

# TRIAL COURT COLLECTIONS STANDARDS & GUIDELINES



**MICHIGAN SUPREME COURT**  
State Court Administrative Office

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## I.1 OVERVIEW

These standards and guidelines are intended to assist judges, court administrators, and staff in designing and implementing successful collections programs. Since courts deal with diverse collections situations, some standards may have limited application in certain cases. The State Court Administrative Office (SCAO) is available to assist courts in implementing collections programs.

The Trial Court Collections Standards & Guidelines are the result of an ongoing effort to help Michigan's trial courts enforce financial sanctions and maximize collections of costs and reimbursements. They are intended to help courts implement collections plans and evaluate their existing collections efforts. A commitment to improve court collections will improve the credibility and integrity of the court and, at the same time, increase revenue for the recipients of these funds. The implementation of these standards is consistent with the fundamental values of **effectiveness** and **accountability** adopted by the Michigan Supreme Court.<sup>1</sup>

The standards are presented in categories that represent different phases of the collections continuum. **Assessment** standards (Section 1.2) concern activities that are performed on the front end of the collections process when financial sanctions are imposed. These standards, in particular, affect the activities of judicial officers. Standards for the **enforcement** of financial judgments and orders are detailed in Section 1.3. **Administrative** standards (Section 1.4) address court policies and practices for collections management. Data standards and functionality requirements for both automated and manual courts are covered under **information systems** standards (Section 1.5). Finally, collections processes in the courts, by type of case, are detailed in Section 1.6.

These standards are based on successful efforts within Michigan and in other states, available research data, and input received from the Michigan Supreme Court Collections Advisory Committee, Michigan trial judges, and court staff during a series of focus group meetings. Chief judges, clerks, and administrators are encouraged to work with local funding authorities to foster mutual understanding of collections issues and seek funding unit support to implement these standards. As with all standards or guidelines, periodic updates will be necessary.

SCAO also maintains a [trial court collections website](#) that includes information on best practices, collections-related forms, legal references, data standards, collections policy guidelines, tips and ideas for successful collections, and other collections-related items.

## I.2 COLLECTIONS PROGRAM GOALS

Court collections programs should be designed with several goals in mind:

- To hold defendants accountable for their actions
- To improve the enforcement of court judgments
- To reduce judicial and clerical efforts required to collect court-ordered financial obligations
- To ensure prompt disbursement of court collections to receiving agencies and individuals
- To achieve timely case processing

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<sup>1</sup> *Charting the Course for Michigan Justice, A Report to the Michigan Supreme Court, May 30, 1995*, pg. 13

## 1.1 DEFINITIONS AND CONCEPTS

The Trial Court Collections Standards & Guidelines represent a uniform method of managing and collecting money ordered to be paid by the court. These standards and guidelines are built upon certain terms and concepts that also must be uniformly applied. The following terms will be used throughout these standards and guidelines:

- **Debt**  
Debts are fines, fees, costs, assessments, restitution, or reimbursements ordered by and payable to the court that arise from the adjudication of a case or otherwise provided for by statute. A case can result in multiple debts; for example, a case may result in imposition of a fine, a fee, court costs, etc. Each debt has a status (see 1.1.1 Debt Status).
- **Account**  
An account is an individual's or legal entity's court debts. Each account has a status that is determined by the status of the account's component debts.
- **Receivable**  
A debt that is owed to the court.
- **Discharge or waiver**  
An act of a judicial officer or authorized court employee to forgive a debt.
- **Discharged debt**  
A debt for which a court has decided to permanently forego collections activity.

### 1.1.1 Debt Status

Debt status is determined by the extent to which the debt has not been satisfied in a timely manner. A debt may be one of the following:

- **Current**  
A debt that has been imposed for which the due date has not passed.
- **Past due**  
A debt that remains unsatisfied after its due date. Past-due debt may be:
  - **Active**  
Debt that the court is currently attempting to collect.
  - **Inactive**  
Debt for which the court has decided to forego collections activity temporarily or indefinitely.

## 1.2 COLLECTIONS PRACTICES - ASSESSMENT PHASE

Using sound practices during the assessment phase is critical to achieving high levels of compliance with monetary sanctions. The effort required to collect money ordered by the court after the assessment phase is time consuming and costly. Creating the expectation that litigants will be required to fulfill their financial obligations, and enforcing [MCR 1.110](#), increases the probability of successful compliance and diminishes the need for subsequent enforcement action.

1. **Courts should instill in the public (in accordance with [MCR 1.110](#)) the expectation that payment is due at the time of assessment, except when otherwise allowed by a judge or judicial officer for good cause.**

Given the option, most individuals will defer payment of court obligations regardless of their financial situation. Courts should notify litigants that extensions are granted only if the litigant can demonstrate the need for an extension. Courts should work with members of the local bar to notify clients prior to assessment of the court's expectation of prompt payment.

Requests for additional time to pay should be initiated by the litigant, not by the court. (Also see Standard 1.4, item 7 relating to the ability of staff to grant extensions or installment arrangements.) The court should employ the following practices:

- Inform litigants from the bench at the initial hearing or pretrial that payment is due upon assessment
- Print [MCR 1.110](#) on Notices to Appear
- Advise defendants at probation screening of the date payment is expected and the amount of the expected payment
- Ensure that court personnel notify litigants at all court appearances when payment is expected

**2. Financial penalties should be assessed based on the litigant's financial situation and ability to pay.**

In situations in which the court has discretion to set the amount of a financial penalty or reimbursement, the total penalty should be consistent with both the nature of the action and the individual's ability to pay. Reasonable financial sanctions are more likely to be enforced than those that are assessed without considering the litigant's financial circumstances.

**3. The court should require a litigant to provide financial information to support the need for deferred payment.**

Prior to granting a request for additional time to pay, or as a condition of the request, the court should require the litigant to provide a sworn statement of financial status. The statement should be made in writing or on the record. The court should also require additional information that will assist it if the payer defaults. The litigant should be notified that the information may be verified by the court. See SCA0-Approved form [MC287](#), Financial Statement, that details the litigant's financial status.

**4. The court should estimate a litigant's financial situation as part of the presentence investigation report.**

Courts that determine a litigant's ability to pay court assessments report greater success in collection of those assessments. For judges to be able to order penalties appropriately, they must have information about the litigant's financial status prior to sentencing. Probation staff should review a litigant's financial situation as part of the presentence investigation, and should include an assessment of the litigant's ability to pay.

**5. When installment payments are allowed, litigants should be notified at the time of assessment of the amount due and due dates.**

The court should ensure that before a litigant leaves the court, he or she understands the terms of the payment plan. A payment plan should be printed and reviewed with the litigant. It is advisable to collect a portion of the amount due on the day of sentencing or judgment.

**6. Payment schedules should be as short as possible and the number of installments kept to a minimum.**

For civil infractions, a payment plan should not exceed 30 days. For misdemeanor and felony cases, payment plans should incorporate a maximum period of time to pay in full, depending on the case type and/or the amount assessed.

The likelihood of payment default increases with the complexity and length of the installment period. To simplify management, and to reduce the probability of noncompliance, payments should be set at regular intervals and the total period should be as short as possible for those cases in which there is a demonstrated need for time to pay. If time to pay is granted for financial penalties and reimbursements of \$100 or less, only one payment due date should be allowed. Courts should also analyze the court's cost to collect and process an installment payment, and should not permit installment plans for payments below this amount. This will ensure that the court is not spending more to collect a payment than it is receiving.

**7. When financial penalties are assessed and payment is deferred, appropriate sanctions should be imposed and suspended pending compliance.**

The court should impose an additional suspended sanction in conjunction with large financial judgments to convey the importance of compliance and the expectation that the court will enforce the judgment. A suspended sanction should also be reasonable and one that will actually be enforced.

**8. The court should inform litigants of the consequences of nonpayment.**

When payment obligations are deferred, litigants should be advised on the record and in writing of the consequences of nonpayment. This information can be built into payment schedule forms, but should also be brought to the attention of the litigant at the time of assessment. The court should make it clear to the litigant that enforcement action will be taken if warranted. The litigant should also be advised of what he/she must do if the payment schedule cannot be met.

**9. Courts should provide public notice of payment policies and fixed-fine schedules.**

If the court has fixed penalties and reimbursements, these amounts should be posted when required, provided upon request, and/or included in court documents, along with the consequences of noncompliance. Fines and cost schedules should be made available to the public by various means: posting them on the court's website, posting in the courthouse, etc. Advance notification will reduce the number of inquiries to staff for this information, and will make litigants more aware of the consequences of noncompliance.

**10. Filing fees should be collected at the time of filing.**

Filing fees may be waived or deferred upon a proper showing of indigence. Courts should otherwise require payment of fees as required by statute before accepting filings.

**1.3 COLLECTIONS PRACTICES - ENFORCEMENT PHASE**

There are numerous ways for courts to enforce financial judgments. Collections research has demonstrated that enforcement action that is applied in a consistent and timely manner produces the best compliance. The type of enforcement action that is most appropriate depends on a variety of factors. In many cases, the least costly and least complicated methods have the potential to yield the best returns. Courts are encouraged to replicate successful programs used in other jurisdictions and be prepared to evaluate their own efforts to arrive at the right mix of responses. [Best practices](#) can be found on the trial court collections website.

**1. Courts should promptly impose appropriate penalties and sanctions for noncompliance with judgments as required by law.**

Periodic internal audits will help ensure that systems are working properly and that staff are following statutory and court rule requirements. These requirements should be included in the court's collections policy and covered in training programs for collections staff.

**2. Courts should promptly notify payors of delinquency.**

Prompt notification conveys to the payor that the court is serious about compliance and reduces the chance that the court will lose contact with the payor. With good information systems in place, court staff will have delinquency information immediately available and can take appropriate measures to notify the payor.

**3. Courts should establish a time standard for initiating enforcement action when a debt becomes past due.**

When a payor fails to pay by the due date, it may be appropriate to briefly delay enforcement action to allow for delays in mail or internal processing. A consistent time standard should be adopted by the court that allows for these variables, but is not so lengthy as to diminish the effectiveness of enforcement. A delay of not more than 14 days is recommended.

**4. When the court establishes that an individual is financially unable to meet all or part of his or her financial obligation after making a good faith effort to do so, the court may impose an alternative sanction as allowed by law.**

In certain circumstances, a debt will not be collectible due to changes in the payor's financial circumstances. In these situations, the court may choose to impose an alternative sentence, such as community service. The exceptions that the court should clarify must be paid are minimum state costs, the crime victims rights assessment, and restitution, all of which cannot be waived<sup>2</sup> by the court. When an alternative sanction replaces the financial sanction, the original obligation should be removed from the court's accounts in the same manner as debts that are waived or discharged.

**5. Progressive responses should be applied by the court for noncompliance.**

A number of studies have demonstrated that cost-effective collections programs feature a prompt and graduated response to noncompliance. In many instances, the least coercive methods, such as sending postcard reminder notices, are not only the least expensive enforcement mechanism, but also the most effective in terms of response. Examples of graduated responses (from least to most coercive) include:

- Noticing
- Phone contact
- Imposition of late fees and costs to compel appearance
- Order to remit prisoner funds
- Working with other state licensing agencies
- Show cause hearing
- Involuntary wage/bank account assignment
- Civil execution
- Bench warrant

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<sup>2</sup> A probationer not in willful default of payment may petition the court for remission of any unpaid portion of minimum state cost, pursuant to MCL 771.3(6)(b).

**6. The court should employ a variety of responses to compel compliance. They should be appropriate to the circumstances of the noncompliance.**

Studies have shown that the most effective collections programs employ a variety of collections methods that are appropriate to the type of debt being collected, the offender population, and the information available to the court. Courts should evaluate various collections methods to develop a mix of responses that are most efficient and effective.

**7. Individuals should be notified that failure to pay a scheduled amount on the due date will require an appearance at the court to offer an explanation.**

The court should anticipate that some individuals will not make payments on the scheduled due date, and should provide a mechanism for the payor to address the court as to his or her reason for noncompliance. A payor should be required to contact court staff before a payment plan is modified. Failure to do so should initiate collections action and the imposition of additional penalties as authorized by statute; for example, a 20 percent late penalty or costs to compel appearance.

**8. Penalties for noncompliance should be imposed uniformly.**

Although courts have discretion in using a variety of responses, these methods should be applied consistently and in accordance with the law.

**9. Courts should consider the feasibility of using third parties to enforce collections, including private companies, the Department of Treasury, and other funding unit departments.**

In some instances, third-party agencies may be effective in collecting outstanding debts. Courts should evaluate the costs of third-party intervention against the projected collections to determine the feasibility of using these services, including changes in procedures and internal systems that would be required. When considering private vendors, courts should check references and independently evaluate the vendor's collections experience.

**10. Courts should develop systems for monitoring the incarceration status of criminal defendants when financial sanctions are imposed.**

When a defendant is incarcerated and a financial penalty is imposed, or when the defendant is incarcerated for other reasons, the defendant's debts may be moved to inactive status, and collections activities suspended until release. An exception is when funds can be collected from the defendant's prisoner account. Courts should have a system to determine when the debt should be reactivated.

**11. When a payor is in bankruptcy, courts should be prepared to suspend enforcement action and monitor the status of the bankruptcy case.**

When a litigant notifies the court that he or she has filed for bankruptcy, the court may be required to suspend collections actions. In such a case, the payor's debts should be considered inactive. The bankruptcy proceedings should be monitored, and the court should return the debt to active status or discharge it, depending on the outcome.

## 1.4 COLLECTIONS ADMINISTRATION

Chief judges, clerks, and administrators should take a leadership role in collections by adopting policies and procedures for judicial officers and staff to follow, providing training to staff involved in the collections process, evaluating collections activities to measure their effectiveness, and coordinating collections efforts with other courts and agencies. Administering an effective collections program includes the following provisions:

**1. The chief judge should designate an individual, or individuals, who will have primary responsibility for collections administration and management.**

Effective collections management requires oversight and planning. Because various individuals have responsibility for portions of the collections process, it is essential that the process be coordinated.

Consider convening a local collections coordinating committee consisting of judges, probation personnel from all courts (circuit, district, family), court administration, magistrates, referees, collections personnel, county clerks, prosecutors, law enforcement, jail administrators, county board members, community corrections staff, and friends of the court. The committee's function would be to enhance communication and define and delegate collections duties.

**2. Written collections policies will be prepared and followed.**

A court should prepare and follow written collections policies in conformity with these standards. These policies should also be circulated to all employees involved in the collections effort and included in the training program. Policies should be revised as needed to reflect changes in statute and practice. [Trial court collections policy guidelines](#) are available on the trial court collections website.

**3. Assessment and payment information must be entered into automated systems promptly.**

The success of an effective collections program relies upon accurate, up-to-date information. Whether using an automated case management system or not, assessments should be entered into the court's records and/or financial management tools on the same day they are assessed. Similarly, records must be updated on the same day payments are made.

**4. The priority of payments must be in accordance with statute.**

Payments accepted by the court must be applied as required by statute (see [MCL 780.766a, 780.794a, 780.826a, 712A.29, 775.22](#)). If the court has discretion regarding how to apply payments, policies should be established and systems designed to apply funds in a consistent manner.

**5. Unless otherwise directed by the Crime Victim's Rights Act, statute, court rule, regulation, payor request, or judicial order, partial payments should be applied to the debt that is the most past due.**

If an individual owes multiple debts to the court, payments should be applied as required by statute ([MCL 780.766a, 780.794a, 780.826a](#)). In some instances, the payor may wish payments to be applied in a different order to lift a license suspension or other sanction.

Courts should be open to clearing failure to comply with judgment (FCJ) suspensions if payments are consistently made as agreed upon. Possession of a valid license may be necessary for employment purposes and critical for the collection of past-due accounts. Courts have the option to resuspend a driver's license for FCJ if payments are not made as agreed.

**6. The written policy should clearly identify the roles and responsibilities of various staff members in the collections process.**

Among the positions that may be involved with collections are:

- Judges
- Bookkeepers or accountants
- Cashiers
- Compliance or collections officers
- Court administrators or clerks
- Court officers
- Deputy clerks
- Information systems staff
- Probation staff
- Quasi-judicial officers

The clear designation of staff responsibilities will help to ensure that funds are collected and accounted for in keeping with sound accounting practices, and that collections efforts are coordinated from assessment through enforcement. The roles and responsibilities of third-party collections agencies should be clearly identified in written policy.

**7. If the court chooses to designate court staff to grant extensions and installment payments, and waive late fees, it must provide written authorization to do so.**

In some situations, it will be appropriate and expedient for staff to handle requests for extensions and installment payments. In these situations, staff should have clear guidance as to the extent of their authority and responsibility so that these matters are handled fairly and consistently. The court must incorporate a written policy for waiving late fees and identify the individuals who are authorized to grant extensions and installment payments, and adjust late fees.

**8. Individuals who are granted additional time to pay should be required to provide the court with any additional information necessary to ensure effective enforcement.**

Enforcement action is most effective when the court has complete and accurate personal data, sources of income, and employment and bank account information. This information must be collected before the litigant leaves court, and the litigant must be required to notify the court of any changes in that information in writing during the course of the payment plan. Financial information should be collected and recorded on a financial statement form. For example, see: SCAO-Approved form [MC 287](#), Financial Statement.

**9. The court should verify the litigant's address information every time a contact is made with the court. The court should also verify the litigant's financial information every time a collections and/or probation contact is made with the court.**

One of the more significant obstacles to collections enforcement is maintaining contact with payors. The lack of current address information hinders notification and follow-up by the court. Address information should be updated whenever possible.

**10. Courts should develop training programs and incorporate a policy and training manual for staff responsible for collections.**

Internal training should be available for collections staff. Training should not only provide staff with information they need to perform their respective duties, but also provide perspective on the broader picture of collections.

**11. Service providers and other agencies that come into contact with litigants should be informed of court policies regarding the imposition of financial sanctions and their enforcement. This information should be made available on the court or funding unit's website and on the court's automated phone system.**

Courts should educate service providers and other agencies on their assessment and collections practices so that agencies can communicate these practices to litigants, if and when appropriate. Any outside agency, such as social service providers and law enforcement, should direct all inquiries regarding financial sanctions to the court.

**12. Cash bonds and 10 percent bonds posted by the defendant should be applied as soon as allowed by statute and court rule.**

Each court should have a process to apply bonds posted by the defendant to any outstanding obligation before being returned to the defendant in a timely fashion.

Courts should collect the entire balance of a 10 percent bond when forfeited. Courts should also collect on forfeited personal and surety bonds.

**13. Courts should establish procedures for declaring debts active, inactive, or discharged.**

Studies have shown that the collection of debts becomes increasingly difficult with the passage of time. Courts should establish procedures to identify uncollectible debts. Inactivating debts, which have been identified as uncollectible, helps the court present an accurate depiction of its receivables. This process does not waive or forgive the debt, but it is an administrative tool to help the courts focus their resources on those accounts that have the greatest likelihood of collection. Age alone should not determine whether a debt is inactivated. Courts may choose to review debts that are past seven years to consider them for inactive status, but the decision to inactivate should be done on a case-by-case basis, considering the circumstances of the debt and the payor. For assistance in this area, see the [Model Debt Inactivation Policy](#) located on the trial court collections website.

**14. Procedures should be in place for periodic review of accounts.**

Manual and computer records should be reviewed on a regular basis to ensure that account records are accurate and up-to-date.

**15. When a financial obligation is discharged by the court, the record should reflect the reason for discharge and the removal of the obligation from the court's accounts.**

The discharge of any financial obligation should be accompanied by documentation or a court order indicating the reason for the discharge, and must contain the signature of the appropriate judicial officer. These procedures will reduce the opportunity for embezzlement of funds or unauthorized removal of such amounts from the court's account. These amounts should be immediately removed from the court's accounts records to reflect the proper balance and prevent the accidental imposition of sanctions for noncompliance.

**16. Court policy should require that payments be accepted only by employees authorized and trained to perform receipting functions.**

Sound accounting practices require that staff who accept and apply payments be authorized and adequately trained. Staff members who are not responsible for completing receipt transactions in the court's computer or manual system, such as probation staff and quasi-judicial officers, should not accept payments to be passed on to other staff for receipting or entry. (See [Section 6-05](#) of the Michigan Court Administration Reference Guide for proper accounting and cash-management procedures.)

**17. The court should be prepared to take payment in a variety of accepted forms and make the payment process as simple as possible.**

Courts should keep the payment process as easy as possible for payors so that there are no excuses for missing a payment or failing to pay at the time of assessment. Allowable payment types include cash, checks, credit and debit cards, commercial checks, and money orders. Courts should also consider providing payment drop boxes, preprinted envelopes, automated teller machines, and internet payment mechanisms. Clerical procedures should be designed to make it easy and convenient for payors to make payments. Courts may impose more restrictive payment policies for bonds or in situations in which the court deems it appropriate; for example, where litigants may attempt to pay with a nonsufficient funds check or for felony defendants on probation.

**18. Courts may accept payment of financial obligations from a third party, unless otherwise ordered in an individual case.**

Courts should be prepared to accept payments from third parties as a convenience to payors, unless the court specifically requires the appearance of a payor to make a payment.

**19. Whenever possible, courts with a common funding unit or in geographic proximity to each other should coordinate collections activities. Courts should also explore cooperative arrangements with other funding unit departments.**

Costs may prohibit smaller courts or those with limited resources from undertaking some collections activities. Courts are encouraged to consider cooperative ventures with other courts or funding unit agencies to enforce collections. Examples include sharing the services of a collections officer, developing integrated computer systems, and working with local law enforcement agencies on enforcement initiatives.

Consider convening a local collections coordinating committee consisting of judges, probation personnel from all courts (circuit, district, family), court administration, magistrates, referees, collections personnel, county clerks, prosecutors, law enforcement, jail administrators, county board members, community corrections staff, and friends of the court. The committee's function would be to enhance communication and define and delegate collections duties.

**20. Courts considering new collections techniques should be prepared to evaluate the effectiveness of their efforts.**

Management decisions regarding collections processes, special collections programs, and the use of third-party vendors should be supported by evaluation data that measure the impact of these activities, and whenever possible, are justified by cost/benefit analysis. Courts should keep in mind that such analysis should not be limited strictly to financial benefits, but should also include intangible benefits such as improved intergovernmental

relations or increased respect for the court. Some questions the court should be able to answer include:

- What is your current or baseline collection rate?
- What is the impact of various collections methods on payment rates?
- Do compliance rates vary with offender or offense characteristics?
- What are the costs compared to return for various collections methods?

**21. Courts should evaluate collections rates for determining the rate of collections during a given time period.**

Basic to any evaluation of collections activities is a determination of the percentage of cases and/or amounts collected during a given time period; typically, courts produce monthly, quarterly, or annual reports. Courts should consult the Payment/Adjustment Distribution of Assessments Report that is submitted to SCAO yearly to determine the percentage of collections.

**1.5 INFORMATION SYSTEMS**

Effective collections programs depend on reliable and timely data. In order to function effectively, minimum data and functionality standards must be met and financial data entered as soon as possible. Information systems, whether computerized or manual, are the backbone of collections enforcement.

**1. The automated information system should include minimum data elements identified in the collections [data standards](#) located on the trial court collections website.**

**Required** data elements are minimum requirements for accurate and timely reporting and monitoring of financial accounts. **Optional** data elements are additional information that the courts may need to enforce deferred or scheduled payments.

**2. Information systems used to manage accounts should be able to:**

- Identify all receivables and cross-reference them to individual case records
- Determine the balance of all debts by status
- Determine the age of all debts and group them by age
- Identify any account that is delinquent and report this information as needed to court staff and agencies responsible for collections enforcement
- Set up and monitor payment schedules, including due dates and amounts due on each date
- Monitor individual and aggregate account balances
- Inquire and receive information on all unpaid debts for a particular payor
- Make timely and accurate entries into the accounting and/or receivable systems
- Add late fees and penalties to certain past-due debts
- Share information between case management and probation systems to ensure that both systems are aware when amounts that have been ordered as a condition of probation are past due
- Assist collections staff in identifying trends in payment
- Provide notices to litigants of past-due amounts and due dates

These functions requirements are essential for the court to identify and account for money that is due, identify delinquent accounts, and take necessary enforcement action. Ideally, these functions will be part of an automated and integrated case management and financial system.

**3. Automated court systems should have the capability to generate the following reports:**

- Outstanding Receivables Report
- Outstanding Receivables Aging Report
- Payment/Adjustment Distribution of Assessments Report
- Past-due debts
- For a specified period of time, debts that are:
  - active
  - inactive
  - discharged
  - paid
- Reports needed to inform other agencies

Automated reports provide the court with information needed to track compliance and evaluate collections rates. Ad hoc query capability is increasingly available as a feature of automated systems. Courts are encouraged to take advantage of this feature to develop customized reports that support their specific enforcement and evaluation objectives. System providers should be encouraged to add the above reports if they do not currently have the ability to generate them.

**4. Payment information should be promptly entered into the court's financial and case management system(s), preferably on a real-time basis, but not more than one working day after the transaction.**

To ensure accurate monitoring and enforcement of accounts, it is essential that payments be recorded in the court's financial and case management system(s) at the earliest opportunity.

**5. The waiver or discharge or inactive status of financial obligation should be promptly entered into the financial and case management system(s).**

In order to properly evaluate collections rates and accurately report receivables, the information system should be updated to reflect all amounts that are no longer considered due and owing or collectible.

## **1.6 DESCRIPTION OF COURT COLLECTIONS IN MICHIGAN**

Collections programs vary among the types of trial courts in Michigan (circuit, probate, and district). This section gives a description of how collections processes work in the courts, by type of case.

### **1.6.1 Circuit Court**

#### **1. Felony**

At sentencing, the judge may assess fines, costs, restitution, and fees, and may order the defendant incarcerated or to serve a term of probation. Fines, costs, and other financial obligations imposed by the court must be paid at the time of the assessment, except when the court allows otherwise, for good cause shown ([MCR 1.110](#)).

If the defendant is ordered to probation, payment of the financial penalties may be ordered as a condition of probation. In addition, a probation supervision fee is

ordered as a condition of probation, which must be paid immediately unless the court allows the defendant to pay in installments. Michigan Department of Corrections (MDOC) probation staff can be assigned the case for periodic reporting and monitoring compliance with conditions of probation. Some courts are creating collections positions to pursue collection independent of probation.

If a probationer fails to pay amounts ordered as a condition of probation, the probation officer may recommend that the court revoke probation and order the defendant to be incarcerated. If the court revokes probation, any unpaid amounts are still due and owing the court ([MCL 769.1k](#)). The court may assess financial penalties for the initial criminal offense.

The financial division of the court should be responsible for monitoring payments of offenders not placed on probation. When a payment is missed the court may issue a reminder notice. Defendants who continue to ignore their payment obligations may be required to appear at a show cause hearing. **If the defendant fails to appear at the show cause hearing, the court may issue a warrant for noncompliance.**

The court may impose additional costs to compel appearance ([MCL 769.1k](#)). After the expiration of 56 days from nonpayment, the court shall assess an additional 20 percent late penalty on the total amount due ([MCL 600.4803](#)). Notice must be given to the defendant that this late penalty will be imposed. After 180 days, the court may refer the case to the Michigan Department of Treasury for debt collection. The court has the option of turning the case over to a private collection agency at any point following noncompliance. The court may utilize a reimbursement department of the funding unit for collections.

Defendants, who are sentenced to jail or prison, either initially or as a consequence of probation revocation, also may be assessed financial penalties. Several circuit courts have had success in receiving periodic payments from the prisoner's account through the MDOC. As required by [MCL 769.1i](#), courts should use SCAO-Approved form [MC 288](#) for all court-ordered financial sanctions, excluding restitution. While the individual payments may not be substantial, the flow of money is constant and the prisoner is fulfilling his or her duty to comply with the court's order.

Upon release from prison, most offenders are placed on parole or some other form of MDOC supervision. Payment of certain court debts is made a condition of parole, and parole may be revoked if the individual fails to pay. Parole officers may require the parolee to provide evidence of payment (such as receipts) to verify that amounts are being paid. To verify payment, the court should provide parole officers read-only access to the financial system.

Individuals who are unable to pay criminal assessments in full may be allowed **payment alternatives, such as community service**, in lieu of payment, or may have their assessments, with the exception of restitution, minimum state costs, and crime victim rights assessment, reduced or waived by the judge. An open bond posted by the offender must be applied towards satisfaction of the financial obligation.

## **2. Family Division - Juvenile Delinquency, Child Protective Proceedings, and Traffic**

Juvenile delinquency and child protective proceeding cases, which are handled by the family division of circuit court, often result in large amounts of money owed to the

court, primarily as reimbursement for costs of placement or service. Parents of juveniles are required to reimburse the court for some or all of the cost of placement or other court ordered services. Payments are usually due on a monthly basis, with billing and late notices generated regularly.

Placement and service costs in family division juvenile and child protective cases are unique among court debts. Fines and costs in criminal and civil infractions cases are firmly determined at sentencing. Family division reimbursements are payments for placement or services that have been provided; in addition, costs can continue to accrue, and the amount may change. Family division collections systems are designed to continue to accrue amounts as time goes by, offsetting them as payments come in.

After the expiration of 56 days from nonpayment, the court shall assess an additional 20 percent late penalty on the total amount due ([MCL 600.4803](#)). Notice must be given to the juvenile that this late penalty will be imposed. The court has the option of turning the case over to a private collection agency at any point following noncompliance. Family division may also enforce a payment obligation by ordering parents to show cause, intercepting state tax refunds, and entering an order for wage assignment, among others. The court may utilize a reimbursement department of the funding unit for collections.

## **I.6.2 Probate Court**

Probate courts have limited involvement in collections programs. Most cases handled by probate courts involve filing fees or other amounts that must be paid prior to the case moving forward. As a result, a court usually needs to devote little effort to secure payment of amounts owed. Perhaps the only examples of court debts that the court must monitor are the inventory fee that must be paid as part of the process of settling a decedent's estate, guardian ad-litem fees, and attorney fees in guardianships and conservatorships.

## **I.6.3 District Court**

### **1. Criminal Misdemeanor**

Upon entry of a guilty verdict or plea for a more serious misdemeanor offense, the court may refer the offender to the probation department for a presentence investigation report. This report includes an assessment of the offender's financial situation and ability to pay. The judge considers this report at sentencing. Less serious misdemeanor cases may not be referred to the probation department and sentence will be imposed directly after the entry of a guilty verdict or plea.

The offender should be advised of the amount of the fines and costs from the bench, on court notices, and by court staff, i.e., probation officers.

Fines, costs, and other financial obligations imposed by the court must be paid at the time of the assessment, except when the court allows otherwise for good cause shown ([MCR 1.110](#)). If good cause has been shown, the offender may be allowed to pay by some future date, or allowed to pay in installments.

Probation officers and/or clerical staff should monitor the payment status of offenders who have been deemed eligible for a payment plan. When a payment is missed, the court procedure should include a reminder notice for the first missed payment. If the defendant misses any additional payments, the court may issue a show cause for noncompliance, **or a summons or bench warrant<sup>3</sup>** for violation of probation. Nonprobationers should also be required to appear at a show cause hearing. **If the defendant fails to appear at the show cause hearing, the court may issue a warrant for noncompliance.**

The court may impose additional costs to compel appearance ([MCL 769.1k](#)). After the expiration of 56 days from nonpayment, the court shall assess an additional 20 percent late penalty on the total amount due ([MCL 600.4803](#)). Notice must be given to the defendant that this late penalty will be imposed. The court may undertake its own collection efforts or turn the case over to a private collection agency at any point following noncompliance. After 180 days, the court may refer the case to the Michigan Department of Treasury for debt collection.

Individuals who have established that they are financially unable to pay criminal assessments in full may be allowed **payment alternatives, such as community service**, in lieu of payment, or may have their assessments, with the exception of restitution, minimum state costs, and crime victim rights assessment, reduced or waived by the judge. An open bond posted by the offender must be applied towards satisfaction of the financial obligation.

## 2. Traffic Misdemeanor

The requirements for and options available to the court to compel payment in traffic misdemeanor cases are similar to those in criminal misdemeanors, but the court has the additional responsibility to notify the defendant of impending license sanctions and report noncompliance to the Secretary of State. Once the Secretary of State has been notified, a reinstatement fee is due, in addition to fines and costs, before the license suspension can be lifted.

## 3. Drunk Driving and Liquor Control

The enforcement of noncompliance with sentence conditions for drunk driving cases is similar to other traffic offenses, with the exception of the shorter timeline for notifying the defendant of license sanctions, and reporting the noncompliance to the Secretary of State. Once the Secretary of State has been notified, a reinstatement fee is due, in addition to fines and costs, before the license suspension can be lifted.

## 4. Traffic Civil Infraction

When an offender is issued a traffic civil infraction violation, he or she is required to pay a civil penalty or respond to the accusation by a date set by the court. Nonresponse triggers the entry of a default judgment for the fines and costs in addition to the penalty. The court issues a default judgment notice after the appearance date has passed. The defendant has 14 days to comply or the court will initiate notification procedures for license suspension. Once the Secretary of State has been notified of noncompliance, a reinstatement fee is due, in addition to fines and costs, before the license suspension can be lifted.

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<sup>3</sup> If the alleged violation is only for failure to pay, it is recommended a summons be issued and not a bench warrant. If there are other alleged violations, in addition to the failure to pay, then a bench warrant would be appropriate.

If the offender admits responsibility or is found responsible, the court will impose the financial penalty. Immediate payment is expected in accordance with [MCR 1.110](#). Courts should advise the offender on the court notice that immediate payment is expected. If the offender can establish that he or she is unable to pay, the court may give the offender additional time to pay or allow installments. Upon failure to pay by the due date, the court will notify the offender of pending license suspension action and notify the Secretary of State if payment is not made.

The court may also assess costs to compel appearance for a traffic civil infraction ([MCL 257.729](#)). An open bond posted by the offender must be applied towards satisfaction of the judgment. At 56 days past the default or payment due date, the court shall assess an additional 20 percent late fee ([MCL 600.4803](#)). Notice must be given to the defendant that this late penalty will be imposed. After 180 days, the court may refer the case to the Michigan Department of Treasury for debt collection.

The court has the option of turning the case over to a private collection agency at any point following noncompliance or may initiate civil remedies (garnishment and execution) to enforce the judgment. The court also has the option of issuing a summons, order to show cause, or civil bench warrant to compel compliance, and may request that the prosecutor bring a misdemeanor charge for failure to comply.

#### **5. Municipal Civil Infraction**

As with a traffic civil infraction, the offender must respond by either paying the penalty or contesting the violation. Failure to respond results in the issuance of a default judgment. Upon entry of a default judgment or failure of an offender to make a scheduled payment, the court proceeds as it would for a traffic civil infraction judgment, but does not notify the Secretary of State. The court may also assess costs to compel appearance ([MCL 600.8735](#)). A municipal civil infraction judgment may be collected through civil process. The court has the option of issuing a summons, order to show cause, or civil bench warrant to compel compliance **if the defendant failed to appear at the show cause hearing**, and may request that the municipal or county prosecuting official bring a misdemeanor charge for failure to comply. After 56 days, the 20 percent late fee is assessed ([MCL 600.4803](#)). Notice must be given to the defendant that this late penalty will be imposed.

#### **6. State Law Civil Infraction**

State law civil infractions (nontraffic) also involve the entry of a civil judgment and imposition of a financial penalty. The same civil remedies and procedures available for municipal civil infractions apply, including the 20 percent late fee ([MCL 600.4803](#)). Notice must be given to the defendant that this late penalty will be imposed. The court may also assess costs to compel appearance ([MCL 600.8835](#)). Additionally, the court must notify the defendant that the Secretary of State will be notified to impose a license renewal hold for noncompliance. Once the Secretary of State has been notified, a reinstatement fee is due before the license renewal hold can be lifted. The court has the option of issuing a summons, order to show cause, or civil bench warrant to compel compliance **if the defendant failed to appear at the show cause hearing**, and may request that the prosecutor bring a misdemeanor charge for failure to comply.

## 7. Parking Violations

Parking violations may be filed directly with the court by law enforcement agencies or by a local parking enforcement bureau. Cases are typically not filed by an enforcement bureau unless contested by the offender or for purposes of enforcing a failure to pay. The court may issue additional notices and seek civil remedies as noted above. When an offender has accumulated two or more unpaid handicapped parking violations, or six or more unpaid parking violations, the court will issue a notice to the offender that after 14 days the Secretary of State will be notified to place a hold on the offender's driver's license renewal. Once the Secretary of State has been notified, a reinstatement fee is due, in addition to fines and costs, before the license renewal hold can be lifted.

A comprehensive collections effort should include a review of the following items:

### 2.1 Administration

- 2.1.1** Which courts are covered by the plan, addressing whether this collections plan will be coordinated with other courts in the county, and if so, how it will be coordinated.
- 2.1.2** Administrative structure for collections; for example, assignment and coordination of staff, including an organizational chart for court and collections staff, and establishment of supervisory authority over the administration of the collections plan. Staff assignments could include:
- Chief judge
  - Supervisory staff
  - Cashier
  - Collections officer or compliance officer position
  - Probation officer
  - Other court positions
  - Combination position with other courts in funding unit
- 2.1.3** Collections efforts currently in use outside the court, but within the county or funding unit's jurisdiction, with a description of how and to what extent the court's efforts will interact or be coordinated with these outside efforts. Components of external collections efforts could include:
- Prosecutor or city attorney notification
  - Private collections agency
  - County clerk (circuit court) involvement
  - Law enforcement service of warrants
  - Funding unit collections officer
- 2.1.4** The development of policies and procedures for periodic review of collections efforts. This could include an annual review of the overall plan, updating:
- Organizational chart
  - Staff assignments
  - Collections techniques
  - Implementation goals
  - Success of collections efforts since initial plan implementation
  - Elimination of barriers, or new barriers to collections

- 2.1.5** Systems issues, including acquisition of software, additional hardware for existing system, or collections software enhancements.
- 2.1.6** The process litigants follow when subject to a court order involving them in collections procedures. This may include a flow chart showing movement of litigants through the collections process.
- 2.1.7** The feasibility of alternative collection tools. Components reviewed could include:
- Written policy
  - Publicized campaign
  - Handouts at court on collections/payment policy
  - Notices/signs in courthouse
  - Lock-box collections
  - Door-hanger notice of warrant
  - Overweight vehicle impoundment ([MCL 257.724](#))
  - Court notices
  - Judicial involvement
  - Monthly statements

## **2.2 Monitoring Accounts**

- 2.2.1** The development of policies and procedures for internal review of existing accounts with outstanding balances. Components of this review could address:
- Accuracy of existing account balances, including current status of debts
  - Correction of inaccurate balances, including current status of debts
  - Additional action on inactive accounts
  - Ability of automated system to adjust debts based upon:
    - Payment alternatives, such as community service, in lieu of payment
    - Waiver
    - Classification of debts as active, inactive, or discharged status
    - 20 percent late fee
  - Causes of nonpayment:
    - Litigant
      - In jail/prison
      - Payor's economic condition
      - Expectation of no sanctions for nonpayment
    - Court/Funding Unit
      - Inability to locate payor
      - Lack of coordination through collections process
      - Lack of specific payment plan
    - Community
      - Economics in the community
      - Competition between multiple agencies for payment
- 2.2.2** The development of policies and procedures for ongoing account monitoring. This could include:
- Frequency of account review
  - Use of automated reports showing open accounts
  - Tickler or computer tracking for billing statements

- 2.2.3** The development of policies and procedures for sharing account and payor information between the court and other agencies, including but not limited to probation offices, collections offices, etc. Information may be shared for purposes of enforcement and locating the payor. Information could include:
- Current address - residential and internet
  - Employment status
  - Social security number, [Administrative Order No. 2006-2](#)
  - Incarceration status
  - Financial status update
  - Date and place of birth
  - Driver's license number
  - Telephone and/or cell phone number
  - Alternative contact/nearest relative not living with defendant
  - See section 1.4, paragraph 9 for additional information
- 2.2.4** The method by which the court's assessment and collections data will be maintained; for example, case management data base, spreadsheet, other computerized format, or manual receipt process. This should include the criteria staff will use to identify accounts requiring collections action.
- 2.2.5** Available court statistical data, comparing both internal performance from previous years and external performance against other courts. Components of this review could include:
- Percent of total due within specified period: 1 year, 2 years, etc.
  - Total amount or percentage still due after 7 years
  - Local court data for identification of potential problem areas
  - Regular comparison of court's collections rate against previous period's rate (at least annually)
  - Trends in nonpayment considering offense type, offender type, local or state economics, and other factors affecting collections at the local level

## **2.3 Payment Plan Issues**

- 2.3.1** Payment of fines and costs is expected at the time of assessment. Upon determination of good cause, a payment plan may be authorized. The court should develop policies and procedures to determine the ability to pay, as prescribed by statute, court rule, case law, or local policy. Components of this review could include:
- Presentence investigation report
  - Litigant income and assets (see [MC 287](#), Financial Statement)
  - Determination of responsible parties; parent, guardian, legal custodian, respondent/defendant, and/or litigant
  - Impact of reimbursement on family for juvenile matters
  - Litigant's attempt to comply with court orders
- 2.3.2** The development of a uniform procedure by which payors are advised of their payment obligations.
- 2.3.3** The development of a policy requiring all court orders containing assessments to include a specific amount due, or formula by which an amount due may be calculated, and date(s) after which all or a portion of the amount due will be considered overdue.

## 2.4 Payment Notification

- 2.4.1** The development of policies and procedures for expectation of payment, notifying litigants of sanctions for failure to pay as ordered, and incentives to encourage prompt payment. Components of this review could include:
- Publication of the court's policy
    - Notification of the minimum amount of fines and costs should be provided to the defendant at entry of plea. Related staff costs to monitor or process partial payments may be addressed, such as:
      - Establish minimum amount due at sentencing
        - Percent of total
        - Specific type of fee, fine, or cost due at specified time
      - Establish payment cycle
        - Minimum payment on pre-established cycle
        - No minimum, total due by pre-established date
  - Compliance with statutes and court rules regarding payments and assessments
  - Judicial notification at court appearances
  - Requirement of payment at sentencing
  - Early probation discharge upon meeting all requirements
  - Sanctions<sup>4</sup> for failure to pay:
    - Payment alternatives, such as community service
    - Intensive probation
    - Day report
    - Alternative to jail programs
    - Work release
    - Tether or other electronic monitoring
    - Incarceration
    - Other means, such as: referral to collections agency and tax garnishment or intercept
- 2.4.2** The development of policies and procedures to identify and collect on inactive accounts. The policy may define what may qualify as inactive, when an account or portion of an account would be considered inactive, and under what circumstances an inactive account may be reactivated. Components could include:
- Review based upon total due
  - Age of debt
  - Type of debt
  - Agency responsible for collections
  - Process by which an account previously considered inactive is reactivated
  - Process by which inactive debts are discharged
- 2.4.3** The development of policies and procedures for action on outstanding active accounts. This may include defining at what point an account is overdue and establishing graduated penalties, as authorized by statute, for nonpayment. Collections statutes and court rules can be found on the trial court collections website. Components could include:
- NSF policy and NSF fee
  - Collections efforts (not all items listed are applicable to all case types)
    - Overdue noticing
    - Imposition of late fees or costs to compel appearance
    - Probation revocation<sup>5</sup>
    - Show cause, bench warrant for failing to appear at a show cause hearing, or contempt

<sup>4</sup> Sanctions imposed should be in accordance with court rule. See MCR 6.425(E)(3).

<sup>5</sup> Probation revocation should be in accordance with court rule. See MCR 6.445(G).

- FAC/FCJ suspensions
- Garnishment
- Execution
- Attachment
- Income withholding, wage assignment
- Referral to prosecutor
- Lien against property
- Collecting from prisoner accounts through the MDOC
- Selection of various collections efforts to be implemented and sequence of court actions

**2.4.4** The development of policies and procedures for processing in-person, internet, and mail payments, including systems security issues, use of mail logs, and desired processing time from receipt of payment to posting to the account. Alternative payment methods include:

- Credit cards - in person, mail, fax, third party credit card payor, and internet
- Wage assignment - voluntary and involuntary
- Collecting from prisoner accounts through the MDOC

## **2.5 Training**

**2.5.1** Training policies and procedures should be included in each court's collections plan. It is suggested that the following individuals be trained:

- Judges
- Court administrators
- Probation officers
- Collections clerks
- Juvenile court case workers
- Any other individual responsible for collections