



## Michigan Supreme Court

State Court Administrative Office

### Trial Court Services Division

Michigan Hall of Justice

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Jennifer Warner  
Director

### MEMORANDUM

DATE: June 29, 2018

TO: Trial Court Judges  
Court Administrators

FROM: Julia Norton, Collections Management Analyst

RE: Judgments of Sentence and 20 Percent Late Penalty

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The purpose of this memo is twofold regarding the use of judgments of sentence and the 20 percent late fee. Judgments of sentence are required by court rule; a recent Court of Appeals case has emphasized completing the “Due Date for Payment” field on the judgment of sentence to comply with the 20 percent late penalty authority.

During recent collections program reviews, some courts indicated they do not use judgments of sentence on misdemeanor cases. MCR 6.427 requires the court, in both misdemeanor and felony cases, to date and sign a written judgment of sentence. The written and signed judgment of sentence is required even if the defendant is only assessed financial obligations. Typically, courts use the MC 219 Judgment of Sentence, but there are different disposition forms depending on whether the defendant receives HYTA, a statutory deferral, a delayed sentence, or if the defendant is a juvenile in a designated case.<sup>1</sup>

Recent case law has drawn attention to the “Due Date for Payment” field on the judgment sentence and the 20 percent late penalty. Courts should be aware of [People v Gayden](#), an unpublished<sup>2</sup> Court of Appeals decision released on May 10, 2018. On appeal, the defendant argued that because the trial court failed to specify a due date on the judgment of sentence for the collection of assessed fees, the trial court erred by assessing a 20 percent late fee because that assessment violated MCL 600.4803. The Court’s opinion noted that the trial court left the “Due Date for Payment” field on the judgment of sentence blank and that the lower court’s file had no other order beyond the

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<sup>1</sup> Disposition of HYTA cases use the Assignment to Youthful Trainee Status MC 242; statutorily authorized deferrals use DC 243 or CC 243a; delayed sentences use MC 294; designated cases use JC 71 through 74.

<sup>2</sup> Unpublished opinions are not precedentially binding under the rule of stare decisis. MCR 7.215(C)(1).

judgment of sentence that was relevant to the assessment. The Court of Appeals indicated that MCL 600.4803 requires the trial court to order a specific due date for the payment of financial obligations. Because the trial court did not do so and had no other order relevant to the assessment, the Court vacated the imposed late fee.

Please note that there are other disposition forms<sup>3</sup> that notify the defendant of the imposition of the 20 percent late fee and include a “Due Date for Payment” field. Although *Gayden* did not reference these other forms, it would seem prudent for courts to ensure that on any order of disposition, the due date field contains a date due for court-ordered financial obligations.

If, at the time of sentencing, it is unknown if the defendant will be allowed time to pay his or her obligation, the court may want to enter the date of sentencing as the default due date, since MCR 1.110 provides that financial obligations “imposed by the court must be paid at the time of assessment, except when the court allows otherwise, for good cause shown.” If the court subsequently allows installment payments or time to pay the financial obligations, the court shall inform the person of the date when those obligations are due. We recommend that all court orders containing assessments include a specific amount due and date(s) after which the amount will be considered overdue. See Trial Court Collections [Standards and Guidelines](#).

If you have any questions, please feel free to contact me at [trialcourtservices@courts.mi.gov](mailto:trialcourtservices@courts.mi.gov).

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<sup>3</sup> See infra FN 1, for examples of other disposition forms.