and to further the legal values of predictability, fairness, and similarity in the collection of fines, court costs, penalties, and restitution throughout the courts of the Commonwealth.

(a) *Definitions.* —

- (1) “Fines and costs” shall mean all the fines, court costs, forfeitures, and penalties assessed in all cases by a single ~~trial~~ court against a defendant for the commission of crimes or traffic infractions. “Fines and costs” shall also include restitution unless the court orders a ~~specific~~, separate payment schedule for restitution ~~as part of the disposition of the criminal case.~~
- (2) An “installment payment ~~plan~~ agreement” is ~~a plan~~ an agreement in which the defendant agrees to make monthly or other periodic payments until the fines and costs are paid in full.
- (3) A “deferred payment ~~plan~~ agreement” is ~~a plan~~ an agreement in which the defendant agrees to pay the full amount of the fines and costs at the end of ~~its~~ the agreement's stated term and no installment payments are required.
- (4) A “modified deferred payment ~~plan~~ agreement” is a deferred payment ~~plan~~ agreement in which the defendant also agrees to use best efforts to make monthly or other periodic payments.

(b) *Access to payment alternatives.* — Any defendant who is unable to pay in full fines and costs for a particular offense within 30 days of conviction, or other disposition authorized by law, must be offered by the convicting court the opportunity to enter into ~~either~~ a deferred payment ~~plan agreement~~, a modified deferred payment ~~plan agreement~~ or an installment payment ~~plan agreement~~ to pay those fines and costs. The court shall not deny a defendant the opportunity to enter into a pay plan deferred, modified deferred, or installment payment agreement solely because (i) ~~of a the~~ defendant's ~~prior~~ previously defaulted under the terms of a payment agreement, (ii) the fines and costs have been referred ~~to~~ for collections pursuant to § 19.2-349, (iii) a defendant has not established a payment history, (iv) ~~of the conviction in question is of a particular~~ category of offense for which the defendant was convicted or found not innocent, (v) ~~of the availability of~~ the defendant is eligible for a restricted license ~~authorization~~ under subsection E of § 46.2-395 (E), or (vi) of the total amount of all fines and costs.

(c) *Notice of payment alternatives.* — The court shall give the defendant written notice of ~~all payment alternatives set forth in subsection (b). The written notice shall also include the availability of the community service program referenced in subsection (d)~~ deferred, modified deferred, and installment payment agreements and, if a community service program has been established, the availability of earning credit toward discharge of fines and costs through the performance of community service work.

(d) *Conditions of a payment ~~plan agreement~~.* — All the fines and costs ~~subject to the collection process which~~ that a defendant owes for all cases in ~~a particular~~ any single court may be incorporated into one payment ~~plan agreement~~, unless otherwise ordered by the court in specific cases. A payment ~~plan agreement~~ shall include only those outstanding fines and costs ~~subject to collection under the period of time~~ for which the limitations period set forth in § 19.2-341 has not run.

In determining the ~~amount and~~ length of time to pay under a deferred, ~~payment plan or an installment payment plan~~ modified deferred, or installment payment agreement and the amount of the payments, a court ~~must~~ shall take into account the defendant's financial resources ~~in light of the defendant's financial~~ and obligations, including ~~defendant's indigence, as well as the~~ any fines and costs the defendant owes in other courts. ~~The~~ In assessing the defendant's ability to pay, the court ~~should utilize either~~ shall use a written financial statement, on a form developed by

the Executive Secretary of the Supreme Court, ~~or a colloquy with the defendant to assess the defendant's ability to pay~~ 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 compliance summary ~~from prepared by~~ the Department of Motor Vehicles ~~in order to assess the number of other courts in of the other courts in which the defendant also owes~~ fines and costs ~~are owed.~~

The length of a payment ~~plan agreement~~ and the amount of the payments shall not be based solely on the amount of ~~the~~ fines and costs and shall be reasonable in light of the defendant's financial resources and obligations.

~~Unless otherwise ordered by the court in a specific case, (i) if~~ If a down payment is required to enter into a payment ~~plan agreement~~, it ~~should~~ shall be a minimal amount to demonstrate ~~commitment and to facilitate entry into a plan~~ the defendant's commitment to paying the fines and costs. ; and (ii) ~~for installment payment plans, any monthly or periodic payment and the length of time to pay should be a reasonable amount and time considering all the financial circumstances of the defendant. If~~ In the case of an installment payment agreement, if the fines and costs owed are \$500 or less, the required down payment ~~must~~ may not exceed ~~20%~~ 10 percent of ~~the~~ such amount owed ~~if~~. or, if the fines and costs owed are more than \$500, the required down payment ~~must~~ may not exceed ~~10%~~ five percent of ~~the~~ such amount owed or ~~\$100~~ \$50, whichever is greater. ~~Nothing in this Rule shall preclude a~~ A defendant ~~from choosing~~ may choose to make a larger down payment.

Where available, the court ~~should liberally use~~ may provide community service work as an option to defray fines and costs, especially when the defendant is indigent or otherwise unable to make ~~substantial~~ meaningful payments. Any portion of the community service completed should be credited to the defendant's obligations. Community service shall not be credited against any amount owed as restitution, the interest which has accrued on restitution, and any collection fee required.

At any time during the duration of a payment ~~plan agreement~~, the defendant may request a modification of the ~~plan agreement in writing on a form provided by the Executive Secretary of the Supreme Court, which shall be granted~~ and the court may grant such modification based on a good faith showing of need.

(e) *Timeliness of payments.* — Any payment which is received within 10 days of the date due shall be considered timely made.

(f) *Combined payment ~~plans~~ agreements.* — ~~When taking into account the defendant's financial obligations, including the fines and costs the defendant owes in other courts, the~~ The court may offer a payment ~~plan~~ agreement combining an appropriate initial period during which no payment of fines and costs is required, followed by a period of installment payments. Such a combined payment plan may be appropriate when the defendant is incarcerated, but should not be limited only to these circumstances.

(g) *Re-entry into a payment ~~plan~~ agreement after default.* — ~~A defendant who has defaulted on a payment plan must have the opportunity to request a new payment plan and the court should consider the defendant's change in circumstances in~~ A 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 ~~such the~~ request ~~for a subsequent payment agreement, the court shall consider any change in the defendant's circumstances.~~

When a defendant enters into a subsequent payment ~~plan~~ agreement, a court shall not require a defendant to establish a payment history on the subsequent payment ~~plan~~ agreement before restoring the defendant's driver's license. A court ~~may~~ shall require a down payment to enter into a subsequent payment ~~plan~~ agreement, ~~which is higher than the down payment required for entry into an initial plan, although~~ provided that, the down payment required to enter into a subsequent payment plan should not exceed 20% of the total fines and costs owed (i) if the fines and costs owed 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 five percent of such amount or \$50, whichever is greater.

Promulgated by Order dated November 1, 2016; effective February 1, 2017.

Last amended by Order dated April 27, 2017; effective July 1, 2017.