

Training and Resources Related to Monetary Obligations

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Training

- Grounded in national research and best practices
 - E.g., data on effectiveness and timing
 - Suggested approaches to evaluating ability to pay
- Acknowledges statutory and systems technicalities
- Offers an opportunity to think
 - Exercising discretion (where it exists)
 - Consideration of alternatives
- Ideally trains stakeholders jointly
 - Address local practices and rules of thumb
 - Forms

Criminal Monies Owed as Criminal and/or Civil Judgments

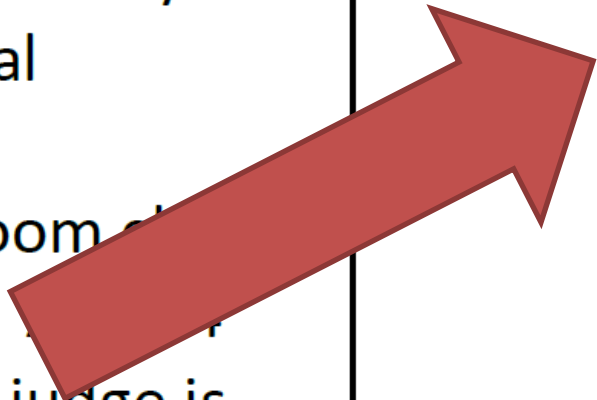
INSTRUCTOR GUIDE

This one-day course provides an overview of assessing G.S. 7A-304 costs and Non G.S. 7A-304 amounts for a criminal judgment that may or may not also be docketed as a civil judgment. This class tracks the workflow for a criminal judgment from the criminal courtroom to the criminal, civil, and bookkeeping departments through the payment process. Hands-on activities give the participants an opportunity to practice and apply the workflow of a criminal judgment.

Victim Restitution is
found in Section IV.
Costs are 1st in payment
priority.
Victims are 5th in
payment priority.

Costs should be docketed if
specifically ordered by
the court on criminal
proceedings in that
document form.
Costs should be assessed in
the criminal courtroom
and assessed GS 7A-304
costs only if the judge is
ordering costs.

1. If judge states to remit costs, remit GS 7A-304 costs only.



Resources

- Publications
- Bench Card
- Forms

Bench Card

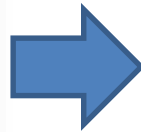
- A process, not a publication

Criminal Monetary Obligations 2018	AMOUNT	PERMISSIBLE RELIEF					CIVIL JUDGMENT	
		Waive	Order Partial	Exempt	Remit	Modify upon Default	Permissibility	Interest
Basic Costs (applicable by default)								
General Court of Justice Fee (District)	C.S. 7A-304(a)(4) \$147.50							
General Court of Justice Fee (Superior)	C.S. 7A-304(a)(4) 154.50							
Facilities Fee (District)	C.S. 7A-304(a)(2) 12							
Facilities Fee (Superior)	C.S. 7A-304(a)(2) 30							
Telecom/Data Fee	C.S. 7A-304(a)(4) 4							
LEO Retirement Fee	C.S. 7A-304(a)(9)-c)(d) 7.50							
LEO Training Fee	C.S. 7A-304(a)(9) 2							
DNA Fee ²	C.S. 7A-304(a)(9) 2							
Contingent Costs (applicable in certain circumstances)								
Arrest/Process Fee	C.S. 7A-304(a)(1) 5/service							
Chapter 20 Fee	C.S. 7A-304(a)(4d) 10							
Improper Equipment Fee	C.S. 7A-304(a)(6) 50							
Impaired Driving Fee ³	C.S. 7A-304(a)(7)(i) 100							
Pretrial Jail Fee ⁴	C.S. 7A-373 10/day							
Pretrial Release Services Fee ⁴	C.S. 7A-304(a)(5) 15							
State/Local/Hospital Lab Fee ⁵	C.S. 7A-304(a)(7)-d)(d) 600							
Digital Forensics Lab Fee ⁵	C.S. 7A-304(a)(7)-e)(e) 600							
Testifying Lab Expert Fee ⁵	C.S. 7A-304(a)(7)-f)(f) 600							
Witness Fee	C.S. 7A-374 Varies ⁶							
Blood Test (Parentage) Fee	C.S. 8-50.7 Varies							
Installment Plan Setup Fee ¹⁰	C.S. 7A-304(f) 20							
Failure to Appear Fee ¹¹	C.S. 7A-304(a)(8) 200							
Failure to Comply Fee ¹²	C.S. 7A-304(a)(8) 50							
Discretionary Costs								
Probationary Jail Fee ¹³	C.S. 7A-373 40/day							
Non-Cost Fees								
Probation Supervision Fee	C.S. 15A-1343(e) 40/month							
EHA Fee	C.S. 15A-1343(j) 90+4.48/day							
Community Service Fee ¹⁴	C.S. 14B-700(a) 250							
Satellite-Based Monitoring (SBM) Fee	C.S. 14-208.45 90							
Attorney Fees								
Attorney Fees	C.S. 7A-455 IDS Rules							
Attorney Appointment Fee ¹⁶	C.S. 7A-455.7 60							
Fines								
Fines	C.S. 15A-1367 Varies							
Restitution								
Crime Victims' Rights Act (CVRA) Restitution ¹⁸	Varies							
Non-CVRA Restitution	Varies							
Non-Victim Restitution	Varies							

Note: Blank areas on the table indicate that no law expressly allows or prohibits the indicated action.

- The court has clear statutory authority to take the indicated action, with no requirement for findings or notice to affected parties.
- The court may take the indicated action after satisfying the following requirement:
 - Order partial restitution. The court must state on the record the reasons for ordering partial restitution. G.S. 15A-1340.36(a).
 - Remit costs or fines. The court must give 15-day written notice and an opportunity to be heard for directly affected government entities. G.S. 7A-304(a). The AOC's statewide monthly notice might satisfy this requirement.
 - Remit restitution. The court must give 15-day written notice and an opportunity to be heard for the district attorney, the victim, the victim's estate, or any other recipient of restitution. G.S. 15A-1340.39.
- The court may take the indicated action after satisfying the following two requirements:
 - The court must enter a written order, supported by findings of fact and conclusions of law, determining that there is just cause for the waiver; and
 - The court must give 15-day written notice and an opportunity to be heard for directly affected government entities. G.S. 7A-304(a). The AOC's statewide monthly notice might satisfy this requirement.
- Indicates that the authority to waive the cost includes the authority to reduce it at the point of imposition.

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- Ask the defendant for information regarding his or her ability to pay (use local form or the worksheet on Form AOC-CR-415)
- Did the defendant meet our locally agreed-upon standard for indigency?
 - YES: Waive, remit, or exempt all obligations, as provided below and consider alternatives to monetary obligations.
 - NO: Consider the defendant's ability to pay obligations in the order listed below.

Restitution

- The State is not seeking restitution in this case (proceed to the next obligation).
- Is there sufficient proof (preponderance of the evidence) or a stipulation to the restitution amount?
- Consider the resources of the defendant as required by G.S. 15A-1340.36, including:
 - All real and personal property owned by the defendant
 - Income derived from the property
 - Ability to earn
 - Obligation to support dependents
 - Other matters pertaining to ability to make restitution
- Order restitution limited to:
 - The amount supported by the record, and
 - The amount the defendant is able to pay
- After paying restitution, does the defendant have the ability to pay any additional monetary obligations?
 - YES: Proceed to the next obligation
 - NO: Waive, remit, or exempt remaining obligations, as provided below.

Costs

- Have costs already been assessed in a related case stemming from the same underlying incident that was adjudicated together with this case?
 - YES: No further costs apply to this judgment. State v. Rieger, 833 S.E.2d 699 (2019).
 - NO: Proceed to the next step.
- Is there just cause to:
 - Waive all costs?
 - Waive some costs? (Identify those specific costs to be waived)



Questions?