



State Court Administrative Office

TRIAL COURT COLLECTIONS BEST PRACTICES MANUAL



Version 2.0



Michigan Supreme Court

State Court Administrative Office
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Re: Trial Court Collections Best Practices Manual

Dear Colleague:

I am pleased to share with you this compilation of collections program best practices from courts across our state. This practical information will help you identify successful collections program operations and assist your court in implementing new techniques to enforce court-ordered financial obligations.

This best practices manual contains:

- Detailed examples of best practices
- Statutory and court rule references
- Technology
- Action plans
- Additional resources list
- Appendix of referenced documents

The State Court Administrative Office is dedicated to providing trial courts with up-to-date, useful information regarding best practices. Just as important, since Michigan's trial courts are very diverse, we understand that a one-size-fits-all approach will not be effective. We also know that the best way for courts to learn and improve is from one another. Given that every court has different needs, implementation of such practices should be tailored to your court's resources and customer base.

We hope our efforts to provide practical examples and solid resources to complement and improve your court's collections program are a success. Your feedback is important, so please discuss your ideas or any other input with your regional administrator.

Thank you for your assistance in this regard.

Sincerely,

A handwritten signature in black ink, appearing to read "Milton L. Mack, Jr.", written in a cursive style.

Milton L. Mack, Jr.

Executive Summary

The Trial Court Performance Measures Committee has adopted Collections Program Status as a new measure for 2015. The following best practices highlight how the model program components can work in the court environment. The best practices include examples of courts' actual practices supporting each component.

- Component 1: Staff or staff time is dedicated exclusively to collections activities.
 - Best Practice: Staff devoted to collections activities may include court employees, funding unit employees, or contractual employees.
- Component 2: Enforcement of the requirements of MCR 1.110 and communication of the expectation of payment.
 - Best Practice: All correspondence and contact with the litigant refer to MCR 1.110, which states that payment is due at the time of assessment. In addition, an estimated amount that the litigant will be expected to pay is included in all correspondence.
- Component 3: Payment requirement on the day of assessment.
 - Best Practice: Litigants unable to pay in full on the day of sentencing or disposition are expected to make a payment on the day of assessment.
 - Best Practice: Discussions that relate to requests for additional time to pay, installment payment plans, or wage assignments do not occur in the courtroom.
- Component 4: Application/financial statement information is verified and evaluated to establish an appropriate payment plan.
 - Best Practice: Litigants are not automatically given time to pay. The litigant is required to complete an application or financial statement that the court analyzes to determine if extra time to pay or an installment payment plan is justified.
 - Best Practice: Payment plans require the highest payment amounts in the shortest period of time that the litigant can successfully make, considering the amount owed and the litigant's ability to pay.
 - Best Practice: If the court determines that an installment payment plan is warranted, the litigant is required to sign an installment payment agreement.
 - Best Practice: For prisoners, the court submits an order to remit prisoner funds to the Michigan Department of Corrections (MDOC) for the collection of fines, costs, fees, and assessments.
- Component 5: Payment alternatives such as community service are available for those who do not have an ability to pay.
 - Best Practice: Payment alternatives such as community service are not considered unless the litigant is in jeopardy of failing to comply with the court order and has demonstrated that he or she has exercised due diligence in attempting to comply.
 - Best Practice: Payment alternatives may not be used to satisfy certain required assessments such as restitution, crime victim's rights assessment, and minimum state costs.
- Component 6: Litigants are closely monitored for compliance, and actions such as delinquency notices, costs to compel appearance, and wage assignments are taken promptly for noncompliance.
 - Best Practice: The court promptly notifies the litigant of delinquency.

- Best Practice: The court requires a wage assignment for all litigants who are employed and who are granted an installment payment plan; or when an installment payment plan is granted to a litigant, he or she is required to complete a wage assignment with the understanding that if a payment is missed, the court will immediately send the wage assignment to the employer.
- Component 7: Submit required receivables and collections reports to the State Court Administrative Office (SCAO) annually.
 - Best Practice: SCAO has established deadlines and standards applicable to the reports required from all circuit courts, circuit court family divisions, district courts, and municipal courts.
- Component 8: Promptly and consistently use statutorily permitted graduated sanctions such as 20 percent late penalty, costs to compel appearance, show-cause hearings, bench warrants, and/or state income tax garnishment/intercept.
 - Best Practice: If a litigant fails to respond to initial collections efforts, the court sends an order to show cause that requires the litigant to come into court to explain why he or she has not complied with the court's order to pay the court-ordered assessment. If the litigant fails to appear as ordered, then a warrant for failure to appear is issued for the person's arrest. The bench warrant is issued for failing to appear at the show cause and not for failing to pay.
 - Best Practice: The court garnishes or intercepts state income tax refunds.
- Component 9: Use of locator services.
 - Best Practice: The court uses a locator service(s) to help maintain accurate contact information.
- Component 10: Referral to outside agency for collections after all in-house collections efforts are exhausted.
 - Best Practice: The determination to use a third party for collections should be made on a court-by-court basis. A court must determine at what point in the collections process the court has little hope of collecting the obligation and when the expense of using a third-party collector is justified. For more complex collections cases, the cost of a third-party collector may not be a factor, because after the court's internal collections efforts have failed and the court has deemed the debt to be uncollectible, any money that a third party collects is money that would not have been collected otherwise.

Judges, court administrators, court staff, attorneys, and other parties have important roles in collections. To assist courts with the collection of fines, fees, costs, and restitution, SCAO offers COLLECT, a software application that integrates with Judicial Information Systems' district and circuit court case management information systems to allow for data sharing across systems. Locator services, federal case and docket information, autodialers, and payment kiosks are other technologies available to assist with collections.

Court leaders set an example for other judges and court staff in collecting court-ordered financial obligations. The court should clearly identify and define in a written policy the roles and responsibilities of the various personnel involved in the collections process. Having a specialized collections staff or unit ensures that adequate time will be devoted to collections and that staff have the inclination and experience to handle a stressful caseload. Training and education for the collections staff are key.

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Collections Program Status as Performance Measure Introduction

The Trial Court Performance Measures Committee promotes the use of valid and reliable performance measures by the trial courts, dialogue regarding court performance, and data sharing between each court and its funding unit. In developing and implementing strategies to accomplish these objectives, the committee has adopted Collections Program Status as a new measure for 2015.

Collections Program Status is not a new concept for courts. Administrative Order 2010-1 instructs all circuit courts, circuit court family divisions, district courts, and municipal courts to comply with court collections program requirements established by the state court administrator. The Collections Program Status measure determines if the court's program satisfies the required components. If the court fulfills the first seven components, its status is compliant. If the court does not meet the first seven components, its status is noncompliant. Courts are either compliant or noncompliant based on the results of the collections program surveys and reviews completed in prior years. The components and details are provided as Appendix A. Keep in mind that compliance does not require that a court implement every detail listed below each component.

SCAO is publishing collections best practices from courts across the state of Michigan. This manual contains best practices which flow from collections components and is a practical guide for your court's collections program.

Best Practices Including Detailed Examples from Best Practices Courts

The following best practices highlight how the model program components can work in the court environment. The featured courts have provided a variety of useful examples to realistically carry out program components. Please note, there are many ways to implement program components; courts should review their needs and abilities and implement a program that best works for them.

Component 1: Staff or staff time is dedicated exclusively to collections activities.

Best Practice

Staff devoted to collections activities may include court employees, funding unit employees, or contractual employees.

- 25th Circuit Court Family Division – Marquette County. Sheriff’s department jail employee dedicates portion of time to family division collections.
- 8th District Court – Kalamazoo County. The court has two full-time collections officers and two staff persons that spend 75 percent of their time completing clerical functions of the collections department and assisting with phones. The court’s financial services director supervises the collections officers and assists in collection functions, including writing procedures and developing new ideas.
- 10th District Court – Calhoun County. The court has found that having dedicated collections staff makes defendants more responsible, knowing they will be interacting with the same people or a specific case manager. This helps to keep defendants accountable since they know the collections staff is familiar with his or her situation and has previously spoken with the defendant.
- 61st District Court – City of Grand Rapids. The court has a compliance team comprised of three deputy clerks and one team leader. The team works with individuals by collecting and analyzing a person’s income information, determining an appropriate payment plan, monitoring to ensure the payment plan is being adhered to, and utilizing various enforcement tools to assist in successful and consistent payments.

The costs associated with Component 1 will depend largely on the staffing situation within the individual court. The details of the component do not require hiring a full-time collections staff and incurring the associated costs. Simply assigning some collections functions to current staff members will satisfy this component. Once successful, the justification for additional staff can be documented to the funding unit.

COLLECT software can increase the efficiency of staff time spent on collections, however, there is a cost associated with this product. The software is available for district and circuit courts. More information is available in Appendix B.

Component 2: Enforcement of the requirements of MCR 1.110 and communication of the expectation of payment.

Best Practice

All correspondence and contact with the litigant refer to MCR 1.110, which states that payment is due at the time of assessment. In addition, an estimated amount that the litigant will be expected to pay is included in all correspondence.

- 13th Circuit Court Family Division – Grand Traverse County. The court communicates the expectation of payment at the onset of a petition via a letter to the juvenile and parents that lists all potential services for which the juvenile and parents may be responsible. The court also meets with the parents on delinquency and neglect/abuse cases before and after the preliminary hearing to review the letter, address any questions, and discuss the financial statement.
- 20th Circuit Court – Ottawa County. Court enforces MCR 1.110 and the expectation that payment is due at the time of assessment. Defendants are provided notices, in both English and Spanish, that the court will expect court-ordered obligations to be paid at the time of sentencing.
- 45th Circuit Court – St. Joseph County. Court provides defendant a notice of expected fines and costs, and informs the defendant what forms of payment the court accepts. The judge informs the defendant at the time of plea to expect to have fines, costs, etc., ordered at sentencing and that the financial obligations are due that day.

The costs associated with Component 2 may include materials and staff time to make modifications to merge forms or letters to include this language as standard information in communications with defendants.

Component 3: Payment requirement on the day of assessment.

Best Practice

Litigants unable to pay in full on the day of sentencing or disposition are expected to make a payment on the day of assessment.

Discussions that relate to requests for additional time to pay, installment payment plans, or wage assignments do not occur in the courtroom.

- 13th Circuit Court Family Division – Grand Traverse County. The court requires the payment of minimum state costs and crime victim fees on the day of the dispositional hearing. This requirement is communicated to the juvenile at the collections meeting held before and after the preliminary hearing.
- 10th District Court – Calhoun County. The court has found that when defendants are directed to speak with the court officer regarding payments, outside of the courtroom, it reinforces the “due in full at sentencing” and allows a case-by-case decision, instead of having exceptions made from the bench. It helps when court officers support the expectation of full payment at sentencing, or at least a good faith payment, if full payment is not possible. The expectation of receiving payment plans should be avoided and only offered on a case-by-case decision after meeting with enforcement officers and providing proof of financial need.

The costs associated with Component 3 may include the application/financial statement forms paperwork and staff time to discuss finances and set up payment plans.

Component 4: Application/financial statement information is verified and evaluated to establish an appropriate payment plan.

Best Practice

Litigants are not automatically given time to pay. The litigant is required to complete an application or financial statement that the court analyzes to determine if extra time to pay or an installment payment plan is justified.

Payment plans require the highest payment amounts in the shortest period of time that the litigant can successfully make, considering the amount owed and the litigant's ability to pay.

If the court determines that an installment payment plan is warranted, the litigant is required to sign an installment payment agreement.

For prisoners, the court submits an order to remit prisoner funds (SCAO approved form MC 288) to MDOC for the collection of fines, costs, fees, and assessments pursuant to MCL 769.11.

- 13th Circuit Court Family Division – Grand Traverse County. The court asks parents to complete a financial statement, which is used to help determine monthly payment amounts and when considering reductions to court-ordered financial obligations.
- 16th Circuit Court – Macomb County. The court issues prisoner account sweep orders and has used this practice since 2006.
- 17th Circuit Court – Kent County. MDOC prisoner account sweeps originated with the 17th Circuit Court. Orders to Remit Prisoner Funds are now being used statewide to enforce court-ordered financial obligations.
- 20th Circuit Court – Ottawa County. The court uses an installment payment order which specifies the payment amount and date due, and it requires defendant to keep the court notified of job, income, or residency changes. The order includes information about making the payment by money order, credit card, phone, or online.
- 42nd Circuit Court Family Division – Midland County. The court schedules a financial review meeting with the parent/custodian of the juvenile. The court sends a letter explaining the statutory authority for the reimbursement of cost of care or services and includes a financial statement for the individual to complete and return to the court. The letter includes the name and contact information for the court's financial officer.
- 46th Circuit Court – Crawford, Kalkaska and Otsego counties. The court requires defendant to complete a financial statement and then meet with a collections officer to determine the defendant's financial situation and develop a payment agreement. If the defendant defaults, a wage assignment is entered. In Otsego County, the MC 288 Order to Remit Prisoner Funds is prepared and sent to the prison at the same time the prisoner is lodged.
- 10th District Court – Calhoun County. The court keeps digital records of financial statements/documents, which provides the court with records of ability to pay when

compliance becomes an issue. It allows ability to pay to be a reflection of recent relevant facts instead of based on defendants view of their situation.

- 57th District Court – Allegan County. The court permits defendants to apply for a payment plan and gathers financial information as part of the application process. The court developed a payment options brochure for defendants. It explains the court’s eligibility requirements, payment options, wage assignment options, and what to do in the event an extension is needed. It explains that the court will issue a wage assignment automatically if a payment is late. The brochure provides contact information for the court’s collections department. The court provides payment coupons and preaddressed court envelopes.
- 61st District Court – City of Grand Rapids. The court’s compliance team receives referrals when defendants cannot make a minimum monthly payment amount. The staff has the individual submit proof of income, bills, and a copy of a lease or mortgage; staff will verify contact information. Staff first reviews the information and solicits the person’s input about payment amounts and then a payment amount is set and monitored. The court has the individual sign a payment agreement, which provides that if the person is employed and a payment is missed, the court can automatically effectuate a wage assignment.
- 87A District Court – Otsego County. In cases where the defendant is on probation, the probation officer obtains a financial statement from the defendants and prepares wage assignments on all cases. The wage assignment is held unless and until the probationer fails to make a payment.

The costs associated with Component 4 may include staff time to review financial statements, recommend payment plan amounts and, for prisoners, prepare MDOC sweep orders (MC 288). There is no cost associated with the MC 288 other than postage.

Component 5: Payment alternatives such as community service are available for those who do not have the ability to pay.

Best Practice

Payment alternatives such as community service are not considered unless the litigant is in jeopardy of failing to comply with the court order and has demonstrated that he or she has exercised due diligence in attempting to comply.

Payment alternatives may not be used to satisfy certain required assessments such as restitution, crime victim’s rights assessment, minimum state cost.

The Ability to Pay Report, which includes tools and methods to assist in the court’s determination of a defendant’s ability to pay, is included as Appendix C.

- 13th Circuit Court Family Division – Grand Traverse County. The court makes community service available, when requested, and credits \$10.00 an hour to eligible outstanding balances.
- 37th Circuit Court – Calhoun County. The court has a procedure to approve defendants on probation for felony criminal cases to fulfill nonrestitution financial assessments through community service. Community-service hours are completed under the general

supervision of MDOC. The offset credit for performing community service is the higher of the federal or state minimum wage in effect at the time the services are performed. The MDOC office may maintain a list of eligible community-service opportunities. Written verification of hours shall be provided to MDOC on a monthly basis.

- 8th District Court – Kalamazoo County. The court may order community service work in lieu of payment to assist defendants in satisfying court-ordered financial obligations when there is an inability to pay. Defendants apply for community service and the court reviews the application. The court provides a list of approved agencies where the defendant may perform community service. Hours completed are verified by court staff and credit is applied at the rate of \$8.00 per hour. Community service is not allowed to satisfy restitution, driver's license reinstatement fees, forensic fees, Crime Victim's Rights (CVR), expense recovery fees, cost recovery fees, minimum state costs, or justice system fund.
- 61st District Court – City of Grand Rapids. The court has a voluntary work program for defendants who are unable to afford their monthly payments. The court credits \$10.00 for every hour worked towards a defendant's court-ordered financial obligations. The court requires a liability waiver, and defendants are assigned duties and perform work under the direction of court work crew supervisors on city, county, and Michigan Department of Transportation service contracts with the court.

The costs associated with Component 5 may include judicial time to make ability to pay determinations, staff time to review and verify community service work and costs to create informational community service program literature, such as brochures or pamphlets.

Component 6: Litigants are closely monitored for compliance, and actions such as delinquency notices, costs to compel appearance, and wage assignments are taken promptly for noncompliance.

Best Practice

The court promptly notifies the litigant of delinquency.

The court requires a wage assignment for all litigants who are employed and who are granted an installment payment plan; or when an installment payment plan is granted to a litigant, he or she is required to complete a wage assignment with the understanding that if a payment is missed, the court will immediately send the wage assignment to the employer.

- Isabella County Trial Court – Isabella County. If the court knows where a defendant is employed, then a wage assignment is immediately sent to the employer or a withholding is sent to the Tribe if the defendant is receiving a per capita payment.
- 13th Circuit Court Family Division – Grand Traverse County. The court's collections specialist reviews one third of the bills each month and checks for nonpayment and reviews the status of nonpayment. Every bill is reviewed every three months to monitor compliance. The court also uses wage assignments.
- 28th Circuit Court – Wexford County. The court issues delinquency letters on cases with past due court ordered financial obligations. If the defendant does not respond, the court sets a show cause and then issues a bench warrant if the defendant fails to appear. If the

defendant contacts the court, then the court works with the defendant to establish an income-withholding order.

- 10th District Court – Calhoun County. The court uses notices and show cause orders and has found these to be very effective. Because of the number of unemployed defendants or those that change jobs regularly, the court has found that issuing wage assignments for missed payments is not an effective way to collect. Wage assignments would be issued by a defendant’s request only.
- 47th District Court – City of Farmington Hills. The court issues wage assignments on probation cases that fail to appear for violation hearings and where defendants are employed. Employment information is obtained by the probation staff through completion of an information sheet at either sentencing for nonreporting probation or presentence interview for reporting probation. The court found that payments collected far exceeded the expenses incurred in processing the wage assignments.
- 57th District Court – Allegan County. The court uses wage assignments. A defendant may opt for a wage assignment instead of a payment plan, but the court will issue a wage assignment automatically if a payment-plan payment is late. The court requires documentation for a wage assignment just as it does for a payment plan.
- 61st District Court – City of Grand Rapids. The court’s compliance team initiates payment notices on delinquent tickets. Also, the court automatically issues a wage assignment if a defendant on a payment plan misses a scheduled payment.
- 87A District Court – Otsego County. The court conducts an annual delinquency mailing to those defendants that owe court-ordered financial obligations.

The costs associated with Component 6 may include postage for wage assignments and delinquency notices and staff time to generate notices and determine defendants’ employment information.

Component 7: Submit required receivables and collections reports to the SCAO annually.

Best Practice

The SCAO has established deadlines and standards applicable to the reports required from all circuit courts, circuit court family divisions, district courts, and municipal courts.

See Appendix D for a list of reports and description of information contained in each to assist your court in utilizing the SCAO reports to monitor collections.

The costs associated with Component 7 include staff time to submit the reports to the SCAO.

Component 8: Promptly and consistently use statutorily permitted graduated sanctions such as 20 percent late penalty, costs to compel appearance, show-cause hearings, bench warrants, and/or state income tax garnishment/intercept.

Best Practice

If a litigant fails to respond to initial collections efforts, the court sends an order to show cause that requires the litigant to come into court to explain why he or she has not complied with the court's order to pay the court-ordered assessments. If the litigant fails to appear as ordered, then a warrant for failure to appear is issued for the person's arrest. The bench warrant is issued for failing to appear at the show cause and not for failing to pay.

The court garnishes or intercepts state income tax refunds.

- Isabella County Trial Court – Isabella County. The court began scheduling show-cause hearings two times a week. Normally, 50 to 60 are scheduled at a time. The court has found that defendants call to make payment arrangements or pay in full and has found the show-cause docket to be very successful in the court's overall collections.
- 13th Circuit Court Family Division – Grand Traverse. The court schedules show-cause hearings if there is a failure to pay after 60 days. The show-cause notice instructs the defendant to make a payment or appear. If the defendant does not contact the court to make a payment, the show cause is served by the deputy. Failure to appear at the show cause results in the issuance of a bench warrant for failure to appear. The court also files income tax intercepts.
- 16th Circuit Court – Macomb County. Since 2006, the court has used state income tax garnishment orders. The court has implemented show-cause hearings to handle juvenile collections on any delinquent accounts that appear to have the means to pay in full or establish a payment plan.
- 20th Circuit Court – Ottawa County. The court issues state income tax garnishments annually.
- 26th Circuit Court – Alpena County. Initially, the court, in cooperation with the county clerk, established monthly show-cause hearings against criminal defendants. Currently, the court is using the COLLECT software and monitoring cases monthly. The county sheriff has also done bench-warrant sweeps where the court is on standby to do immediate arraignments. The court has offered an amnesty program, as well. The court has achieved successful collections through regular court hearings, implementation and enforcement of payment plans, driver's license revocations, and similar sanctions.
- 45th Circuit Court – St. Joseph County. MDOC contacts the court when a defendant is nearing the end of probation, and the court will order the defendant to show cause to initiate payment of financial obligations.
- 46th Circuit Court – Otsego County. The court issues state income tax garnishments annually.
- 8th District Court – Kalamazoo County. In 2013, the court collected over half a million dollars from the tax-garnishment process. The court uses state income tax garnishments in cases where there were delinquent payments. The court issues approximately 4,000 tax garnishments each year. They recommend setting criteria to select cases for tax

garnishment. The plaintiff on the tax garnishment is the prosecuting official, so the court obtained the prosecutor's permission for court staff to sign as an agent. The court also schedules show-cause hearings for individuals with more than five unpaid parking tickets in the City of Kalamazoo.

- 10th District Court – Calhoun County. The court promptly schedules show cause hearings for payment plans when the second payment is missed. This allows the court to contact defendants to try to get them in compliance before more issues hinder payment. The court processes tax garnishments for defendants that fail to appear for show cause hearings.
- 47th District Court – City of Farmington Hills. The court utilizes a monthly show-cause docket. The court schedules up to 300 cases to be heard, and the docket takes approximately one to two hours for the judge to process. Not all cases are heard by the judge as the court found approximately 30 percent of those cases contact the court to make payment before the show-cause date. The court has found success with this program because of both judicial and staff involvement. The court also issues state income tax garnishments annually, utilizing the functionality of the COLLECT software.

The costs associated with Component 8 include postage and service fees for notices, judicial and staff time to process a show-cause docket, external costs to law enforcement to serve bench warrants, and filing fees for state income tax garnishments. State income tax garnishments have a postage fee (for the defendant's copy) and a filing fee of \$6.00 (or \$5.00, if filed electronically). It should be noted that the 20 percent late penalty is intended to offset these costs. Some courts have found, with respect to state income tax garnishments that the revenue collected far exceeds the costs and is well worth the efforts trying to enforce court orders.

Component 9: Use of locator services.

Best Practice

The court uses a locator service(s) to help maintain accurate contact information.

See the technology section for a list of locator services to assist your court in obtaining or verifying defendants' contact information.

- 13th Circuit Court Family Division – Grand Traverse County. The court uses post-office inquiries, Offender Tracking Information System (OTIS), the Judicial Data Warehouse (JDW), local court indexes, and the online locator service Accurant to locate payers.
- 28th Circuit Court – Wexford County. The court recently signed up with LexisNexis to assist with locating defendants' addresses.
- 61st District Court – City of Grand Rapids. The court uses the Judicial Data Warehouse and CLEAR databases to assist in tracking down current address information for individuals.

The costs associated with Component 9 include staff time to use the locator service and the cost of the locator service itself. Some locator services are free, while others will charge a fee.

Component 10: Referral to outside agency for collections after all in-house collections efforts are exhausted.

Best Practice

The determination to use a third party for collections should be made on a court-by-court basis. A court must determine at what point in the collections process the court has little hope of collecting the obligation and when the expense of using a third-party collector is justified. For more complex collections cases, the costs of a third-party collector may not be a factor, because after the court's internal collections efforts have failed and the court has deemed the debt to be uncollectible, any money that a third party collects is money that would not have been collected otherwise.

- 16th Circuit Court – Macomb County. The court is using a collections agency as a last resort.

The costs associated with Component 10 include the commission fee that the collections agency will receive and the staff time necessary to maintain good communications with the outside agency to ensure accuracy of records (for example, if the court needs to recall bench warrants when a collections agency receives defendant's payment in full). The commission fees are set by contract and, it should be noted, are negotiable. Courts often refer older debts to collections agencies and keep the newer debts to work in-house. The efforts of the collections agencies may result in payment on files that, if left to internal court staff to pursue, would never materialize due to the age of the debt.

Role of the Court and other Entities in Implementing Best Practices

After reviewing the best practices implemented in courts across Michigan, you may recognize areas for improvement within your collections program. Although the collections model program has been around for several years, there are often changes in staff, administration, and technology that can inspire a court to take a fresh look at its own collections systems or methods.

Before implementing new practices within your court's collections program, it is important to consider your stakeholders and how changes will flow to and from them. Bringing stakeholders into the planning phase of rolling out a new practice will assist with garnering support and buy-in of the new process. Below is a summary of some of the key stakeholders to consider when reviewing the court's collections plan.

Judges

“It is difficult, if not impossible, for any court to develop a process for improving collections without the support and leadership of local judges”.¹ Judges should be involved in the development of strategies and processes for improving collections, as recommended by the National Center for State Courts (NCSC). Judges set an example for collecting fines and fees. At different points within a case, the judge may be faced with collections issues. At sentencing, the judge may order fines, costs, and assessments. If a defendant fails to comply with the order, the judge may see the defendant again at a show-cause or probation violation hearing and needs to determine if there is an ability to pay the court-ordered financial obligations. Judges may need to determine if a debt should be discharged or if community service is a feasible option for the defendant to satisfy his obligations. The NCSC observed that, after reviewing collections programs across the country, “a collection program cannot be successful without strong, consistent support from the bench.”

It is important that all judges in a court understand its collections program and the resources available to the bench to facilitate compliance with court orders. For example, collections staff may be available to assist the judge with securing financial backgrounds to help with the determination of ability to pay. Or the staff might assist with assessing proper payment plans so that the judge does not need to conduct this discussion with the defendant from the bench.

Court Administrator

Court administration involvement in carrying out new practices is essential. Communication with administration about the status of current collections practices is an important starting point. Administration can assess where its collections program currently stands and what best practices will fit with or flow from already-existing procedures. Administration is tasked with taking the overall concept and breaking it down into the pieces that must be accomplished to make it happen. It is through administration that staff will connect the big-picture ideas that the court is embracing to the procedural details of the new processes.

Staff

Court staff is key to any new court initiative. Buy-in is critical to the success of the collections program. People tend to support what they help plan and implement. Bringing staff into the

¹ National Center for State Courts. Current Practices in Collection Fines and Fees in State Courts: A Handbook of Collection Issues and Solutions, Second Edition. 2009.

planning phase will often result in a highly detailed discussion, and sometimes dissection, of the new initiative. Sometimes discussions may focus on small details and it is important to remember that staff is often the front line for carrying out the court's collections practices. A thorough understanding of any new process or system is critical to their daily job responsibilities.

When considering selection of staff to improve the court's collections efforts, the NCSC recommends that the employees assigned have the temperament to work with an often difficult population and that staff members are on point with messaging regarding the expectation of payment, while acknowledging that some individuals will require time to pay.

Probation staff may also provide fresh input into new collections processes. "Given their authority to punish a defendant who fails to comply with probation terms, probation staff can be highly successful in this area."² Involving the probation department in collections planning and development could lead to additional enforcement of court orders.

Attorneys

Communication to the local bar can assist in reinforcing the message that the court will enforce its orders. If the court is undertaking a new collections practice, for example a show-cause docket, attorneys can share this information with their clients so the clients are aware of this enforcement mechanism. The attorney-client discussions may also lead to conversations as to how the defendant will comply with the court's order and perhaps prompt counsel to seek payment plans or alternatives such as community service to satisfy financial obligations, if found to be appropriate by the court. Knowledge that the court will seek to enforce its orders will set the stage for a defendant's compliance. For example, if a defendant has been told by the court and his counsel that payment is due at the time of assessment, the defendant knows what to expect and can plan appropriately.

Other Partners

Involving the court's case management system vendor is essential. Engaging in discussions with the case management system vendor can determine if the court is maximizing its case management system. The vendor can provide data resources that the court may already have in its possession but does not currently use. Further, the vendor can determine if the new practices a court wants to undertake will require programming changes. Collections agencies may be partners with courts seeking to enhance collections efforts. Agencies may find success pursuing files that the court does not have the resources to work.

² National Center for State Courts. Current Practices in Collection Fines and Fees in State Courts: A Handbook of Collection Issues and Solutions, Second Edition. 2009.

Technology Associated with Best Practices

To assist courts with the collection of fines, fees, costs, and restitution, the State Court Administrative Office (SCAO) offers COLLECT. COLLECT is a software application that integrates with Judicial Information Systems' (JIS) district and circuit court case management information systems. This integration allows for data sharing across systems. For example, entries in the COLLECT system update the Register of Actions in the JIS systems. With COLLECT, courts can create payment plans and view the history of payments made, generate orders on SCAO-approved court forms, and notify defendants of outstanding balances to name just a few features. COLLECT also allows users to generate more than a dozen preprogrammed reports including lists of cases with balances due, detail and summary views of money collected, and lists of cases with payment plans set to expire within a selected number of days. For additional information, send your court number, contact name, phone number, and e-mail address to: collections@courts.mi.gov. Include "COLLECT Info Request" in the subject line of your e-mail.

Unlike district and circuit court, JIS's Trial Court System (TCS) for case management has a built in collections function. TCS provides courts with a complete accounting system that includes accounts receivable, accounts payable, budgeting, and other mandated and nonmandated reporting functions. Courts are able to generate cash receipts, account for joint and several restitution, voucher for payment of attorney fees, and more.

Locator Services

A locator service is a means of identifying current addresses and contact information for individuals for which the court no longer has accurate records. While SCAO does not recommend or certify any specific locator service, there are several that have been used by courts. Some of these services charge a fee, while others do not. Many of the services are electronic databases, accessible through the internet, that allow search parameters to be chosen to assist in identifying contact information for individuals.

Michigan-specific locator options include:

- Judicial Data Warehouse Name Search Application is a web-based application that allows users to retrieve court history on an individual by name, social security number, State Identification Number, or driver's license number. (<https://nsa.courts.michigan.gov/nsa/Login.aspx>)
- MDOC Offender Tracking Information System is a web-based application that displays information for individuals who have been under the jurisdiction or supervision of MDOC within the last three years. (<http://mdocweb.state.mi.us/OTIS2/otis2.html>)

National locator options include:

- TransUnion (www.tlo.com)
- LexisNexis (www.accurint.com)
- Switchboard (www.switchboard.com)
- Zabasearch (www.zabasearch.com)
- Whitepages (www.whitepages.com)

For business locator information:

- Yellowpages (www.yellowpages.com)
- Department of Licensing and Regulatory Affairs (www.michigan.gov/corporations)

- Under Quick Link (right hand side), click on “Business Entity Search”.
- Better Business Bureau (www.bbb.com)

Federal Case and Docket Information

Public Access to Court Electronic Records (PACER) is an online database that allows users to obtain case and docket information from federal appellate, district, and bankruptcy courts. PACER Case Locator is used for conducting nationwide searches to determine whether or not a party is involved in federal litigation. The website is user friendly and includes a training site and manual to assist in quickly accessing information. (<https://www.pacer.gov>)

Autodialers

In instances where a court has defendants’ contact information and would like to save time in making telephone calls, autodialing services may offer a solution. Many autodialing services are available by subscription rather than purchase, enabling the court to test the service without the commitment of buying a system. Autodialing services allow collections staff to either record a message or to use prerecorded electronic messages that play when the service has dialed a telephone number and detected that the call has been answered. The service can be customized to pronounce the defendants’ names to personalize the call. If the court has an online payment system, the autodialer can provide instructions regarding how to make online payments. Most autodialer services include a report function that identifies the number of contacts that were attempted and the number that were successful. Though not required, courts may consider obtaining consent from the individual authorizing the court to communicate with the individual by auto-telephone or text systems.

- 51st District Court – City of Waterford. The court has had success using the mass notification system, Blackboard Connect. The special programs coordinator uploads a Microsoft Excel file with the contact information of the individuals being contacted. Then, by calling a 1-800 phone number, she records a message that is played when the defendant answers the call. The recorded message can be saved as a template and reused in the future. The service also allows for text and e-mail contacts, if desired. When a message is sent to individuals in the Microsoft Excel file, results are returned. In a recent example, Waterford obtained a 97 percent success rate in contacting the individuals who owed court ordered financial obligations.

Payment Kiosks

Payment kiosks offer a solution to accept credit card and cash payments while freeing court or collections staff time. Payment kiosks are typically located in public central areas of the court and allow defendants to make payments during normal business hours.

- 36th District Court – City of Detroit. The court installed four payment kiosks to allow people to make payments for civil infractions without assistance from court staff. Adding the kiosks to the courts has allowed the court to accept more payments and cut down the payment lines. The kiosks were provided by Global Tel Link.
- 3rd Circuit Court – Wayne County. The court has payment kiosks located in its criminal, juvenile and the K-Mack building and online payments are available. The kiosks were installed in February of 2014. The court has seen an increase in remote payments, though it hasn’t identified if one form of technology is preferred over another.

Emerging Technology in Michigan's Courts

Michigan courts are actively exploring new technology to enhance collections efforts. Below are examples of emerging technology from across the state.

- 61st District Court – City of Grand Rapids. The court is in the process of implementing a postcard system where, prior to a bench warrant being issued, defendants are mailed post cards advising them they have a final opportunity to resolve their cases. The court is working with *Court Innovations* to develop this process.
- 60th District Court – Muskegon County. The court has integrated a QR code onto its collections notices. The court's IT specialist created the QR code using a free website that will turn any web page address into a QR code. Then, DMC Technology Group, Inc. (the COLLECT software developers) made a programming change so that the code shows up on documents when the collection notices are printed. Recipients of the notices may then scan the code with a smartphone and it will direct the user to the court's payment website.

Staffing/Central Oversight Needs

Staffing

Improving collections ensures compliance with court orders, thereby increasing public trust and confidence in the judicial system. The enforcement of court-ordered financial obligations is as important to the integrity of the court as the enforcement of any other sentence or judgment. Additionally, it teaches litigants responsibility and discourages further illegal or unsanctioned activity. Court staffing is the primary factor when determining how a court should be involved in collections and enforcing the court's orders. Details regarding staffing may be found in Component 1 of the Collections Program Requirements. The following are some staffing best practices to consider.

Initial Considerations

The court should clearly identify and define in a written policy the roles and responsibilities of the various personnel involved in the collections process. In addition, the court should hold meetings at least semiannually with these personnel to update roles, responsibilities, and collections processes. The clear designation of staff responsibilities helps ensure that collections efforts are coordinated from assessment through enforcement. Personnel involved in collections include the court administrator, cashiers, collections staff, court clerks, court/collections officers, and judges. The chief judge should meet with all personnel involved with the collections process at the earliest opportunity to define the roles and responsibilities of each group and discuss how these groups can work together to enforce the court's orders.

The court should also develop written policies and procedures to assist staff in properly monitoring and enforcing court receivables. Written procedures establish a consistent method of processing cases and are an important training tool for newly hired, transferred, or promoted employees, and for staff undergoing cross training. Written procedures also encourage uniformity of practice within a court, and may be useful in establishing performance standards. Until a procedures manual is developed, each employee should maintain and routinely update a desk manual that contains policy directives, meeting minutes, and documents relevant to the tasks performed by that position.

Forming a Specialized Collections Program

Once the court has agreed on the policies and procedures of the collections program, staff must then begin to carry out the daily work. The clerk's office staff may feel they are too busy to take on collections efforts or feel uncomfortable in the role of a "collections agent." For these reasons, formation of a collections unit is a beneficial approach. Having a specialized collections staff or unit ensures that adequate time will be devoted to collections and that staff have the inclination and experience to handle a stressful caseload.

If a court decides to form a collections unit,³ court leaders may advertise internally and externally for collection-oriented staff. These positions can be full- or part-time depending on the court's budget.

³ If a court decides to form a collections unit or assign collections activities to a select few personnel, please feel free to contact the State Court Administrative Office-Collections for additional assistance and if requested, to coordinate opportunities to visit a collections counterpart of a nearby county.

If hiring a collection officer is not an option, assigning collections activities to a single member or a select few personnel of the clerical staff has several advantages.³ Having one or two staff members in charge of the collections activities helps ensure that there is consistency in processing extension requests, creating payment plans, handling delinquent accounts, and preparing enforcement proceedings when found to be necessary. It is important that the individual handling collections has the temperament to work well with an often difficult group of individuals. The court may consider having its probation staff assist its collections unit with enforcement of court ordered financial obligations.

Without dedicated staff, collections activities tend to be neglected or ignored. Cases are not continuously monitored to ensure payments are made, phone calls and notices to delinquent litigants are not timely, and a large backlog of uncollected cases develops. Each court should have, at minimum, one staff person who dedicates time to collections activities. A collections program and dedicated collections staff demonstrates that collecting court-ordered financial obligations is a priority for the court.

Provide Education and Training

Once the court makes the decision to pursue collections more actively, the court must provide education and training to staff. If the court atmosphere is to convey the expectation of payment, then all staff will need to relay that message. The message must be the same across the board. Additionally, the court will need policies in place that are understood and consistently followed.

It is important that court staff is trained to understand that collection of court-ordered financial obligations is a full-court effort. It is recommended that courts conduct regular meetings with staff to continually involve them in the collections process and train staff to verify contact information every time communication is made with a litigant. This ensures that the court is working with the most up-to-date information. Staff in all areas, criminal, family division, and civil, require training on collections efforts to be aware of litigants with outstanding financial obligations and to relay potentially useful information to the designated collections personnel.

Resources to assist courts develop practices, policy guidelines, and training are available through the National Center for State Courts, CourTools, the Government Revenue Collection Association, and the State Court Administrative Office.

References

Subject	Statutory Authority
Allocation of Payments	MCL 712A.18m , 712A.29 , 765.15 , 769.1j , 771.3c , 775.22 , 780.66 , 780.67 , 780.766a , 780.794a , 780.826a , 780.905 , 791.225a , 791.236a
Attorney Fees	MCL 712A.18 , 769.1 , 769.1k
Bench Warrant	MCL 257.908 , 324.40119 , 600.8729 , 600.8829
Bond	MCL 765.6 , 765.15 , 780.64 , 780.66 , 780.67
Bond Application	MCL 765.6c , 765.15 , 769.1j , 780.66 , 780.67 , 780.905
Bond Forfeiture	MCL 765.15 , 765.28 , 780.66 , 780.67
Civil Infractions	MCL 257.629c , 257.748 , 257.907 , 257.908
Collections	MCL 12.131 et seq. , 600.4801 et seq. , 769.1k
Collections by Juvenile Facilities	MCL 780.796b
Collections by Michigan Department of Corrections	MCL 769.1l , 780.767a , 780.796b , 791.220h
Collections by Sheriff	MCL 780.767a , 780.796b , 780.830a
Community Service, Reimbursement	MCL 257.625
Conditional Sentence	MCL 769.3 , 769.4
Contempt	MCL 257.908 , 324.40119 , 600.1701 , 600.8729 , 600.8829
Cost of Care or Service	MCL 712A.18 , 769.1
Costs to Compel Appearance	MCL 257.729 , 600.8735 , 600.8835 , 769.1k
Crime Victim's Rights Assessment	MCL 771.3 , 780.905 , 791.236 , 791.240a
Debt Referral	MCL 12.131 et seq.
Default Judgment	MCL 257.748 , 600.8723 , 600.8823
Deferred Payment	MCL 257.907 , 324.40119 , 324.48740 , 600.8727 , 600.8827 , 712A.30 , 769.1a , 769.1f , 769.3 , 771.3 , 780.766 , 780.794 , 780.826
Driver's License Hold	MCL 257.321a , 600.8827
Driver's License Reinstatement	MCL 257.321a , 600.8827
Driver's License Suspension	MCL 257.321a , 257.748 , 257.907
Enforcement	MCL 257.907 , 324.40119 , 324.48740 , 600.4805 , 600.4815 , 600.8727 , 600.8731 , 600.8733 , 600.8827 , 712A.30 , 769.1a , 769.1f , 769.4 , 771.3 , 771.4 , 780.66 , 780.766 , 780.794 , 780.826 , 791.240a
Failure to Appear	MCL 257.321a , 257.748 , 600.8723 , 600.8823 , 600.8827

Failure to Comply with Judgment	MCL 257.321a , 257.907 , 600.8727 , 600.8827
Failure to Pay	MCL 257.907 , 257.908 , 324.40119 , 324.48740 , 600.4803 , 600.8727 , 600.8729 , 600.8731 , 600.8733 , 600.8827 , 600.8829 , 769.3
Fees: Driver's License Reinstatement Fee Judgment Fee, Game and Fish No Proof of Insurance Fee Supervision Twenty Percent Late Fee	MCL 257.321a , 600.8827 MCL 324.1609 MCL 257.328 MCL 771.1 , 771.3 , 771.3c , 791.225a , 791.236 , 791.236a MCL 600.4803
Felony	MCL 750.503 , 769.1a , 771.1
Fines and Costs	MCL 257.601b , 257.625 , 257.629c , 257.724 , 257.907 , 257.909 , 600.8375 , 600.8379 , 600.8381 , 600.8727 , 600.8831 , 712A.18 , 712A.18m , 750.503 , 750.504 , 769.1k , 769.3 , 769.34 , 771.3 , 774.22 , 791.236
Forfeitures – Value of Fish	MCL 324.48740
Forfeitures – Value of Game	MCL 324.40119
Garnishment – State Income Tax	MCL 600.4061 , 600.4061a
Immediate Payment	MCL 257.907 , 257.908 , 324.40119 , 324.48740 , 600.8727 , 600.8729 , 600.8827 , 600.8829 , 712A.30 , 769.1a , 769.1f , 771.3 , 780.766 , 780.794 , 780.826
Installment Payments	MCL 257.907 , 324.40119 , 324.48740 , 600.8727 , 600.8827 , 712A.30 , 769.1a , 769.1f , 769.3 , 771.3 , 780.766 , 780.794 , 780.826
Intercept Tax Refunds	MCL 712A.18 , 769.1
Jail in Lieu of Payment	MCL 257.908 , 600.8729 , 600.8829
Judgment Fee, Game and Fish	MCL 324.1609
Justice System Assessment	MCL 257.907 , 600.8727 , 600.8827
Juveniles	MCL 712A.18 , 712A.18m , 712A.29 , 712A.30 , 712A.31 , 769.1 , 780.766 , 780.794 , 780.794a , 780.795 , 780.796b
Late Fee	MCL 600.4803
Minimum State Cost	MCL 600.8381 , 712A.18 , 712A.18m , 769.1j , 769.1k , 771.3 , 791.236
Misdemeanor	MCL 750.504 , 769.1a , 771.1 , 780.826
Municipal Civil Infractions	MCL 600.8727 , 600.8729 , 600.8731 , 600.8735

No Proof of Insurance Fee	MCL 257.328
Nonpayment	MCL 257.908 , 600.1701 , 600.8729 , 600.8829
Order to Remit Prisoner Funds	MCL 769.1l
Overpayments	MCL 769.1k
Overweight Trucks	MCL 257.724
Parking	MCL 257.321a
Parole	MCL 791.236 , 791.236a , 791.240a
Priority of Payments	MCL 712A.18m , 712A.29 , 765.15 , 769.1j , 771.3c , 775.22 , 780.66 , 780.67 , 780.766a , 780.794a , 780.826a , 780.905 , 791.225a , 791.236a
Probation	MCL 769.3 , 712A.18 , 771.1 , 771.3 , 771.3c , 771.4 , 791.225a
Prosecutor as Collector	MCL 257.724 , 600.4831 , 780.67
Reimbursement: Community Service Cost of Care or Service Governmental Entity	MCL 257.625 MCL 712A.18 , 769.1 MCL 750.543x , 769.1f , 769.1k
Restitution	MCL 712A.18 , 712A.30 , 712A.31 , 750.543x , 769.1a , 769.3 , 769.34 , 771.3 , 780.766 , 780.767 , 780.767a , 780.794 , 780.795 , 780.796b , 780.826 , 780.830a , 791.220h , 791.236 , 791.240a
Show Cause	MCL 257.908 , 324.40119 , 600.8729 , 600.8829
State Civil Infractions	MCL 600.8827 , 600.8829 , 600.8835
Supervision Fee	MCL 771.1 , 771.3 , 771.3c , 791.225a , 791.236 , 791.236a
Sweep Orders	MCL 769.1l
Tax Garnishment	MCL 600.4061 , 600.4061a
Tax Intercept Debt Referral Program Juveniles	MCL 12.131 et seq. MCL 712A.18 , 769.1
Trailway Municipal Civil Infractions	MCL 600.8733
Twenty Percent Late Fee	MCL 600.4803
Wage Assignments	MCL 769.1k , 771.3 , 780.766 , 780.794 , 780.826
Statutes may be found on the Michigan Legislature Website .	

Subject	Court Rule
Attorney Fees	MCR 6.005
Bench Warrant	MCR 3.606 , 6.445
Bond	MCR 3.606 , 4.101 , 6.106
Bond Forfeiture	MCR 6.106
Civil Infractions	MCR 4.101
Collections	MCR 3.605
Contempt	MCR 3.606
Default Judgment	MCR 4.101
Enforcement	MCR 6.106 , 6.445
Failure to Appear	MCR 4.101
Failure to Comply with Judgment	MCR 4.101
Failure to Pay	MCR 4.101
Fees: NSF Check	MCR 8.106
Fines and Costs	MCR 4.101
Immediate Payment	MCR 1.110
Interest Earned	MCR 8.106
Municipal Civil Infractions	MCR 4.101
NSF Check Fee	MCR 8.106
Parking	MCR 4.101
Probation	MCR 6.445
Prosecutor as Collector	MCR 3.605
Show Cause	MCR 3.606
Court Rules may be found on the Michigan Courts Website .	

Additional Resources:

- Administrative Order 2010-1: Compliance with Trial Court Collections Program and Reporting Requirements:
<http://courts.mi.gov/Courts/MichiganSupremeCourt/rules/Documents/Administrative%20Orders.pdf>
- Ability to Pay Report:
<http://courts.mi.gov/Administration/SCAO/Resources/Documents/Publications/Reports/AbilityToPay.pdf>

Implementation Action Plans

Sample Procedures from Juvenile, Circuit and District

- See Appendix E.

Quick Reference for Court Collections Programs

- See Appendix F.

Thinking of Consolidating Collections Programs? What to Consider.

- See Appendix G.

Resources

State Court Administrative Office

- *Trial Court Collections Web Page*
<http://courts.mi.gov/Administration/admin/op/TCC/Pages/default.aspx>
- *Trial Court Performance Measures Web Page*
<http://courts.mi.gov/administration/admin/op/performance/pages/default.aspx>
- *Trial Court Directory*
<http://courts.mi.gov/self-help/directories/pages/trial-court-directory.aspx>

National Center for State Courts

- *Current Practices in Collecting Fines and Fees in State Courts: A Handbook of Collection Issues and Solutions. Second Edition. 2009.*
<http://cdm16501.contentdm.oclc.org/cdm/ref/collection/financial/id/151>
- *CourTools*
<http://www.courtools.org/>
- *CourTools Collection of Monetary Penalties*
http://www.courtools.org/~media/Microsites/Files/CourTools/courtools_Trial_measure7_Collections_Of_Monetary_Penalties.ashx

Government Revenue Collection Association

- <http://govcollect.org/>

Appendices

Appendix A:	<u>Collections Components and Details</u>
Appendix B:	<u>COLLECT Software Information</u>
Appendix C:	<u>Ability to Pay Report</u>
Appendix D:	<u>Collections Data System Report Descriptions</u>
Appendix E:	<u>Sample Procedures from Juvenile, Circuit and District Court</u>
Appendix F:	<u>Quick Reference for Court Collections Programs</u>
Appendix G:	<u>Thinking of Consolidating Collections Programs? What to Consider.</u>