



MICHIGAN COURTS NEWS RELEASE

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FOR IMMEDIATE RELEASE

Expert Panel Affirms Inability to Pay Cannot Result in Jail Time

LANSING, MI, April 23, 2015 – In a [report](#) released today, an expert panel reaffirmed the commitment of Michigan courts that individuals who are unable to pay court fines or costs cannot be incarcerated. The workgroup of 19 judges, court administrators, and other experts was created by the State Court Administrative Office in June of 2014 in response to requests from trial courts for assistance in how and when to determine defendants' ability to pay court-ordered obligations.

“All of the members believe strongly in protecting the people’s constitutional rights,” said Judge John Hallacy, chief judge of the 10th District Court and chair of the Ability to Pay workgroup. “That’s why the outcome of our deliberations begins with that premise and goes on to serve as a road map for judges to treat all defendants with financial obligations to the court consistently.”

With respect to when the ability to pay is determined, the report notes: “Whenever a court attempts to enforce a court-ordered financial obligation, the obligor must be given an opportunity to contest the enforcement on the basis of indigency and the court must assess the obligor’s ability to pay.” In addition, the report highlights: “Enforcement of court-ordered financial obligations by incarceration should only occur when the court has determined that the obligor has the ability or resources to pay the ordered monetary assessments and has not made a good faith effort to do so.”

The [report](#) of the workgroup provides extensive resource materials for trial courts to draw from in determining the ability to pay, establishing payment plans, and identifying enforcement alternatives. These materials include: ability to pay checklists, statutory requirements, court rule requirements, and case law requirements.

In addition, the report notes how payment plan calculators can be useful in helping courts set reasonable payment plan amounts by taking into account an individual’s other expenses. In addition, if the only source of income is public assistance, payment is strictly voluntary. The report also cites federal poverty guidelines and the federal means test as helpful tools in determining the ability to pay.

The report advises trial court judges that when appropriate, they should explore enforcement alternatives and provide additional time to enable obligors to pay their court-ordered obligations. Also, if obligors are at risk of failing to meet their obligations but have demonstrated due diligence in attempting to comply, the report says that “payment alternatives such as community service, earning a GED, and youth-oriented projects may be used.” The goal in these cases is to reduce the obligation to the court while helping the obligor “pay back” the community. Finally, the report notes in cases when obligors have made good faith efforts to pay but are unable to pay, the court “may waive monetary assessments that are not mandated by statute.”

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Click here for the [Ability to Pay Work Group Report](#).