

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

Rule 1:24. Requirements for Court Payment 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, this Rule is intended to ensure that all courts approve deferred and installment payment agreements 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” mean all the fines, court costs, forfeitures, and penalties assessed in all cases by a single court against a defendant for the commission of crimes or traffic infractions. The term “fines and costs” also includes restitution unless the court orders a separate payment schedule for restitution.

(2) 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 in full.

(3) 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.

(4) A “modified deferred payment agreement” is a deferred payment 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~~ may enter into a deferred payment agreement, a modified deferred payment agreement or an installment payment agreement to pay ~~those~~ fines and costs. The court may not deny a defendant the opportunity to enter into a deferred, modified deferred, or installment payment agreement solely because (i) the defendant previously defaulted under the terms of a payment agreement, (ii) the fines and costs have been referred for collection pursuant to § 19.2-349, (iii) a defendant has not established a payment history, (iv) of the category of offense for which the defendant was convicted or found not innocent, or (v) of the total amount of all fines and costs.

(c) *Notice of payment alternatives.* — The court must give the defendant written notice of 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 agreement.* — All the fines and costs that a defendant owes for all cases in any single court may be incorporated into one payment agreement, unless otherwise ordered by the court in specific cases. A payment agreement must include only those outstanding fines and costs for which the limitations period set forth in § 19.2-341 has not run.

In determining the length of time to pay under a deferred, modified deferred, or installment payment agreement and the amount of the payments, a court must take into account the defendant's financial resources and obligations, including any fines and costs the defendant owes in other courts. In assessing the defendant's ability to pay, the court must use a written financial statement, on a form developed by the Executive Secretary of the Supreme Court, setting forth the defendant's financial resources and obligations or conduct an oral examination of the defendant to determine his financial resources and obligations.

~~If a down payment is required to enter into a payment agreement, it should be a minimal amount to demonstrate the defendant's commitment to paying the fines and costs. In the case of an installment payment agreement, if the fines and costs owed are \$500 or less, the required down payment may not exceed 10 percent of such amount owed or, if the fines and costs owed are more than \$500, the required down payment may not exceed 5 percent of such amount owed or \$50, whichever is greater. A defendant may choose to make a larger down payment.~~

No court may require a defendant to make a down payment upon entering a deferred, modified deferred, or installment payment agreement, other than a subsequent payment agreement, in which case the court may require a down payment pursuant to subsection (g). Nothing in this rule prevents a defendant from voluntarily making a down payment upon entering any payment agreement.

Where available, the court may provide community service work as an option to defray fines and costs, especially when the defendant is indigent or otherwise unable to make meaningful payments. Any portion of the community service completed should be credited to the defendant's obligations. Community service may 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 agreement, the defendant may request a modification of the agreement in writing, on a form provided by the Executive Secretary of the Supreme Court, 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 is considered timely made.

(f) *Combined payment agreements.* — The court may offer a payment 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 agreement after default.* — ~~A court must consider a request by a defendant who has defaulted on a payment agreement to enter into a subsequent payment agreement.~~ A defendant who has defaulted on a payment agreement may petition the court for a subsequent payment agreement. In determining whether to approve the request for a subsequent payment agreement, the court must consider any change in the defendant's circumstances.

A court ~~must~~ may require a down payment to enter into a subsequent payment agreement, provided that (i) if the fines and costs owed are \$500 or less, the required down payment may not exceed 10 percent of such amount or (ii) if the fines and costs owed are more than \$500, the required down payment may not exceed 5 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 August 11, 2021; effective October 11, 2021.

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Rule 1:25. Specialty Dockets.

(a) *Definition of and Criteria for Specialty Dockets.* —

- (1) When used in this Rule, the term “specialty dockets” refers to specialized court dockets within the existing structure of Virginia's circuit and district court system offering judicial monitoring of intensive treatment, supervision, and remediation integral to case disposition.
- (2) Types of court proceedings appropriate for grouping in a “specialty docket” are those which (i) require more than simply the adjudication of discrete legal issues, (ii) present a common dynamic underlying the legally cognizable behavior, (iii) require the coordination of services and treatment to address that underlying dynamic, and (iv) focus primarily on the remediation of the defendant in these dockets. The treatment, the services, and the disposition options are those which are otherwise available under law.
- (3) Dockets which group cases together based simply on the area of the law at issue, e.g., a docket of unlawful detainer cases or child support cases, are not considered “specialty dockets.”

(b) *Types of Specialty Dockets.* — The Supreme Court of Virginia currently recognizes only the following three types of specialty dockets: (i) drug treatment court dockets as provided for in the Drug Treatment Court Act, § 18.2-254.1, (ii) veterans dockets, and (iii) behavioral health dockets as provided for in the Behavioral Health Docket Act, § 18.2-254.3. Drug treatment court dockets offer judicial monitoring of intensive treatment and strict supervision in drug and drug-related cases. The dispositions in the family drug treatment court dockets established in juvenile and domestic relations district courts may include family and household members as defined in Virginia Code § 16.1-228. Veterans dockets offer eligible defendants who are veterans of the armed services with substance dependency or mental illness a specialized criminal specialty docket that

is coordinated with specialized services for veterans. Behavioral health dockets offer defendants with diagnosed behavioral or mental health disorders judicially supervised, community-based treatment plans, which a team of court staff and mental health professionals design and implement.

- (c) *Authorization Process.* — A circuit or district court which intends to establish one or more types of these recognized specialty dockets must petition the Supreme Court of Virginia for authorization before beginning operation of a specialty docket or, in the instance of an existing specialty docket, continuing its operation. A petitioning court must demonstrate sufficient local support for the establishment of this specialty docket, as well as adequate planning for its establishment and continuation.
- (d) *Expansion of Types of Specialty Dockets.* — A circuit or district court seeking to establish a type of specialty docket not yet recognized under this rule must first demonstrate to the Supreme Court that a new specialty docket of the proposed type meets the criteria set forth in subsection (a) of this Rule. If this additional type of specialty docket receives recognition from the Supreme Court of Virginia, any local specialty docket of this type must then be authorized as established in subsection (c) of this Rule.
- (e) *Oversight Structure.* — By order, the Chief Justice of the Supreme Court may establish a Specialty Docket Advisory Committee and appoint its members. The Chief Justice may also establish separate committees for each of the approved types of specialty dockets. The members of the Veterans Docket Advisory Committee, the Behavioral Health Docket Advisory Committee, and the committee for any other type of specialty docket recognized in the future by the Supreme Court will be chosen by the Chief Justice. The State Drug Treatment Court Advisory Committee established pursuant to Virginia Code § 18.2-254.1 constitutes the Drug Treatment Court Docket Advisory Committee.
- (f) *Operating Standards.* — The Specialty Docket Advisory Committee, in consultation with the committees created pursuant to subsection (e), ~~shall~~ will establish the training and operating standards for local specialty dockets.
- (g) *Financing Specialty Dockets.* — Any funds necessary for the operation of a specialty docket ~~shall~~ will be the responsibility of the locality and the local court, but may be provided via state appropriations and federal grants.

(h) *Evaluation.* — Any local court establishing a specialty docket ~~shall~~ must provide to the Specialty Docket Advisory Committee the information necessary for the continuing evaluation of the effectiveness and efficiency of all local specialty dockets.

Last amended by Order date August 11, 2021; effective October 11, 2021.