

CPL ARTICLE 420: FINES.

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Any court-ordered fine can be paid by credit card, together with a fee due in such manner/amount/time as Chief Administrator shall specify.

Defendant shall otherwise pay fine/restitution/reparation and surcharge to the designated official; can NOT be the District Attorney!

Court may direct that all money due be paid at time of sentencing, or later date; or portions at specific intervals. However a Corporation defendant MUST pay entire fine at sentencing date.

If both a fine and restitution/reparation be ordered, the restitution/reparation gets priority.

Any fine herein may be a condition of probation/conditional discharge.

Any non-forfeited bail of defendant principal - if not already assigned - can be ordered applied against fine.

If a victim dies, any restitution/reparation still owed shall be payable and due to the estate.

Court may direct imprisonment of defendant for failure to pay fine, provided that such condition was specified at time of sentence, or thereafter only if defendant was personally present.

Court can issue warrant for defendant to police, or peace officers acting pursuant to special duties. Such warrant be returnable before the issuing court. However: if such issuing City/Town/Village Local Criminal Court not be immediately available, and defendant was arrested by POLICE! = defendant brought before alternate court. If an issuing Superior Court not be available, and defendant is arrested by police = taken to local correction facility for detention until next business day when such court in session. Courts may also issue bench warrants as applicable.

Any defendant fined can apply for re-sentencing if cannot pay. Court may adjust terms of payment; lower amount due; revoke specific condition of probation relating to fine; or revoke *entire* sentence and issue any new one legally available as option (except any new fine shall not be more than defendant can afford). Court must state reasons on record for granting defendant's request; notice must also be provided to any payee of restitution/reparation, and such person given opportunity to be heard.

The fact that defendant is incarcerated is not in and of itself enough to justify an inability to pay; Court must consider all monies available to such defendant, including

pay for prison work.

If a defendant be imprisoned for failure to pay, maximum term = where convicted of felony: 1 year; misdemeanor: 1/3rd of allowable sentence term; petty offense: 15 days. However: if defendant had been sentenced to both prison and fine, aggregate of original sentence together with new term cannot exceed statutory maximum for convicted offense. If sentences are definite, defendant shall be credited with time served, as well as good behavior.

All fines are by written order. Generally it is the duty of the District Attorney to file certified copy with County Clerk; however: if *Supreme* Court issues fine, Clerk of Court in capacity as County Clerk shall file the order itself. Order itself comprises the Judgment Roll, and when filed constitutes a civil money judgment. Fine can be collected pursuant to action brought by victim/or estate. D.A. *may* also file proceedings, must on Court's order. Fine is still due even if defendant was incarcerated for failure to pay. District Attorney shall file transcript as lien where appropriate; such lien gets priority over all others except that of U.S./NYS, or another parties "purchase money interest" in defendant's property.

Any official designated to receive fines can deposit money in interest-bearing account, and apply such income against oldest orders remaining unsatisfied. Any payments remitted to victim (e.g. by check) and unclaimed for more than 1 year are considered "undisbursed", and may also be so assigned.

The Chief Elected Official [in NYC = Mayor] shall designate any non-District Attorney official/agency to receive fines and be paid a surcharge. ***EXCEPT***: in any county where Probation Department provides services, such agency shall have first option of receivership.

All designated officials shall keep records of: number of fines; percentage satisfied; and types of crimes. Probation official shall within 10 days after end of each month communicate such information to State Director for forwarding to Commissioner of State Department of Criminal Justice Services. Any other official shall report directly to DCJS.

Corporation defendant must pay fine at time of sentence; else such be collectable as civil judgment, including actions to sequester property. If the Attorney General prosecuted the underlying criminal case, A.G. shall file any collection proceedings. Else brought by Corporation Counsel of NYC, or County Attorney for any other locale.

Superior Court can "remit" [cancel] its own fine, or that of any Local Criminal Court sitting in same county. At least 5 days notice shall be required on District Attorney and any payee, plus an opportunity to be heard. Court must state reasons for remittance on record. Court can ***NOT*** remit mandatory surcharge; sex offender registration fee; or DNA fee. Court can ***NOT*** remit Crime Victim Assistance fee, ***EXCEPT***: for Eligible Youth, and then **only** where a "hardship".

Court **MAY** "defer" any mandatory fee above at appearance date upon summons issued for failure to pay **if** fee is hardship due to defendant's indigence. Court shall state reasons, such facts become part of record. Deferral shall be by written order. Defendant is NOT excused from payment, and fee is still docketed with County Clerk as judgment.

For any fees specified above, Court may NOT imprison defendant for failure to pay when such failure result of hardship. If not a hardship, maximum sentence = 15 days.

Courts shall report to DCJS on disposition and collection of fees. Reports to be in manner and form set by Commissioner of DCJS in consultation with Chief Administrator.