

TRICKY ISSUES: FINES, FEES, & COURT COSTS

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RESOURCES

Fines, Fees, and Costs Deskbook

Criminal Deskbook – currently being updated

Local Government Code Ch. 133 and 134

Code of Criminal Procedure Chs. 45, 102, 103

Transportation Code Ch. 706

SB 346 CHANGES

- Now have 3 categories:
 - Fines
 - “Reimbursement Fees”
 - Court Costs
- Make sure your judgments and other paperwork all reflect these changes and don't get sloppy and call all amounts due “the fine”
- Also remember: no amount is actually “due” unless the defendant has been convicted

WHAT TO CHARGE IN CRIMINAL CASES

WHICH COURT COSTS TO ASSESS?

- Mandatory fines and court costs assessed are based on the OFFENSE DATE, not the date the person is placed on deferred, allowed to do DSC, or convicted.
 - More on reimbursement fees such as Omni and Time Payment later on!
- State Traffic Fine went from \$30 to \$50 on 9/1/19
- Entire court cost schedule changed on 1/1/20

WHICH COURT COSTS TO ASSESS?

- If you have a case where the offense was **before** Jan. 1, your software system should have already assigned the proper costs.
- Information on the proper costs to assess in these cases is also found in the Appendix of the FFC Deskbook.

“MANDATORY FINES”

- State Traffic Fine
 - \$50 assessed on all Rules of the Road convictions/deferrals/DSC
- Local Traffic Fine
 - \$3 assessed on all Rules of the Road convictions/deferrals/DSC
- Child Safety Fund Fine
 - \$20 assessed on Parent Contributing to Nonattendance convictions/deferrals IF the offense occurred in a municipality
 - \$25 assessed on Passing a School Bus convictions/deferrals IF the offense occurred in a municipality

“MANDATORY FINES”

- Mandatory fines DO NOT count against maximum statutory fine and no discretion on amount by the court, so many include them in “court costs” amount
- For example, speeding maximum fine is \$200. For speeding convictions (or deferrals/DSC), the \$50 STF and \$3 LTF must be assessed. You can charge \$200 + that \$53 (+ court costs discussed later)
- Mandatory fines must be treated as fines for purposes of payment allocation/waiver (discussed later)

NEW COURT COST SCHEDULE

- \$62 State Consolidated Court Cost – LGC 133.102(a)(3)
 - Assessed on all convictions, deferrals, or DSC **other than** parking/pedestrian offenses
 - Court → Treasurer → Comptroller
 - County retains 10% as service fee
 - Comptroller distributes into buckets as provided by LGC 133.102(e)

NEW COURT COST SCHEDULE

- \$14 Local Consolidated Court Cost – LGC 134.103(a)
 - Assessed on all convictions, deferrals, or DSC **including** parking/pedestrian offenses
 - Court → Treasurer
 - Treasurer distributes into buckets as provided by LGC 134.103
 - Court doesn't break it down into separate fees/buckets
 - Bill of costs must reflect the \$14 LCCC, not broken down



LOCAL
CONSOLIDATED
COURT COST

- LCCC is distributed as follows:
 - \$5 into local truancy prevention and diversion fund
 - \$4 into justice court technology fund
 - \$4.90 into courthouse security fund
 - \$0.10 into county jury fund
- Notice that these funds are familiar, though the FEES no longer exist
- Use of these funds is covered on P. 14 of the FFC Deskbook



TECHNOLOGY
FUND

- This fund was modified 9/1/2019 to allow payment of costs/expenses for court personnel and training, even if the training isn't specifically related to justice court technology
 - This is meant to **supplement not replace** existing budgetary expenses
- Also, now constable tech enhancements that directly relate to the operation or efficiency of the justice court are allowed
- See P. 15 of the FFC Deskbook for more details

OTHER AMOUNTS ASSESSED?

- When calculating what amounts your court should charge, there are 3 common additional fees that would apply on conviction or deferral/DSC:
 - Arrest Fee - \$5
 - Assessed on any arrest or citation (so any case unless filed without arrest by sworn complaint)
 - Transaction Fee - \$2
 - Assessed on all monetary transactions but only if authorized/approved by commissioners court
 - Warrant Fee - \$50
 - Assessed if a warrant is processed or executed in the defendant's case

- Start with the non-discretionary amount of:
 - \$129 for Rules of the Road other than parking/pedestrian
 - \$67 for a parking/pedestrian Rules of the Road offense
 - \$14 for a non-Rules of the Road parking/pedestrian offense
 - \$96 for Parent Contributing to Non-Attendance
 - \$76 for any other fine-only misdemeanor
- PLUS \$25 for Child Safety Fund Fine if applicable (see P. 4 of FFC Deskbook)
- PLUS any applicable arrest, warrant, or transaction fees
- PLUS the court's discretionary fine (within the statutory range for the offense)

**BOTTOM
LINE –
EVERY
CASE**

PARENT CONTRIBUTING TO NONATTENDANCE CASE FINE DISTRIBUTION

- The fine assessed by the judge in a Parent Contributing to Nonattendance case is split with the school district or charter school or alternative education program the child attends getting half.
 - Ed. Code Sec. 25.093(d)
- Is the \$20 Child Safety Fine that is mandatory on PCN cases also split with the school district?
 - No. Only fines assessed under Ed. Code 25.093 are split. The \$20 Child Safety Fund Fine is assessed under CCP 102.014, and so is not split.

REIMBURSEMENT FEES

OMNI REIMBURSEMENT FEE

- The Omni reimbursement fee changed from \$30 to \$10 on 1/1/2020
- Unlike mandatory fines and court costs, since not all cases will incur the Omni reimbursement fee, the version assessed is based on **assessment date not offense date**.
- So, for example, even if someone committed the offense in 2017, then got convicted in 2019, if they were reported to Omni in 2020, the new \$10 version should be assessed.
- The court sends this fee to the treasurer, who uses it to reimburse Omnibase

TIME PAYMENT REIMBURSEMENT FEE

- The time payment reimbursement fee changed from \$25 to \$15 on 1/1/2020
- Unlike mandatory fines and court costs, since not all cases will incur the time payment reimbursement fee, the version assessed is based on **assessment date not offense date**.
- So, for example, even if someone committed the offense in 2017, then got convicted in 2019, if the 31st day after payment was assessed is in 2020, the new \$15 version should be assessed.

TIME PAYMENT REIMBURSEMENT FEE

- What about the constitutionality issue regarding this fee?
 - This was addressed by the changes to the distribution of the fee, which may now only be used for the purposes of improving the collection of outstanding court costs, fines, reimbursement fees, or restitution, or improving the efficiency of the administration of justice in the county.

DEFERRED & DSC



DEFERRED DISPOSITION

- The changes in SB 346 had two significant impacts on deferred disposition
 - They apply to any deferral order on or after 1/1/2020, regardless of the offense date
- The first is that the “special expense fee” is now referred to as a fine
 - TJCTC refers to it as the “initial fine” to distinguish it from the fine that is imposed if the defendant fails the deferral and is convicted



DEFERRED DISPOSITION

- All of the rules that applied to “special expense fees” apply to “initial fines”
 - Cannot exceed the maximum fine for the offense
 - Payment of the initial fine gets credited against a fine that is imposed on the defendant if they are convicted following a show cause hearing
- P&W gets 85% of fines on P&W offenses (with limited exception, see P. 9)
 - So previously they got \$0 of the special expense fee, since it wasn't a fine
 - Now they would get their percentage of the “initial fine” as well

DEFERRED DISPOSITION

- The second change is related to the time payment reimbursement fee.
 - The time payment reimbursement fee moved from Ch. 133 of the LGC to Ch. 102 of the CCP.
 - In Ch. 133 of the LGC (and most sections of the CCP), “conviction” includes placement on deferred disposition/DSC
 - However, this is not included in Art. 102.030
 - This means that a TPRF is not charged on a deferral/DSC for the defendant taking more than 30 days to pay their “up front” money
 - It would still be charged if they take more than 30 days to pay following final conviction

DRIVING SAFETY COURSE

- An additional change for DSC is that the fee on top of the costs/mandatory fines is now a “reimbursement fee” in mandatory DSC and an “initial fine” in discretionary DSC
- The reimbursement fee is capped at \$10, while the “initial fine” is capped at the maximum fine for the offense
- This applies to any DSC order on or after 1/1/2020, regardless of the offense date
- See Ch. 5 of the Criminal Deskbook for a breakdown of mandatory DSC v. discretionary DSC

OTHER ISSUES

SOMEONE ELSE PAYING FOR DEFENDANT?

- No one else can pay money in a criminal case other than the defendant
 - **UNLESS** the defendant has been convicted and a judgment generated
- The defendant can pay in full under CCP Art. 27.14 which constitutes a plea of nolo
 - No one else can enter a plea for the defendant – not even a spouse, child, or parent (even if the defendant is a child!)
 - Must be payment in full! No payment plan without a plea and judgment first!



SOMEONE ELSE
PAYING FOR
DEFENDANT?

This can become a significant issue also with phone or online payments

Perform an internal audit and discuss with software providers how to minimize this problem

- Verification process
- No payments from accounts in other names without plea

PARTIAL
PAYMENTS

- If a defendant makes a partial payment (which must be post-judgment), the payment is applied to court costs first, then the fine
- “Reimbursement fees” for this purpose would be included in court costs
- “Mandatory fines” for this purpose would be included in the fine
- If the payment is not sufficient to cover all of the court costs, it is applied to all court costs in a prorated fashion
- Once the court costs are paid, the same process applies to paying off the fine(s)
 - Example on P. 32-34 of FFC Deskbook

WAIVER

If money due in a criminal case is being partially waived, the fine is waived first, then the court costs.

SB 346 changed the standard for waiver of court costs. If the defendant can not pay the court costs, the court can waive them without a showing of undue burden to perform community service. This showing is still needed for a waiver of fines.

TRUANT CONDUCT COURT COSTS

- A \$50 court cost can be assessed in a truant conduct case against the child, or the parent or other person financially responsible for the child
- However, this can only be done AFTER determining that the person can pay the cost
 - Note the differences here as compared to criminal cases
 - Parents are not liable for child's fine in criminal cases
 - Determination of ability to pay is after assessment in criminal cases
 - This means there is no disposition of this cost via community service or waiver assessment