

**DEFERRED/INSTALLMENT PAYMENT AND COMMUNITY SERVICE POLICY**

**I. Deferred/Installment Payment Policy**

Effective July 1<sup>st</sup>, 2021 pursuant to Rule 1:24 of the Supreme Court and Virginia Code 19.2-354(A) & (B), 19.2-354.1, the Court does now enter this order for deferred or installment agreements for the payment of unpaid fines, restitution, and costs.

THEREFORE, it is ADJUDGED AND ORDERED that:

Any defendant convicted of a traffic infraction or a violation of any criminal law or found not innocent in the case of a juvenile, who is sentenced to pay a fine, restitution, forfeiture, or penalty may pay such fine, restitution, forfeiture, or penalty and any costs that the defendant may be required to pay in deferred payments or installments.

If the defendant owes court-ordered restitution and enters into a deferred or installment payment agreement, any moneys collected pursuant to such agreement shall be used first to satisfy such restitution order and any collection costs associated with restitution prior to being used to satisfy any other fine, forfeiture, penalty, or cost owed, unless an order for restitution is docketed in the name of the victim or it is ordered that an assignment of the judgment to the victim be docketed.

As a condition of every such agreement, a defendant who enters into an installment or deferred payment agreement shall promptly inform the court of any change of mailing address during the term of the agreement.

Community Service at approved locations in lieu of payments may be an option to discharge fines, and costs, but not restitution or the collection fee. If Community Service is approved for a person who is not incarcerated and on a payment plan, the defendant will still be required to make monthly payments in addition to Community Service hours. See II "Community Service Policy".

The failure of the defendant to enter into a deferred payment or installment payment agreement with the court or the failure of the defendant to make payments as ordered by the agreement shall allow the Tax Commissioner to act in accordance with § 19.2-349 to collect all fines, costs, forfeitures, and penalties.

A defendant is not required 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 (see below). Nothing in this section shall

prevent a defendant from voluntarily making a down payment upon entering any 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 will consider any change in the defendant's circumstances. The court may require a down payment to enter into a subsequent payment agreement, provided that the down payment required to enter into a subsequent payment agreement shall not exceed (i) if the fines and costs owed are \$500 or less, 10 percent of such amount or (ii) if the fines and costs owed are more than \$500, five percent of such amount or \$50, whichever is greater.

## II. Community Service Policy

Pursuant to 19.2-354 (C), the Court has established a program that allows defendants upon whom a fine and costs have been imposed to discharge all or part of the fine or costs by earning credits for the performance of community service work **before, during, or after** imprisonment.

Terms and conditions of the program are as follows:

### A. After release from incarceration or if no active incarceration has been imposed:

1. Prior to earning credits for the performance of Community Service, an individual **must** obtain approval from the Court or his/her Probation Officer.
2. Individuals **must** perform Community Service Work at a 501(c) non-profit organization or an agency approved by the Court or their Probation Officer. The Circuit Court Clerk's Office, Local Based Probation and Adult Probation Offices will maintain a list of approved agencies. An individual may move the Court to allow for the performance of Community Service at a location or organization not on the approved list.
3. Individuals will receive credit at the rate of \$9.50 per hour for Community Service Work.
4. Individuals approved to perform Community Service Work to discharge all or part of their fine and costs **may** be required to make a monthly payment based upon their ability to pay.
5. Restitution or the Collection Fee **cannot** be discharged through the performance of Community Service work.

6. If an individual has been approved to perform Community Service work in lieu of payment of fine and costs, then the individual **must** submit monthly timesheets to the Clerk. Timesheets are available at the Circuit Court Clerk's Office.
7. An individual cannot receive credit for the performance of Community Service work if he/she has received credit for the Community Service Work from another criminal case or Court. (Example: Defendant placed on 18.2-251 Probation in Clarke County and performs 100 hours of Community Service. An individual cannot apply these hours to discharge all or part of a fine and costs on a Frederick County Case.)

**B. While incarcerated:**

1. An individual may also earn credit towards the payment of fines and costs through the performance of Community Service Work while in prison or at CCAP (Community Corrections Alternative Program). However, a request for the credit must be made by motion to the court following release from incarceration.
2. A hearing will be scheduled where the individual seeking the credit will need to:
  - a. Present attested records of DOC verifying the work for which credit is sought;
  - b. Show that the hours for which credit is sought were performed after June 30, 2020; and
  - c. Prove to the Court, by testimony or other evidence, that the hours submitted to this Court have not been, and will not be, applied to fines and costs owed to any other court.
3. If a request for credit for the performance of Community Service Work while in prison or at CCAP (Community Corrections Alternative Program) is filed while an individual is still incarcerated, the request will be dismissed without prejudice with instructions for post-release filing.

This order replaces and supersedes any order concerning criminal payment agreements entered by this Court before this date.

ENTERED

9 August 2021



Alexander B. Iden, JUDGE