

# DO YOU OWE FINES AND COSTS TO A COURT OF COMMON PLEAS?

If a Court of Common Pleas found you guilty of a criminal offense (or guilty if you appealed a summary case from a district court), you owe money to the court. You may be required to make regular payments as a condition of release on probation or parole. Even after you finish probation or parole, you **still have to pay all of the money that you owe**. You are likely on a monthly payment plan, and if you do not pay each month, the court will issue an arrest warrant. PennDOT will suspend your driver's license, too, if the violation was a traffic offense (there can be other reasons for license suspensions).

**DO NOT IGNORE THIS DEBT. There are ways to lower your payments, or even stop them for a time. And there is help. Follow these steps.**

## STEP 1: FIND OUT HOW MUCH YOU OWE

- If you cannot find your paperwork or never received it, call the clerk of court's office at the court and ask:
  - How much do I owe all together?
  - How much is my payment plan?
  - When are my payments due?
- Remember: if you have more than one criminal conviction, you may owe money in multiple cases. The court often will place you on one payment plan for all of the money that you owe across these cases. When you talk to the clerk, ask for a list of all the cases for which you owe money. Then give your mailing address and ask to get copies of all your paperwork relating to the money you owe and when you need to pay. In some counties, the probation office is in charge of collecting all of the money even if you are NOT on probation/parole. Ask the court clerk to tell you which office collects the money in your county.

## STEP 2: WHAT TO DO IF YOU CANNOT AFFORD TO PAY WHAT YOU OWE

- If you have missed a payment deadline or cannot afford a payment, you will need to contact the court as soon as possible.
- But before you do, fill out the attached "Ability-to-Pay Evaluation." It will help you to explain how much you can afford to pay the court.
- Then call or go to the court and speak with a clerk. Ask if you can get a new payment plan that you can afford. Make sure you write down the exact amount and due date of your payments.
- If the clerk says that you have to make payments you do not think you can afford, ask to schedule a "payment determination hearing" with the judge. Make sure it is at a time that you will attend.

## STEP 3: THE PAYMENT DETERMINATION HEARING

- A "payment determination hearing" (some courts may refer to this as a "fines and costs hearing") is with the judge. You will explain your financial situation and the judge will set or modify your monthly payment amount. You can ask the judge to make the payments more affordable.



- **YOU MUST SHOW UP FOR YOUR HEARING.** If you cannot make it, call the court and tell them ahead of time. The court may issue an arrest warrant if you fail to appear for the hearing.
- Fill out the “Ability-to-Pay Evaluation” and take it with you to court. Also, take paperwork to prove what you have written down. For example, take paystubs and social security paperwork to prove your income, and take a lease to show your housing expenses. You must convince the judge that you can only afford a certain amount each month, so take your most recent paperwork to show that. Be sure to also organize your paperwork so that the judge can easily look through and see your income and expenses.
- If your income is less than the Federal Poverty Guidelines on the Ability-to-Pay Evaluation, you should have either no payments or very, very low payments, maybe \$5.00 or \$10.00 per month, until you are making more money. If you cannot pay that, ask the judge to suspend your payments until you are earning more money.
- If you are temporarily unable to work, tell the judge that and ask the judge to suspend your payments and have you come back in two or three months to report your income. If you are unable to work because of a disability or injury, bring paperwork from your doctor.
- Make sure you get in writing the amount the judge says that you have to pay.
- If the judge sets a payment amount you cannot afford every month, you can file an appeal (see below).

### **WHAT ARE MY OPTIONS OTHER THAN PAYING MONEY?**

If you owe an amount of money that you believe you will never be able to pay off, you can ask the judge to reduce the amount that you owe. It is up to the judge whether to do this, and judges are more likely to reduce fines or costs than restitution.

Ask the judge if you can perform community service instead of paying the money, and be prepared with ideas of organizations you could volunteer with. The judge may say no, but if the judge is willing, ask what kind of proof you need to bring back to show that you completed the service.

### **CAN I GO TO JAIL IF I DO NOT PAY?**

Yes. You can be jailed if you do not pay your fines and costs, but only if the court determines that you are able to pay and refusing to do so. Before the judge can jail you, he or she must hold a contempt hearing with you present.

If, at that hearing, the judge determines that you are **ABLE** to pay but have refused to do so, the judge can throw you in jail. After making this determination, judges often give you an opportunity to pay on the spot—but they do not have to. However, if a judge determines that you are **UNABLE** to pay, you **CANNOT** be jailed.

### **WHAT IF I RECEIVED NOTICE OF A CONTEMPT HEARING?**

If you have received a letter from the court saying that you need to appear for a contempt hearing, the court is considering jailing you because you have not paid the money that you owe. You should immediately contact your county public defender’s office and arrange to have a lawyer represent you at the hearing. You should also call the clerk’s office at the court and ask what you need to do to avoid being held in contempt and jailed.



## **DO I HAVE THE RIGHT TO A LAWYER?**

Only if you face jail. Before a judge sentences you to jail, you have the right to a lawyer. If the judge threatens you with jail, tell the judge that you want to talk with a lawyer. Ask for the public defender's contact information, and ask to speak with a public defender before the court decides whether to send you to jail. The court may ask you to sign a document that "waives" (gives up) your right to a lawyer, but do not sign it.

## **CAN I APPEAL?**

Yes, you can file an appeal to the Superior Court. However, we strongly recommend that you obtain a lawyer to represent you in that appeal. Unless you have presented strong evidence during the hearing about your finances, including detailed information about your income and expenses supported by paperwork, it is unlikely that the Superior Court is going to rule in your favor. If you have been unable to find an attorney to represent you, please contact us.

As an alternative, if you were not represented by an attorney at the payment determination hearing and the judge put you on monthly payments you cannot afford, you can try to find an attorney and see if that attorney will represent you at a new payment determination hearing.

## **WHAT IF I NEED ADDITIONAL HELP?**

You can submit a request to the ACLU of Pennsylvania for assistance. We are unable to provide help in every case, but we may be able to refer you to a local attorney. You can either call us at 1-877-745-2258 or submit an electronic complaint at <https://www.aclupa.org/our-work/legal/fileacomplaint/>.



## Pennsylvania Ability-to-Pay Evaluation

Commonwealth of Pennsylvania

v.

\_\_\_\_\_, Defendant

Docket No.: \_\_\_\_\_

Balance Due: \_\_\_\_\_

### Section I: Other Case Information

Other case docket numbers where the defendant owes money, if any:
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### Section II: Identification and Employment

Name – Last, First, Middle	Date of Birth	Spouse Full Name (if married)	
Home Address	City	State	Zip
Telephone Number	Number of People in House/ Number Working		
Employer	Occupation / Date Hired	Supervisor Name and Telephone Number	
Employer Address	City	State	Zip

If unemployed:      Are you actively searching for employment?      YES / NO  
                                  Do you have a disability preventing employment?      YES / NO  
                                  If yes, please provide a doctor’s note explaining the work  
                                  restriction. Date expected to be able to return to work: \_\_\_\_\_

### Section III: Monthly Income

Receives: Food stamps \_\_\_\_ Medicaid \_\_\_\_ Social Security \_\_\_\_ Cash Assistance \_\_\_\_

Monthly Income (take-home income)	\$
Dates of Last Employment if Unemployed	
Legal Spouse’s Income	\$
Interest/Dividends	\$
Pension/Annuity	\$
Social Security Benefits	\$
Disability Benefits	\$
Unemployment Compensation	\$
Welfare/TANF/V.A. Benefits	\$
Worker’s Compensation	\$
Other Retirement Income	\$

Support from Other People (parents, children, etc.)	\$
Other Income (e.g. trust fund, estate payments)	\$
<b>TOTAL MONTHLY INCOME</b>	\$

**Section IV: Monthly Expenses**

Rent/Mortgage	\$
Utilities (Gas, Electric, Water)	\$
Television/Internet	\$
Food (amount beyond what food stamps cover)	\$
Clothing	\$
Telephone	\$
Healthcare	\$
Other Loan Payments	\$
Credit Card Payments	\$
Education Tuition	\$
Transportation Expenses (car payment, insurance, transit pass, etc.)	\$
Payments to courts/probation/parole	\$
Number of Dependents (e.g. children)	
Dependent Care (including child support)	\$
Other Expenses (explain)	\$
<b>TOTAL MONTHLY EXPENSES</b>	\$

**Section V: Liquid Assets**

Cash on Hand	\$
Money in Bank Accounts (checking and savings)	\$
Certificates of Deposit	\$
Stocks, Bonds, and Mutual Funds	\$

MONTHLY INCOME: \$ \_\_\_\_\_

MONTHLY EXPENSES: \$ \_\_\_\_\_

**DISPOSABLE INCOME:** \$ \_\_\_\_\_  
(Income left over after expenses each month)

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

125% <sup>1</sup> of the 2018 Federal Poverty Guidelines: Individual: \$15,175 Family of 2: \$20,575 Family of 3: \$25,975 Family of 4: \$31,375 Family of 5: \$36,775 Family of 6: \$42,175 Family of 7: \$47,575 Family of 8: \$52,975
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<sup>1</sup> Recommended by the National Task Force on Fines, Fees and Bail Practices, a joint task force of the Conference of Chief Justices and the Conference of State Court Administrators, coordinated by the National Center for State Courts. See National Task Force on Fines, Fees and Bail Practices, "Lawful Collection of Legal Financial Obligations: A Bench Card for Judges," [http://www.ncsc.org/~media/Images/Topics/Fines%20Fees/BenchCard\\_FINAL\\_Feb2\\_2017.ashx](http://www.ncsc.org/~media/Images/Topics/Fines%20Fees/BenchCard_FINAL_Feb2_2017.ashx).