

**37<sup>th</sup> Judicial Circuit of Michigan**  
**Directive**

RE: Non-Restitution Criminal Case Financial Assessments

This directive is intended to set forth the general standards for imposing non restitution financial assessments/sanctions (NRFA) for criminal case convictions (whether by verdict or plea) and probation violations. It is also intended to assure that the defendant's ability to pay certain assessments is considered and documented as required by statute, case law and court rule.

1. Effective with convictions occurring after 1/1/09, non restitution financial assessments for which ability to pay is a required consideration will be generally made in accordance with this directive. NRFA excludes restitution and probation oversight fees.
2. The probation officer responsible for the pre-sentence investigation will obtain financial information from the defendant and make a recommendation as part of the sentence consistent with the court's policy and guidelines. At the time of sentencing the judge will refer to the fact that NRFA are based on an ability to pay analysis and the information provided to the probation officer by the defendant.
3. As a general rule, imposition of NRFA assessments will require a term of probation which may be in addition to any initial jail term.
4. Standard NRFA will be assessed when a defendant's current annual gross income/assets less ordered child support obligations are a minimum of 200% of current federal poverty level guidelines. Standard NRFA are as follows: 1) \$100 penal fine; 2) reimbursement of balance due on actual court appointed counsel expenses paid by the county; 3) general court costs of \$1,000; 4) state minimum costs of \$68 per conviction count; and, 5) crime victim rights assessment of \$60. Assuming no contributions have been received for court appointed counsel cost and the appointment occurs at the 2010 rate of \$455, this totals a minimum of \$1,683, if there is only a one count conviction in the case. The total amount of assessment is based on an assumption that a defendant, absent disability, has the ability to pay, whether currently employed or, by exercise of due diligence could be employed, a minimum of \$10 per week toward NRFA while on an average probation term after paying 20% of the total at time of sentencing.
5. When a defendant's current annual gross income/assets less ordered child support obligations is less than 200% of current federal poverty level guidelines, NRFA will be as follows:
  - A. A defendant whose annual income/assets are 125% or less of poverty level shall pay a minimum of \$893\* in NRFA as follows: \$100 penal fine; 50% of the balance due for court appointed counsel; general court costs of \$440; state minimum costs of \$68 per convicted count; and Crime Victim Rights assessment of \$60.
  - B. A defendant whose annual income/assets are 126 to 150 % of poverty level shall pay

a minimum of \$1,091\* in NRFA as follows: \$100 penal fine; 62.5% of the balance due for court appointed counsel; general court costs of \$581; state minimum costs of \$68 per convicted count; and Crime Victim Rights assessment of \$60.

C. A defendant whose annual income/assets are 151 to 175 % of poverty level shall pay a minimum of \$1,289\* in NRFA as follows: \$100 penal fine; 75% of the balance due for court appointed counsel; general court costs of \$723; state minimum costs of \$68 per convicted count; and Crime Victim Rights assessment of \$60.

D. A defendant whose annual income/assets are 176-200 % of poverty level shall pay a minimum of \$1,487\* in NRFA as follows: \$100 penal fine; 87.5% of the balance due for court appointed counsel; general court costs of \$864; state minimum costs of \$68 per convicted count; and Crime Victim Rights assessment of \$60.

Minimum's denoted with an asterisk (\*) are based on (1) no contributory payments having been received for court appointed counsel expense; and (2) a one (1) county conviction thus a single state minimum costs assessment. Accordingly, if court appointed counsel payments have been received the minimum amount may decrease and if there is more than a single county conviction for the case the assessment for state minimum costs will increase accordingly.

6. Restitution and state probation fees are in addition to NRFA.

7. Unless otherwise required by law (state minimum costs and Crime Victims' Rights assessments) a defendant sentenced to prison shall not be assessed NRFA. NRFA will be assessed when a jail term is applied which will result in a term of probation supplemental to the jail term.

8. All defendants shall be informed at time of conviction or plea acceptance that the court will expect that at least 20% of the total NRFA be paid at time of sentencing as may be recommended by the probation officer. In extraordinary circumstances wherein the defendant has insufficient assets and the applied bond amount does not offset the 20% payment, the probation officer, upon approval of his/her supervisor may recommend an alternative amount. Amounts payable from posted bonds and applied to any NRFA assessment will apply to the 20% initial payment requirement.

9. Any amount of court appointed attorney fee contribution paid prior to conviction shall be credited to the attorney fee reimbursement portion of NRFA.

10. To help ensure compliance with payment of NRFA, a review hearing will be conducted at 6 month intervals during probation. Any non payment of obligations shall be brought to the court's attention at the next scheduled hearing by the probation officer. The court may impose further sanctions as the circumstances merit. In the event the probation officer determines

substantial compliance is being made, then the hearing may be waived.

11. Community service in lieu of payment of any or all NRFA shall be in accordance with the court's general directive concerning community service and is a determination for the court to make in the circumstances of each individual case generally at the review hearing scheduled for 6 months prior to the end of the original term of probation.

12. The local DOC office may apply provisions of this directive to pending cases as consideration permits.

DATED: January 2, 2009

UPDATED: July 15, 2010



ALLEN L. GARBRECHT,  
Chief Circuit Judge

C:     Circuit Judges  
       Court Administrators  
       Judicial Staff  
       David Riley, Probation Agent in Charge  
       James Peterson, Probation Agent in Charge  
       Toni Fritz, Chief Deputy Circuit Court Clerk  
       Bruce Huepenbecker, Financial Manager, Circuit Court Clerk's Office  
       Regional State Court Administrator Hughes

## 2009/2010 HHS Poverty Guidelines

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Size of family unit	100 Percent of Poverty	110 Percent of Poverty	125 Percent of Poverty	150 Percent of Poverty	175 Percent of Poverty	185 Percent of Poverty	200 Percent of Poverty
1	\$10,830	\$11,913	\$13,538	\$16,245	\$18,953	\$20,036	\$21,660
2	\$14,570	\$16,027	\$18,213	\$21,855	\$25,498	\$26,955	\$29,140
3	\$18,310	\$20,141	\$22,888	\$27,465	\$32,043	\$33,874	\$36,620
4	\$22,050	\$24,255	\$27,563	\$33,075	\$38,588	\$40,793	\$44,100
5	\$25,790	\$28,369	\$32,238	\$38,685	\$45,133	\$47,712	\$51,580
6	\$29,530	\$32,483	\$36,913	\$44,295	\$51,678	\$54,631	\$59,060
7	\$33,270	\$36,597	\$41,588	\$49,905	\$58,223	\$61,550	\$66,540
8	\$37,010	\$40,711	\$46,263	\$55,515	\$64,768	\$68,469	\$74,020

For family units with more than 8 members, add \$3,740 for each additional person at 100% of poverty; \$4,114 at 110 %; \$4,675 at 125%; \$5,610 at 150%; \$6,545 at 175%; \$6,919 at 185% and \$7,480 at 200% of poverty.

Note: For optional use in FFY 2009 and mandatory use in FFY 2010

Page Last Updated: April 5, 2010

**FINANCIAL STATEMENT - NRFA - CRIMINAL CASES**

Case Name: \_\_\_\_\_ Case No.: \_\_\_\_\_

Defendant's Name: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Soc. sec. no.: \_\_\_\_\_

Employer's name: \_\_\_\_\_ Length of employment: \_\_\_\_\_

Employer's address: \_\_\_\_\_

Gross pay: \$ \_\_\_\_\_ per \_\_\_\_\_ (week, bi-weekly, month)  
\*\*\*\*\*

Spouse: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Soc. sec. no.: \_\_\_\_\_

Employer's name: \_\_\_\_\_ Length of employment: \_\_\_\_\_

Employer's address: \_\_\_\_\_

Gross pay: \$ \_\_\_\_\_ per \_\_\_\_\_ (week, bi-weekly, month)  
\*\*\*\*\*

Marital status  single  married  separated  divorced

Names and ages of dependents residing in the home \_\_\_\_\_

\_\_\_\_\_

Names, ages and relationships of all other people living in the home \_\_\_\_\_

\_\_\_\_\_

Other income (overtime, tips, public assistance, child support, unemployment, social security, veteran's benefits, workers comp., etc.): \_\_\_\_\_

Other assets (checking and savings): \$ \_\_\_\_\_

Child Support Order Amount: \$ \_\_\_\_\_ per month

Date: \_\_\_\_\_ Defendant's Signature: \_\_\_\_\_

\*\*\*\*\*

**FOR DOC USE ONLY:** Family size: \_\_\_\_\_ Annual income: \$ \_\_\_\_\_

Poverty Level: ( ) 125% or less ( ) 126 - 150% ( ) 151 - 175%  
( ) 176 - 199% ( ) 200% or greater

Recommended NRFA: Penal Fine \$ 100; Court Appointed Attorney \$ \_\_\_\_\_

General Costs \$ \_\_\_\_\_ State Minimum Costs \$ \_\_\_\_\_

Crime Victims' \$ \_\_\_\_\_ TOTAL \$ \_\_\_\_\_ 20% \$ \_\_\_\_\_

AGENT NAME: \_\_\_\_\_

## Crime Victim Assessment

**Based upon the Most Serious Offense Charged  
in the Original Criminal Complaint or Juvenile Petition**

MCL 780.811, 780.901, 780.905

Offense Type	Amount <sup>1</sup>
<b>Adults, Including Juvenile Waivers and Designated (DJ) Cases One Assessment Per Case</b>	
Felony	\$60
Serious or Specified Misdemeanor	\$50
Felony or Serious Misdemeanor Reduced to Misdemeanor	\$60 if original charge is Felony \$50 if original charge is Serious Misdemeanor
Specified Misdemeanor Reduced to Misdemeanor	\$50
Misdemeanor	Not Applicable
<b>Juvenile Delinquency (DL) Cases <sup>2</sup> One Assessment Per Dispositional Order <sup>3</sup></b>	
Felony	\$20
Serious or Specified Misdemeanor	\$20
Felony or Serious Misdemeanor Reduced to Misdemeanor	\$20
Specified Misdemeanor Reduced to Misdemeanor	\$20
Misdemeanor	Not Applicable

<sup>1</sup> MCL 780.905(1). The court shall order each person **charged** with an offense that is a felony, a serious misdemeanor, or a specified misdemeanor, that is resolved by conviction, by delayed sentence, by assignment to youthful trainee status, or by deferred judgment of guilt, to pay the Crime Victim Rights Assessment. The court may not waive, suspend, or offset the assessment for time served or community service performed.

<sup>2</sup> MCL 780.905(3). The court shall order each juvenile for whom the court enters an order of disposition for a juvenile offense to pay the assessment. The court may not waive, suspend, or offset the assessment for time served or community service performed.

<sup>3</sup> MCR 3.943(E)(5) and MCL 780.905(3). The Crime Victim Rights Assessment should be assessed on juveniles once per dispositional order, regardless of the number of petitions or charges covered in the order. The court may impose additional assessments following the receipt of new petitions when the court enters a supplemental order of disposition.

## Minimum State Cost

MCL 600.8381, 712A.18m, 769.1j, 769.1k, 780.811, 780.901

Offense Type	Amount <sup>4</sup>
<b>Adults, Including Juvenile Waivers and Designated (DJ) Cases</b> Assess on each Count Based upon Offense Convicted <sup>5</sup>	
Felony	\$68
Serious or Specified Misdemeanor	\$53
Felony or Serious Misdemeanor Reduced to Misdemeanor	\$53 <sup>6</sup>
Specified Misdemeanor Reduced to Misdemeanor	\$48
Misdemeanor	\$48
<b>Juvenile Delinquency (DL) Cases <sup>7</sup></b> Assess on each Count Based upon Offense Adjudicated	
Felony	\$68
Serious or Specified Misdemeanor	\$53
Felony or Serious Misdemeanor Reduced to Misdemeanor	\$53 <sup>6</sup>
Specified Misdemeanor Reduced to Misdemeanor	\$48
Misdemeanor	\$48

<sup>4</sup> MCL 769.1j. Assess if any combination of other assessments is also ordered on that count (e.g. fine + cost, fine + restitution, crime victim assessment + restitution, etc.). The court may not waive, suspend, or offset Minimum State Costs for time served or community service performed. A probationer not in willful default of payment may petition the court for remission of any unpaid portion of Minimum State Courts, pursuant to MCL 771.3(6)(b). A juvenile not in default of payment may petition the court for remission of any unpaid portion of Minimum State Costs, pursuant to MCL 712A.18(19).

<sup>5</sup> This includes when the defendant is sentenced, placed on probation, assigned to youthful trainee status, or granted a deferred judgment of guilt or a delayed sentence pursuant to MCL 769.1k.

<sup>6</sup> MCL 780.811(1)(a)(xviii). A felony or serious misdemeanor that is reduced to a misdemeanor is defined as a serious misdemeanor.

<sup>7</sup> MCL 712A.18m.