

WV Municipal Courts



*GUIDE TO
ADMINISTERING
MUNICIPAL COURT
PAYMENT PLANS*

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Overview

As part of its initiative on criminal justice reform, the 2020 West Virginia Legislature passed HB 4958 which changed the ability of municipal, magistrate, and circuit courts to suspend driver's licenses for non-payment of court fines, fees, and costs. West Virginia State Code Sections §8-10-2a and §8-10-2b applicable to municipal courts were changed to accomplish the Legislature's goal. The offer of a payment plan for court fines, fees, and costs was made mandatory, and a consistent method for the administration of these payment plans was incorporated in the new law. Additional changes were made in the 2022 legislative session, to further clarify the process for the administration of payment plans. A copy of the portions of legislation applicable to municipalities is attached as Appendix A.

This guide is intended to help with the implementation of this law and to provide accurate information to Municipal Courts. It is provided with the understanding that the West Virginia Municipal League Inc., and its officers, members, employees, and agents are not engaged in rendering legal, accounting, or other professional services. If legal advice or other expert assistance is required, the services of a competent professional should be sought.

West Virginia State Code mandates that the uniform payment plan contract and financial affidavit forms created by the West Virginia Supreme Court and provided with this guide are to be used by municipal courts without material amendment. Additional forms provided with this guide are intended as examples only and may be modified to fit individual court preferences. Actual forms used by municipal courts should be verified with the individual municipalities' legal counsel.

The West Virginia Municipal League is a West Virginia chartered non-profit organization formed pursuant to W. Va. Code § 8-12-6 to disseminate information and provide advocacy on behalf of West Virginia municipalities.

Notes on incarcerated defendants

In the statute there are several instances where courts are limited in the actions they can take against defendants who are incarcerated. At this time, it appears that the only method for the court to independently determine if a defendant is incarcerated is to query each defendant in the online databases for both the West Virginia Regional Jail System and the West Virginia Division of Corrections System. For courts with high volumes of defendants or limited administrative capacity, this type of inquiry for every defendant in all situations where incarceration is a factor may not be reasonable or practical. These searches also will not include defendants who may be incarcerated in border states, and the queries only return results for those that are in custody at the time the query is run and cannot provide historical information.

The other method of determining the incarceration status of a defendant is through self-reporting by the defendant. The complication with this is that defendants do not have a reliable or straightforward way to document that they were incarcerated, so courts will have to rely on the word of the defendant or try to independently verify with the applicable institution that the defendant was incarcerated.



This guide includes notes on incarcerated defendants in the applicable sections. Each court should decide the extent to which it wants to independently verify the incarceration status of a defendant depending on the volume of defendants processed and administrative capacity of the court. The Magistrate and Circuit Courts will be relying on defendant self-reporting and will not be independently verifying incarceration status.

Section 1 – New Citation Processing

1.1 Citation Court Dates

If they are not already doing so, municipal police officers need to begin including a court date on every citation they issue. The court may still request the suspension of a defendant’s driver’s license if a defendant fails to appear in court, but the defendant must be given an initial court date in order to be able to affect the license suspension. Defendants may appear prior to that date to enter a guilty or no contest plea and either pay in full or set up a payment plan. It may be necessary or convenient to provide officers with calendar dates of court sessions in order for them to be able to quickly provide the information on the citation.

Remember that although there is a signature line for the violator, the citation is valid without a violator’s signature.

West Virginia Uniform Citation Detail

VIOLATOR RESPONSIBILITY	
<i>I Understand that I Have to Appear, On or Before,</i>	(Date)
Court Name and Address	Court Phone
<i>I Promise to Contact the Above Listed Court within the Time Specified. Failure to Appear Will Result in the Suspension of Driver’s License.</i>	
Violator Signature - Not an Admission of Guilt	

This is the section that is the legal notice to the violator of their obligation to appear in court. When citations are received, the court will need to make sure that the court’s name, address, and phone number appear in this section, and that the court date entered is valid. If any of this information is missing or incorrect, inform the issuing officer. Any incorrect information in this section may result in the dismissal of the charges or the

inability to suspend the violator's license if they do not show up to court.

1.2 Appearance prior to court dates

Defendants may enter a plea of guilty or no contest prior to their court date. The new statute does not impact how the court processes these pleas when the Defendant pays in full. On the day of adjudication of their charges, the defendant may also request a payment plan. Requests for a payment plan should be processed according to Section 2.

1.3 Appearance on court dates

If a defendant appears on their assigned court date, and either pleads guilty or no contest, or is found guilty by the court, they may pay in full or request a payment plan on that day. If the defendant requests a payment plan, process the plan according to Section 2.

1.4 Failure to appear on court dates

Municipal courts can still request that the DMV suspend the driver's licenses of defendants who fail to appear for their court dates. The court must wait 90 days before requesting that the DMV suspend a defendant's West Virginia license for failing to appear in court. The defendant may appear at any time in that 90 days to reschedule a court appearance, or enter a guilty or no contest plea, but the court has no obligation to further notify the defendant of the 90-day deadline. The DMV's Universal Suspension/Compliance Form must be completed and sent to the DMV to suspend a driver's license for failure to appear.

Section 2 – Payment Plan Administration

West Virginia State Code Sections §8-10-2a and §8-10-2b set out the method for enrolling in a payment plan, for determining payment amounts and number of payments. It also includes options for penalty and collection if the defendant defaults on their plan.

2.1 Enrolling in a payment plan

Under the statute, all defendants must be offered an opportunity to enroll in a payment plan. However, the defendant must sign an affidavit attesting to the fact that they cannot pay the assessed fines, costs, and fees. The affidavit form has been developed by the West Virginia Supreme Court in accordance with the statute and must be used by municipal courts without material modification. Although the affidavit is required, payment plans are not need based. There is no income threshold below which a person must fall to be able to enroll in a plan and the information contained in the affidavit is to facilitate the calculation of the maximum monthly payment. The affidavit also contains information about the location of property owned by the defendant. This information is

not used in establishing the payment plan, but is used if the defendant defaults on their payment plan.

When a defendant enrolls in a payment plan, the court shall charge a \$25.00 plan administration fee **in addition to** all other fines, costs, and fees. This fee is retained by the municipal court. The \$25.00 plan administration fee may be paid in full at the time of enrollment or divided into no more than five payments to be added to the minimum payment amount on the first payments in the plan.

No payment from the defendant is required when enrolling in a payment plan unless the defendant elects to pay the \$25.00 plan administration fee in whole or in part.

2.1.1 The Financial Affidavit

In order to enter into a payment plan, the defendant must complete a financial affidavit. The WV Supreme Court has developed the form for the affidavit and the statute requires that municipal courts use this form. A sample of the affidavit is included in Appendix B. The information contained in the affidavit is used to calculate the number of payments and the amount of each payment in the plan. If the defendant does not complete the affidavit, they cannot be given a payment plan.

The defendant should complete the following sections of the form: Application Information, Net Income, Expenses, and Assets.

Application Information - It is important to make sure the defendant provides their current address, phone number, and email for the court to be able to provide notices and to effectively collect if the defendant defaults on their payment plan.

Net Income – The defendant should list the net income from all income sources and the total of all the amounts included in the income section should be entered in the appropriate box. For the purposes of this affidavit, net income is “take home” income after taxes, deductions, or other court-ordered payments. This information will be used to calculate the amount of the monthly payments the defendant will need to pay as part of their plan.

Expenses – The defendant should list all regular monthly payments, and the total of all the amounts included in the expenses section should be entered in the appropriate box. This information will be used to calculate the amount of the monthly payment the defendant will need to pay as part of their plan.

Assets – The defendant should list the value of any of the assets listed in this section. Defendants are also asked to list all personal property and the county(ies) in which the property is held. These amounts are not used in the calculation of the payment plan but may be used if liens are issued for delinquent payment plans.

The defendant must sign the completed affidavit and their signature must be notarized. If court staff is not a Notary Public, or the defendant cannot produce

identification required by WV state law applicable to notaries, the form should be given to the defendant for them to fill out and return with a notarized signature.

No payment plan may be issued without the defendant's completed, signed, and notarized financial affidavit.

2.2 Calculating payment amounts and number of payments, and completing the payment contract

The statute has implemented a formula for calculating the maximum amount of payments and the number of payments in a plan. There is no uniform time limit on the length of payment plans, but plans cannot last longer than three years (36 months). The payment plan contract has been developed by the West Virginia Supreme Court in accordance with the statute and must be used by municipal courts without material modification.

Step One – Calculate the maximum monthly payment amount

The first step in developing the payment plan is to determine the maximum monthly payment amount that can be charged by the court. According to the statute, the maximum payment allowable is 2% of the defendant's annual net income divided by 12. The court calculates this amount by subtracting the total monthly expenses reported in the *Expenses* section of the financial affidavit from the total reported in the *Net Income* section of the financial affidavit. The result is then multiplied by 2%¹.

There is a \$10.00 minimum payment, so if the calculated amount is less than \$10.00, the defendant's monthly payment amount is \$10.00.²

¹ This formula will not always result in a whole number. For determining the monthly payment, round any decimals in the result.

² The minimum payment amount may be adjusted depending on the length of the payment plan as determined in Step Two of this process.

Example

Defendant 1 -

The defendant reports a monthly income of \$1,500. \$1,500

The defendant reports monthly expenses of \$250. \$250

The defendant's monthly net income is \$1,250. $1,500 - 250 = 1,250$

Multiply net income by 2%. $1,250 \times .02 = 25$

25 is greater than 10

The maximum monthly payment for this defendant is \$25

Defendant 2 -

The defendant reports a monthly income of \$500. \$500

The defendant reports monthly expenses of \$200. \$200

The defendant's net income is \$300. $500 - 200 = 300$

Multiply net income by 2%. $300 \times .02 = 6$

6 is less than 10

The maximum monthly payment for this defendant is \$10

This calculation will result in the maximum monthly payment that a court can **require** a defendant to pay. However, if a defendant requests a higher payment amount in writing, the court may increase the monthly payment amount.

Step Two – Calculate the number payments

To determine the number of monthly payments, divide the total amount of fines, costs, and fees due by the maximum monthly payment. **Do not include the \$25 plan administration fee in this calculation.** This calculation will rarely result in a whole number, and the number of payments should always be rounded up to make sure the total amount is included in the plan. If the number of payments is rounded, the last payment will be less than the monthly maximum amount. If the defendant has deferred paying the plan administration fee, divide it among the appropriate number of payments at the beginning of the plan in addition to the maximum payment amount.

Example

Total amount due ÷ maximum monthly payment

Defendant 1 from step one (\$25/month)

Defendant's total fines, costs, and fees. 352

Divided by maximum monthly payment $352 \div 25 = 14.08$

Round up number of payments 14.08 rounded to 15

The plan will be 14 payments of \$25 $25 \times 14 = 350$

And one payment of \$2 $350 + 2 = 352$

If the defendant has deferred the \$25 plan administration fee for the maximum number of five payments the plan will be

First five payments \$30 $25 + 5 \text{ plan fee} = 30$

Nine payments of \$25 and one payment of \$2

Example (continued)

Defendant 2 from step one (\$10/month)
Defendant's total fines, costs, and fees 352
Divided by Maximum monthly payment $362 \div 10 = 35.2$
Round up number of payments 35.2 rounded up to 36
The plan will be 35 payment \$10
And one payment of \$2

Step Three (only if number of payments exceeds 36) – Adjust the number payments and minimum payment amount

The duration of payment plans is limited to three years. If the calculation of the number of payments results in a number in excess of thirty-six (36) payments, the minimum payment and plan duration will need to be recalculated. For the recalculation, the defendant's total fines, cost, and fees are divided by 36 to determine the minimum payment amount, which may be in excess of the \$10 minimum payment.

Example

Defendant 2 from step one (\$10/month)
Defendant's total fines, costs, and fees 576
Divided by Maximum monthly payment $576 \div 10 = 57.6$
Number of payments exceeds 36 $57.6 > 36$
Divide total fines, costs, and fees by 36 $576 \div 36 = 16$
The plan will be 36 payment \$16

Step Four – Complete the Payment Contract

When the calculations from Step One and Step Two, or the recalculation from Step Three are complete, the Payment Contract can be completed. The WV Supreme Court has developed the form for the Payment Contract and the statute requires that municipal courts use this form without material amendment. A sample of the Payment Contract is included in Appendix B. On the payment contract, the court should fill in the personal information (name, address, phone) as it appears on the Financial Affidavit. The court will detail all of the cases that are included in the payment plan. The specifications of the plan –the total amount due, the amount of the payments, the number of payments, the date on which the plan starts, and when the payments are due – are all included on the Payment Contract.

There is a section of the contract that includes all of the methods of payment that the court accepts, the Acceptable Payment Methods. Prior to issuing a Payment Contract, the court should make sure that all payment methods accepted by the court are included in this section.

The defendant must sign the Payment Contract. The document may be notarized, but notarization is not required.

There will be one payment plan per defendant. All a defendant's cases will be in one plan, with one contract.

2.3 Applying payments

Payments received by the court should be applied first to municipal court fines and fees. When the court's fines and fees have been paid in full, money received through the payment plan should be applied to any restitution owed to any third party and paid to the third party. After the debt to the court and any third-party restitution has been collected, money received should be applied to state costs and fees. The court should remit the state's costs and fees through the Treasurer's Office online reporting portal. User guides and additional information are available on their website:

<https://wvtreasury.com/Banking-Services/Court-Fee-Remittance>.

2.4 Late payments and defaulted payment plans

Defendants have 30 days after any missed payment to bring their account current and avoid any adverse action or penalty taken against them. The new statute allows the court to assess a late fee of \$10.00 for every 30 days a payment is delinquent and allows collection processes to be initiated after a payment is 90 days delinquent. The court may, but is not obligated to, send the defendant reminders of payments that are overdue.

The new statute also provides that no adverse action can be taken against defendants who are incarcerated. If a defendant is incarcerated **on the date their payment is due**, no late fee is assessed, the payment is deferred for that month and the duration of the payment plan is extended by 30 days for each payment missed due to the defendant's incarceration. A deferred payment is not considered delinquent.

2.4.1 Management of Late Payments

If the defendant misses a payment, the court will set a diary for 90 days. If the defendant does not bring the account current before the 90-day deadline, the court may add a \$10 late fee for each thirty days - a total of \$30 in late fees - and may consign the unpaid amount to collection, record a judgement lien, or both.

If the defendant contacts the court prior to the expiration of the 90 days to bring the account current, the court will need to calculate the amount owed. Depending on when the defendant makes contact, the court may add a \$10 late fee for every 30 days the payment has been delinquent unless the defendant was incarcerated **on the date the payment was due**. The applicable late fees must be paid by the defendant in addition to the missed payments to bring the payment plan current.



The court must ask the defendant if they were incarcerated for any period during the time they have been delinquent in payments. If they respond affirmatively, the court should ask for the date that they were incarcerated. If they report being incarcerated **on the date the missed payment(s) was due**, the court may not assess a late fee for that thirty-day period. Additionally, the payment plan will be extended by an additional month or months if the defendant was incarcerated on a payment due date. If the defendant was incarcerated, but not on the dates that the missed payment(s) was due, then the court may assess a \$10 late fee, and the duration of the payment plan remains the same. Again, independent verification of a defendant's incarceration is at the discretion of the court.

2.4.2 Alternative Monthly Management of Late Payments

In lieu of setting a 90-day diary for a missed payment, courts may review the plan's status every thirty days and assess late fees in thirty-day intervals until the delinquency reaches 90 days.



Depending on the case load and administrative capacity of the court, monthly checks on a defendant's incarceration status may also be performed. Remember that these searches do not return historical data and will have to be performed **on the day the payment is due** in order to be accurate. Instructions for performing a search of West Virginia jail and prison databases is outlined in Section 5.

Thirty days after a defendant misses a scheduled payment, the court may make a reasonable effort to determine if the defendant is incarcerated on the day the payment is due. If the defendant is incarcerated, the payment is deferred, and the plan is extended for a month. The next payment is due on the date of the next regularly scheduled payment. The count of days delinquent is reset to zero.

If the defendant is not incarcerated, the court may assess a \$10.00 late fee. The court may send a notice of delinquent payment to the defendant but is not required by the statute to do so. The court should then set a diary for an additional thirty days. The defendant may bring their account current at any time by paying in full all back amounts owed, and any late fees assessed. If the defendant has not brought their account current by the expiration of a second 30-day period (60 days cumulative from the missed payment), the court may make a reasonable effort to determine if the defendant is incarcerated. If the defendant is incarcerated, the payment is deferred, and the payment plan is extended for a month. The next payment is due on the date of the next regularly scheduled payment. The count of days delinquent is stayed at its current level.

If the defendant is not incarcerated, the court may assess an additional \$10.00 late fee. Again, the court may send a notice of delinquent payment to the defendant but is not required by the statute to do so. The court should then set a diary of an additional thirty days. The defendant may bring their account current at any time by paying in full all back amounts owed, and any late fees assessed. If the defendant has not brought their account current by the expiration of the third 30-day period (90 days cumulative from the missed

payment) the court may make a reasonable effort to determine if the defendant is incarcerated. If the defendant is incarcerated, the payment is deferred, and the payment plan is extended for a month. The next payment is due on the date of the next regularly scheduled payment. The count of days delinquent is stayed at its current level.

If the defendant is not incarcerated, the court may assess an additional \$10.00 late fee and consign unpaid amounts to collection, record a judgement lien, or both.

2.5 Combining payment plans for subsequent offenses

It is the intention of the legislation that defendants only have one payment plan with any individual court regardless of how many citations or cases the defendant has, and that the monthly payment does not exceed the maximum monthly payment amount calculated regardless of the number of citations or fines that a defendant incurs, unless the plan extends longer than 36 months. This means that the court will have to combine amounts owed to the courts into one plan if the defendant is convicted of a subsequent offense and requests a payment plan for newly incurred fines and penalties. The maximum amount of the payment will stay the same if the defendant has not undergone a change in economic circumstances and the plan does not extend longer than 36 months, but the

Combined payment plans are only available to defendants who are current with their existing payment plan. If the defendant is in arrears with their existing plan, the existing plan must be brought current, including the payment of any late fees, prior to establishing a new combined payment plan. If the defendant cannot bring the account current, the court should advise the defendant that they have 90 days to remit the entire amount owed to the court, or the amount may be consigned to collection, or be placed as a judgement lien, or both.

duration of the plan will change according to the new total amount due. If the calculations result in a payment plan for more than 36 months, the court will divide the total amount due by 36 to get a monthly payment amount. Even if the previous plan extended for more than 36 months, any re-calculation of a plan occurring after June 10, 2022, is subject to the 36-month limitation.

It is important to determine if the defendant has undergone a change in economic circumstances that would affect the maximum payment due on the payment plan. If the defendant has undergone a change in economic circumstances, the court may need to recalculate the maximum payment amount and apply that amount to the recalculated plan. Before combining subsequently incurred fines and fees into an existing payment plan, the court should ask the defendant to review the most recent affidavit on file and either confirm that none of the information has changed by signing a new affidavit indicating no changes, or by completing a new affidavit if there are any changes.

To combine subsequently incurred fines and fees into an existing payment plan, determine the total amount still due in the existing plan and add the total amount of the new fines and fees to it. The court may also assess an additional \$25 administration fee for recalculating the payment plan. As with the initial fee, the \$25 may be paid in full at the time of recalculation or divided into no more than five payments to be added to the minimum payment amount on the first payments in the plan.

If the defendant's economic circumstances have changed, recalculate the maximum monthly payment amount and then calculate the number of payments for the combined amount as indicated in Step One of Section 2.2. If the defendant has not had any change in economic circumstances, calculate the number of payments for the combined amount as indicated in Step Two of Section 2.2.

Example

Defendant incurs charges in July 2020 in the amount of \$362 with a \$25 maximum payment. Their payment plan is 14 payments of \$25 and 1 payment of \$12, beginning in August 2020 and ending in October 2021.

The defendant pays the first seven payments (totaling \$175) then is convicted of an additional offense in March of 2021 with fines and fees of \$268 and requests a payment plan for the new charges.

Calculate the new amount due:

\$187	unpaid from original plan ($362 - 175 = 187$)
<u>\$268</u>	new fines and fees
\$455	new total due

No change in economic circumstances - the maximum payment amount remains at \$25.

<i>Defendant's total fines, costs, and fees.</i>	455
<i>Divided by maximum monthly payment</i>	$455 \div 25 = 18.2$
<i>Round up number of payments</i>	18.2 rounded to 19
<i>The amended plan will be 18 payments of \$25</i>	$25 \times 18 = 450$
<i>And one payment of \$5</i>	$450 + 5 = 455$

The payment plan will now run from March of 2021, to September of 2022.

Change in economic circumstances - the defendant indicates that they are now earning a net of \$20,000 rather than \$15,000.

<i>The defendant's annual net income is \$20,000.</i>	20,000
<i>2% of the annual net income</i>	$20,000 \times .02 = 400$
<i>Divide by 12</i>	$400 \div 12 = 33$
<i>33 is greater than 10</i>	

The maximum monthly payment for this defendant is now \$33

Example (continued)

<i>Defendant's total fines, costs, and fees.</i>	455
<i>Divided by maximum monthly payment</i>	$455 \div 33 = 13.78$
<i>Round up number of payments</i>	13.78 rounded to 14
<i>The amended plan will be 13 payments of \$33</i>	$33 \times 13 = 429$
<i>And one payment of \$26</i>	$429 + 26 = 455$

The payment plan will now run from March of 2021, to April of 2022.

2.6 Effect of 36-month limitation on existing payment plans

Because some payment plans have been established prior to the legislation limiting payment plans to 36 months being passed in 2022, there is the possibility that courts will have payment plans that extend beyond that time period. The implementation of the 2022 changes do not impact existing payment plans, unless the defendant receives a subsequent conviction and requests new fines and fees be added to the existing payment plan. Any recalculation of payment plans due to subsequent offenses going forward must be done according to the current statute, including the 26-month limitation.

Section 3 – Collections and Liens

The new law provides methods for collecting defaulted payment plans and unpaid fines and costs. Courts may record a judgement lien, consign unpaid amounts to collection, or **both**. When assigned to collection, courts may use a collection agency³, an internal collection division, or both.

3.1 Filing Judgement Liens

The statute allows courts to file judgement liens for delinquent amounts owed. This process uses prosecuting attorneys to file the liens with county clerks at no charge to the municipality.

3.1.1 Preparing Lien Documents

Judgement liens may only be filed for adjudicated cases after either the payment plan has been delinquent for 90 or more days, or until an amount not included in a payment plan has been unpaid for 90 or more days. The period for appeal of the case must be expired. One judgement lien form should be completed for each defendant, incorporating all amounts due into one lien. For each case, the form should contain the date the case(s)

³ Collection agencies must be on the State Tax Commissioner's list of eligible debt collection agencies established and maintained pursuant to W. Va. Code §14-1-18c.

was adjudicated, the case number(s), the fine amount(s), the amount of any court costs or fees, and if any late fees are being assessed. A sample of a judgement lien form for a single case and a sample for multiple cases is included in Appendix B.

The statute allows that the court may place a judgment lien in the county in which the court is located and also in the county in which the defendant resides or owns property, if it is different from the county in which the court is located. Section 5c of the affidavit requires the applicant for a payment plan to disclose any county and address of owned property. This section of the affidavit may be used by the court to determine in which counties a judgement lien should be filed. A separate original judgement lien document should be prepared for each county in which a judgement lien will be filed.

3.1.2 Providing Notice of Judgement Lien to Defendant

Prior to filing a judgement lien, the Defendant must be given notice of the court's intent. A sample of a notice letter is included in Appendix B. The letter should include details of the case(s) which are included in the judgement lien and a total amount due to the court. The letter should provide at least ten (10) days for the defendant to make full payment of the amounts due.

The notice letter and a copy of the judgement lien form should be mailed to the most recent address of the defendant that the court has on file. If a defendant lists multiple addresses of owned property in response to Section 5c of the affidavit, a notice should be sent to each of these addresses.

3.1.3 Transmitting Liens to Prosecutors

If the defendant does not respond to the notice letter or does not make full payment to the court within the time indicated in the letter, the court may proceed with recording the judgement lien with county clerks in all applicable counties. Physical filing of judgement liens is performed by the County Prosecutor's Office.

The county clerk will record the lien. There is no charge to the municipality for the recordation of the lien.

Once a lien is recorded, the county clerk will return a copy of the recorded lien to the court. This copy should contain details of in what book and on what page the lien was recorded with the county. This information is necessary for preparing a release of the lien when the defendant has paid their debt to the court.

3.1.4 Releasing Liens

When a defendant pays the full amount due to the court, a release of the lien must be filed with the clerks of any county in which a lien was filed. A sample of a release of lien is included in Appendix B. Filing the release of a judgement lien is done similarly to the way they are filed.

If requested by the defendant, the court clerk may provide the defendant with the original release(s) of lien and the defendant can file the release themselves. The court clerk should advise the defendant that they may incur a fee from the county clerk for filing the release themselves, and the court is not responsible for payment, reimbursement, or any other compensation to offset any county fees incurred by the defendant.

3.2 Collection Consignment

Under the statute, when a defendant does not pay in full or request a payment plan within 120 days, or if a payment plan remains delinquent for 90 days, the court has the option of consigning the amount due for collection. The court may contract with a collection agency to pursue payment or may pursue collection internally either directly by the court or through a collection process established by its town or city.



Please Note

Although the statute allows for internal collection efforts in combination with agency collection, many agencies do not allow duplicate collection efforts. Consult your agency's contract before pursuing duplicate collection efforts.

3.2.1 Collection Agency Consignment

The statute allows for the consignment of court debt to a collection agency. If the court contracts with a collection agency, the agency must remit back to the court the entire amount of all delinquent payments collected and may not reduce the amount by any costs of collection or fees. The collection agency may add a collection fee in an amount up to 25% of the total delinquent payment amount to cover any collection costs or fees. The court may contract

with any eligible collection agency, but for the convenience of the courts, the Municipal League will be providing information and forms necessary for enrollment with a corporate partner for court collection services.

3.2.2 Internal Collection

Either instead of or in addition to collection agency consignment, the statute also allows for the collection of delinquent amounts owed to the court using an internal court or city collection process. If a court exclusively uses an internal collection process, the court may add an additional fee of up to 25% of the total delinquent payment amount to cover any collection costs. The amount of the collection fee must be reasonably proportional to the actual costs of pursuing collection.

Only one entity may impose the collection fee. If the court has contracted with a collection agency, and the agency is charging an additional collection fee, the court may not also impose a collection fee for its collection efforts.

Payment received through collection efforts should be applied to amounts owed consistent with Section 2.3.

Section 4 – Suspensions effective before July 1, 2020

Defendants whose driver’s licenses were suspended for non-payment prior to July 1, 2020, may now have their licenses reinstated if they either pay their outstanding fines and fees in full or set up a payment plan with the court. If defendants do not contact the court to either make full payment or set up a payment plan, all prior suspensions remain in full force and effect. Courts do not have an obligation to contact defendants who have had their licenses suspended prior to July 1, 2020.

4.1 Payment in Full

If the defendant pays in full all amounts of fines, fees, restitution, and court costs, the court should send notice of satisfaction to the DMV indicating the citation has been paid in full. On the Universal Suspension/Compliance Form from the DMV, check the “Paid in Full” box on the form and enter the date and receipt # in the spaces provided on the form.

4. Compliance/Satisfaction Information (To Be Completed AFTER Citation/Case is Resolved)

<input type="checkbox"/> Paid in Full	Date	Receipt #
<input type="checkbox"/> Dismissed	Date	
<input type="checkbox"/> Other (Explain below)	Date	

Authorized Signature _____ Date / /

4.2 Payment Plan

If a defendant requests a payment plan, follow the instructions in Section 2 to establish the plan for the defendant. Once the payment plan has been established and the \$25 administrative fee has been paid in full, the court should send verification of satisfaction to the DMV indicating a payment plan has been established by checking the “Other” box on the Universal Suspension/Compliance Form from the DMV, entering the date in the space provided and using the explanation “Defendant has entered into a payment plan and paid the \$25 administrative fee pursuant to W. Va. Code 8-10-

FOR NON-PAYMENT ONLY

Suspensions of driver’s licenses for failure to appear remain in full force and effect until the defendant appears. Courts are not obligated to contact defendants about

2b(g)(2).” A copy of the payment contract needs to be transmitted to the DMV with the verification of satisfaction.

4. Compliance/Satisfaction Information (To Be Completed AFTER Citation/Case is Resolved)

<input type="checkbox"/> Paid in Full	Date	/ /	Receipt #	
<input type="checkbox"/> Dismissed	Date	/ /		
<input type="checkbox"/> Other (Explain below)	Date	/ /		

Defendant has entered into a payment plan and paid the \$25 administrative fee pursuant to W. Va. Code 8-10-2b(g)(2).

Authorized Signature _____ Date / /

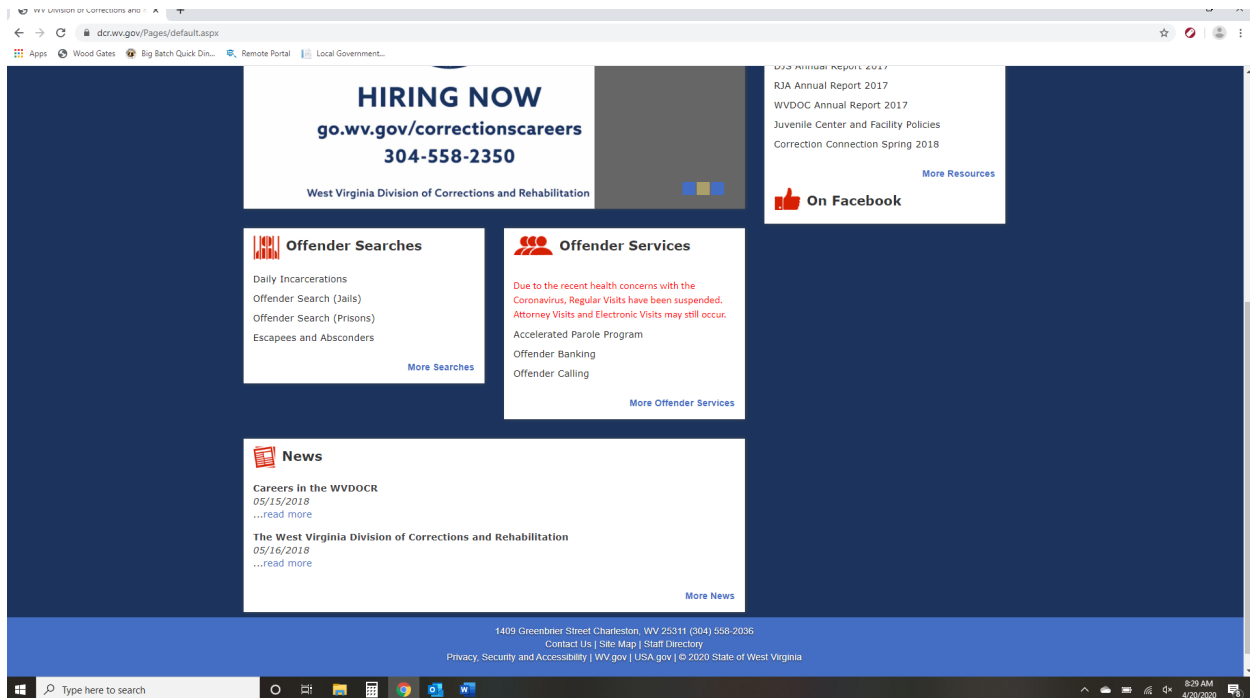
Note: *The full \$25 administrative fee must be paid prior to reinstatement of their driver’s license. If the \$25 administrative fee is divided into payments, the payments in which the administrative fee is included must be paid in full before notice of satisfaction is sent to the DMV.*

Defendants must be advised that until the \$25 administrative fee is paid in full, their license will not be reinstated.

Section 5 – Incarcerated defendants search

If a court determines that it would like to reconcile payment plans on a monthly basis, a search of the West Virginia Division of Corrections databases will help to determine if a defendant is incarcerated in West Virginia.

There are two searchable databases on the website: one for the regional jail system, and the other for the state’s prisons. The portal to both of these search engines is <https://dcr.wv.gov>. On the main page, the links to both search engines are in the “Offender Searches” box.



5.1 Searching the regional jail system

To begin a search for a defendant in the WV Regional Jail System, click on the link “Offender Search (Jails).” This will take you to the search screen where you enter the last and first names of the defendant. Check the robot verification box, and then click the “Search” button. If no defendant with the name entered is under active supervision of the WV Regional Jail Authority, the search will result in a red box stating, “No results found with specified criteria.” If this message appears, the search for that defendant in the Regional Jail System is complete.

If there are one or more defendants with the same name under active supervision of the WV Regional Jail Authority, their name or names, jail location, and photograph (if available) will be shown. To the left of the name is a link for “More Info”. If you click for more information, the inmate’s date of birth will be shown. The date of birth can be used to verify that the incarcerated person is the defendant, especially in cases where the initial search returned more than one defendant with the same name. The “More Info” section also contains the date the defendant was booked into the jail, and court order under which they are incarcerated.

Remember that the search returns results only for persons under active supervision of the WV Regional Jail Authority or the WV Division of Corrections at the time the search is performed. When using these searches in association with payment plans, the searches will have to be performed on the same day the payment is due.

This information can be helpful when trying to determine the duration for which the inmate may be incarcerated for the purposes of issuing a continuance for a future appearance.

5.2 Searching the WV Division of Corrections prison system

If the court has determined that the defendant is not in the active custody of the WV Regional Jail System, the court should try to determine if the defendant is in the custody of the Division of Corrections. From the Division of Corrections main page in the “Offender Searches” box, select “Offender Search (Prisons)”. Enter the defendant’s last and first names, check the robot verification box and press the “Search” button. If the defendant is not under active custody of the Division of Corrections, the search will result in a red box stating, “No results found with specified criteria.” If this message appears, the search for that defendant in the Division of Corrections is complete.

If there are one or more defendants with the name entered under active supervision of the Division of Corrections, their name or names, jail location, and photograph (if available) will be shown. To the left of the name is a link for “More Info”. If you click for more information, the inmate’s date of birth will be shown. The date of birth can be used to verify that the incarcerated person is the defendant, especially in cases where the initial search returned more than one defendant with the same name. The “More Info” section also contains the projected release date of the defendant. This information can be helpful when trying to determine the duration for which the inmate may be incarcerated for the purposes of issuing a continuance for a future appearance, or for the necessity of additional searches when different waiting periods required by the statute expire.

Remember that if a defendant reports that he was incarcerated in a facility outside of West Virginia, the court will need to accept the defendant’s word, or independently verify the defendant’s incarceration with the institution.

Appendix A – Recent Legislation

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4712

BY DELEGATES D. KELLY AND FAST

[Passed March 12, 2022; in effect ninety days from
passage.]

1 AN ACT to amend and reenact §8-10-2b of the Code of West Virginia, 1931, as amended; to
2 amend and reenact §50-3-2 and §50-3-2a of said code; to amend and reenact §59-1-10
3 of said code; and to amend and reenact §62-4-17 of said code, all relating generally to
4 costs, fines, forfeiture, restitution and penalties; requiring a person, unless incarcerated,
5 to pay all costs, fines, forfeiture, restitution and penalties upon entry of the order assessing
6 them in municipal court, magistrate court, and circuit court; reducing the time period
7 allowed for enrollment for incarcerated persons in municipal court, magistrate court, and
8 circuit court payment plans and limiting the maximum length of payment plans: voiding
9 driver's license suspensions entered prior to July 1, 2016, for the failure to appear or
10 otherwise respond in court or for nonpayment of costs, fines, forfeitures, restitution, or
11 penalties; increasing fees to the Courthouse Facilities Improvement Authority; imposing a
12 \$10 processing fee for criminal bail bonds, other than personal recognizance bonds, to be
13 deposited in the fund; imposing a \$25 fee for the processing of bail pieces, to be deposited
14 in the fund; and increasing the fee for a deed of conveyance with the increase dedicated
15 to the fund.

Be it enacted by the Legislature of West Virginia:

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 10. POWERS AND DUTIES OF CERTAIN OFFICERS.

**§8-10-2b. Payment plan; failure to pay will result in late fee and judgment lien; suspension
of licenses for failure to pay fines and costs or failure to appear in court.**

1 (a) Upon request and subject to the following requirements, the municipal court clerk or,
2 upon a judgment rendered on appeal, the clerk shall establish a payment plan for a person owing
3 costs, fines, forfeitures, restitution, or penalties imposed by the court for a motor vehicle violation
4 as defined in §17B-3-3a of this code, a criminal offense as defined in §17B-3-3c of this code, or
5 other applicable municipal ordinances, so long as the person signs and files with the clerk an

6 affidavit stating that he or she is financially unable to pay the costs, fines, forfeitures, restitution,
7 or penalties imposed:

8 (1) A \$25 administrative processing fee shall be paid at the time the payment form is filed
9 or, in the alternative, the fee may be paid in no more than five equal monthly payments;

10 (2) Unless incarcerated, a person must pay in full the costs, fines, forfeitures, restitution,
11 or penalties or enroll in a payment plan upon the entry of the order assessing the costs, fines,
12 forfeitures, restitution, or penalties; and

13 (3) If the person is incarcerated, he or she must pay in full the costs, fines, forfeitures,
14 restitution, or penalties or enroll in a payment plan within 30 calendar days after release.

15 (b) The West Virginia Supreme Court of Appeals shall develop a uniform payment plan
16 form and financial affidavit for requests for the establishment of a payment plan pursuant to
17 subsection (a) of this section. The forms shall be made available for distribution to the offices of
18 municipal clerks, and municipal clerks shall use the payment plan form and affidavit form
19 developed by the Supreme Court of Appeals when establishing payment plans.

20 (c)(1) The payment plan shall specify: (A) The number of payments to be made; (B) the
21 dates on which such payments are due; (C) the amount due for each payment; (D) all acceptable
22 payment methods; and (E) the circumstances under which the person may receive a late fee,
23 have a judgment lien recorded against him or her, or have the debt sent to collections for
24 nonpayment; and

25 (2) The monthly payment under the payment plan shall be calculated based upon all costs,
26 fines, forfeitures, restitution, or penalties owed within the court, and shall be two percent of the
27 person's annual net income divided by 12, or \$10, whichever is greater: *Provided*, That if this
28 calculation results in a payment plan lasting more than three years, the monthly payments shall
29 be set by dividing the total amount owed by 36.

30 (3) The court may review the reasonableness of the payment plan, and may on its own
31 motion or by petition, waive, modify, or convert the outstanding costs, fines, forfeitures, restitution,

32 or penalties to community service if the court determines that the individual has had a change in
33 circumstances and is unable to comply with the terms of the payment plan.

34 (d)(1) The clerk may assess a \$10 late fee each month if a person fails to comply with the
35 terms of a payment plan and if any payment due is not received within 30 days after the due date,
36 and the person:

37 (A) Is not incarcerated;

38 (B) Has not brought the account current;

39 (C) Has not made alternative payment arrangements with the court; or

40 (D) Has not entered into a revised payment plan with the clerk before the due date.

41 (2) If after 90 days, a payment has not been received, the clerk may do one or both of the
42 following: (A) Record a judgment lien as described in subsection (f) of this section; or (B) consign
43 the delinquent costs, fines, forfeitures, restitution, or penalties to a debt collection agency
44 contained on the Tax Commissioner's list of eligible debt collection agencies established and
45 maintained pursuant to §14-1-18c of this code, an internal collection division, or both: *Provided*,
46 That the entire amount of all delinquent payments collected shall be remitted to the court and may
47 not be reduced by any collection costs or fees: *Provided, however*, That the collection fee may
48 not exceed 25 percent of the delinquent payment amount. The clerk may send notices,
49 electronically or by U.S. mail, to remind the person of an upcoming or missed payment.

50 (e)(1) If after 90 days of a judgment a person fails to enroll in a payment plan and fails to
51 pay their costs, fines, forfeitures, restitution, or penalties, the clerk may assess a \$10 late fee and
52 shall notify the person of the following:

53 (A) That he or she is 90 days past due in the payment of costs, fines, forfeitures, restitution,
54 or penalties imposed pursuant to a judgment of the court;

55 (B) That he or she has failed to enroll in a payment plan;

56 (C) Whether a \$10 late fee has been assessed; and

57 (D) That he or she may be the subject of a judgment lien or have his or her debt sent to a
58 collection agency if the overdue payment of costs, fines, forfeitures, restitution, or penalties is not
59 resolved within 30 days of the date of the notice issued pursuant to this subsection.

60 (2) If after 30 days from the issuance of a notice pursuant to subdivision (1) of this
61 subsection a payment has not been received, the clerk may do one or both of the following:

62 (A) Record a judgment lien as described in subsection (f) of this section; or

63 (B) Consign the delinquent costs, fines, forfeitures, restitution, or penalties to a debt
64 collection agency contained on the Tax Commissioner's list of eligible debt collection agencies
65 established and maintained pursuant to §14-1-18c of this code, an internal collection division, or
66 both: *Provided*, That the entire amount of all delinquent payments collected shall be remitted to
67 the court and may not be reduced by any collection costs or fees: *Provided, however*, That the
68 collection fee may not exceed 25 percent of the delinquent payment amount.

69 (f) To record a judgment lien, the clerk shall notify the prosecuting attorney of the county
70 of nonpayment and shall provide the prosecuting attorney with an abstract of judgment. The
71 prosecuting attorney shall file the abstract of judgment in the office of the clerk of the county
72 commission in the county where the defendant was convicted and in any county in which the
73 defendant resides or owns property. The clerk of the county commission shall record and index
74 these abstracts of judgment without charge or fee to the prosecuting attorney and when recorded,
75 the amount stated to be owed in the abstract constitutes a lien against all property of the
76 defendant: *Provided*, That when all the costs, fines, fees, forfeitures, restitution, or penalties for
77 which an abstract of judgment has been recorded are paid in full, the clerk of the municipal court
78 shall notify the prosecuting attorney of the county of payment and provide the prosecuting attorney
79 with a release of judgment, prepared in accordance with the provisions of §38-12-1 of this code,
80 for filing and recordation pursuant to the provisions of this subdivision. Upon receipt from the clerk,
81 the prosecuting attorney shall file the release of judgment in the office of the clerk of the county
82 commission in each county where an abstract of the judgment was recorded. The clerk of the

83 county commission shall record and index the release of judgment without charge or fee to the
84 prosecuting attorney.

85 (g) Any driver's license suspension entered by the Division of Motor Vehicles prior to July
86 1, 2016, for the failure to appear or otherwise respond in court or for nonpayment of costs, fines,
87 forfeitures, restitution, or penalties is null and void. A person whose driver's license was
88 suspended on or after July 1, 2016, but prior to July 1, 2020, solely for the nonpayment of costs,
89 fines, forfeitures, restitution, or penalties, if otherwise eligible, shall have his or her license
90 reinstated:

91 (1) Upon payment in full of all outstanding costs, fines, forfeitures, restitution, or penalties
92 and a \$25 reinstatement fee paid to the Division of Motor Vehicles; or

93 (2) Upon establishing a payment plan pursuant to subsection (a) of this section and the
94 payment of a \$25 administrative fee. The clerk shall notify the Division of Motor Vehicles that a
95 payment plan is in effect, and upon receipt of the notification, the division shall waive the
96 reinstatement fee.

97 (h) If a person charged with a motor vehicle violation as defined in §17B-3-3a of this code
98 or criminal offense fails to appear or otherwise respond in court, the municipal court clerk shall
99 notify the Division of Motor Vehicles of the failure to appear: *Provided*, That notwithstanding any
100 other provision of this code to the contrary, for residents of this state, the municipal court clerk
101 shall wait at least 90 days from the date of the person's failure to appear or otherwise respond
102 before notifying the Division of Motor Vehicles thereof. Upon notice, the Division of Motor Vehicles
103 shall suspend the person's driver's license or privilege to operate a motor vehicle in this state until
104 such time that the person appears as required.

CHAPTER 50. MAGISTRATE COURTS.

ARTICLE 3. COSTS, FINES, AND RECORDS.

§50-3-2. Costs in criminal proceedings.

Appendix B – Sample Forms

Financial Affidavit

IN THE MUNICIPAL COURT OF



**FINANCIAL AFFIDAVIT:
PAYMENT PLAN APPLICATION**

A. Information for the Applicant:

In order to enter into a payment plan agreement with this court, to pay in full all outstanding balances you may owe, you must enroll in the clerk's office payment plan and pay an administrative fee of \$25.00. Additionally:

1. You must complete the affidavit for the court to determine the amount and number of your monthly payments as mandated by W.Va. Code § 8-10-2b.
2. You may be required to file a separate affidavit and application anytime your financial situation changes.
3. The information you give in this form will be confidential.
4. Except for signatures, all information must be clearly printed.

APPLICATION INFORMATION

Applicant Information:

Defendant(s) Name *(First/Middle/Last)*

Social Security No. _____ - _____ - _____

Date of Birth: ____ / ____ / ____

Street Address

Phone Number: (____) _____

City, State, Zip Code

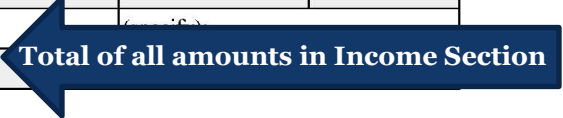
Drivers License #: _____

1. What is the total number of dependents, including yourself?
(Include only those persons listed on your U.S. Income tax return.)
2. Are you married? Yes No Does your spouse work? Yes No
Spouse's Yearly Income: _____

NET INCOME:

3. Current **monthly** net (take-home) income from **all** sources:
(Net income is your total income including salary, wages, bonuses, commissions, allowances, overtime, tips and similar payments, minus deductions required by law and other court-ordered payments such as child support.)

Employer:	\$	Second Job:	\$	Self-Employment:	\$
Public Assistance:	\$	Food Stamps:	\$	Unemployment:	\$
Benefits:	\$	Disability Benefits:	\$	Social Security/SSI:	\$
Alimony:	\$	Pensions:	\$	Rental Income:	\$
Interest:	\$	Dividends:	\$	Annuities:	\$
Odd Jobs:	\$	Other:	\$		
TOTAL:	\$				



EXPENSES:

4. Regular **monthly** household debt-payment and other expenses:

Mortgage/Rent:	\$	Car Payment:	\$	Loan Payments:	\$
Credit Card Payments:	\$	Other Debt Payments:	\$	Utilities:	\$
Cell Phone:	\$	Food:	\$	Child Care:	\$
Child Support:	\$	Alimony:	\$	Medical Bills:	\$
Other Expenses	\$	(specify):			

Total of all amounts in Expenses Section

What is the total amount of these monthly expenses?

ASSETS:

5. List the value of any individually or jointly owned assets.

Cash:	\$	Savings Account:	\$	Boats/ATVs	\$
Bank Accounts:	\$	Stocks/Bonds:	\$	Trucks/Used Cars	\$
Certificate of Deposits	\$	Real Estate:	\$	Other Assets:	\$
Money Market Accts.	\$	Vehicle/s:	\$	(specify):	

This "Assets" section is not used in the calculations but may be used when filing liens on delinquent plans. The Defendant should complete this section.

What is the total amount of these assets?

5a. List the name of each bank/institution in which you have cash, checking/savings accounts, CD's, stocks/bonds, or money market accounts:

5b. List all cars, trucks, motorcycles, or recreational vehicles (all-terrain vehicles, motor homes, snowmobiles, boats), including their make, model, and year, that you own individually or jointly:

5c. List the county and address of all real estate (houses, lots, land, rental property, or commercial property) that you, individually or jointly, own:

By signing my name on this form, I swear to or affirm the completeness and truthfulness, to the best of my ability and knowledge, of the information I have provided.

Signature of Applicant: _____ Date: _____

Taken, subscribed, and sworn or affirmed before me, by the person whose signature appears above, on this _____ day of _____, 20____, in _____, West Virginia.

Must be Notarized

Signature of Notary: _____

For Court Use Only

The affiant's application for a Payment Agreement (initial one) _____ granted _____ denied.

Date: _____ Signature of Clerk: _____

Uniform Payment Contract

IN THE MUNICIPAL COURT OF [name], WEST VIRGINIA



Defendant(s) Name (First/Middle/Last)

Social Security No. _____ - ____ - ____

Street Address

Date of Birth: ____ / ____ / ____

City, State, Zip Code

Phone Number: (____) _____

Drivers License #: _____

RE: In the matter of the following cases:

Case Number	Date	Amount	Case Number	Date	Amount
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____



PAYMENT CONTRACT

WV Code § 8-10-2b

Pursuant to WV Code § 8-10-2b, I _____ have requested and been qualified to enter a payment plan to make payment in full for my outstanding fees, service charges, costs, or fines and restitutions. I am, therefore, entering into this payment contract with [Clerk or Judge's name], [Clerk or Judge] of the Municipal Court of [Name], West Virginia.

I am obligated to pay court-related fees, service charges, costs fines, and restitution in the amount of \$_____. I agree to pay the minimum of \$_____ monthly, for _____ months beginning on ____ / ____ / ____ and continuing until paid in full.

I understand there is, in addition to the foregoing, a one-time, non-refundable administrative fee of \$25.00 payable to the court. The administrative fee may be paid in full at the initiation of the agreement or may be allocated over the first 5 payments of the payment plan.

PAYMENT PLAN SPECIFICATIONS

TERMS OF PLAN

This payment plan includes _____ monthly payments of \$_____ each month, with a final payment of \$_____.

The first payment is due ____ / ____ / ____ and payments are due on the _____ of each month thereafter until paid in full.

ACCEPTABLE PAYMENT METHODS

Include only payment methods accepted by the court

Amounts due the Court may be paid with [cash, personal, travelers, or certified checks, money orders, or debit or credit cards. Any convenience fee(s) associated with the use of debit or credit cards shall be paid by the person responsible for paying the cost, fine, forfeiture, or penalty.

LATE FEE

A \$10 late fee may be charged **each month** if a person fails to comply with the terms of the payment plan and if any payment is not received within 30 days after the due date, AND the person:

- A. Is not incarcerated
- B. Has not brought the account current
- C. Has not made alternative payment arrangements with the court; or
- D. Has not entered into a revised payment plan with the clerk before the due date.

PLAN MODIFICATION

This agreement may be modified depending on individual circumstances. A modification requires the signing of a new payment contract and approval of the court. In the event such modification is at the request of the above-named defendant, the modification shall be considered a new payment plan, and the defendant shall pay an additional plan fee of \$25.00 at the time of such modification or that fee can be allocated over the next 5 payments.

FAILURE TO PAY

If, after 90 days, a payment has not been received, I understand the Clerk may record a judgement lien or consign the delinquent costs to an authorized debt collection agency.

I certify that I have been open and honest in entering into this payment plan. I am satisfied with this payment plan and intend to be bound by it. I understand that failure to comply with this contract may result in collection enforcement as provided by law. Such collection enforcement may include referral to a collection agency authorized to add a collection fee of up to 25%, and/or a judgement against me for the outstanding balance of this contract.

Defendant's Signature

Date

State of WV, COUNTY OF _____

Sworn to or affirmed and signed before me on ____ / ____ / ____

My commission expires on ____ / ____ / ____ (If Notary Public)

May be Notarized

Notary Public/Clerk/Deputy Clerk/Judge

(Print, type, or stamp name of Court signatory)

Abstract of Judgment – Single Case

**IN THE MUNICIPAL COURT OF [CITY]
[COUNTY] COUNTY, WEST VIRGINIA**

<u>[CITY NAME]</u>	[CASE NUMBER ON PLAN] Case No. _____
v	
<u>[DEFENDANT'S NAME]</u>	XXX-XX-[last four]
Defendant	Judgement Debtor's Social Security No. _____
<u>[DEFENDANT'S ADDRESS]</u>	[Defendants Date of Birth]
_____	Judgement Debtor's Date of Birth _____

ABSTRACT OF JUDGMENT

On [date that payment plan became 90 days delinquent], [Defendant's name] became delinquent in paying court-imposed assessments in the following amounts:

Fine assessed: \${amount of fine} plus Court Costs: \${amount of all court costs} plus late fees imposed at the rate of \$10.00 per month, running from the date of judgement on any balance unpaid for 30 days or more. The amount stated constitutes a lien against all property of the defendant under W.Va. Code § 8-10-2b.

I certify that the above is a true abstract of the judgment order entered in the above case.

Date of Abstract: _____ Clerk: _____
Signature

Return filed copy to: [city] Municipal Court
[court address]

Abstract of Judgment – Multiple Cases

**IN THE MUNICIPAL COURT OF [CITY],
[COUNTY] COUNTY, WEST VIRGINIA**

[CITY NAME]

v

[DEFENDANT'S NAME]

XXX-XX-[last four]

Defendant

Judgement Debtor's Social Security No.

[DEFENDANT'S ADDRESS]

[Defendants Date of Birth]

Judgement Debtor's Date of Birth

ABSTRACT OF JUDGMENT

On [date that payment plan became 90 days delinquent], [Defendant's name] became delinquent in paying court-imposed assessments in the following amounts:

Case Number	Fine	Court Costs

plus late fees imposed at the rate of \$10.00 per month, running from the date of judgement on any balance unpaid for 30 days or more. The amount stated constitutes a lien against all property of the defendant under W.Va. Code § 8-10-2b.

I certify that the above is a true abstract of the judgment order entered in the above case.

Date of Abstract: _____

Clerk: _____
Signature

Return filed copy to: [city] Municipal Court
[court address]

Release of Lien

**IN THE MUNICIPAL COURT OF [CITY]
[COUNTY] COUNTY, WEST VIRGINIA**

[CITY NAME] _____ [CASE NUMBER ON PLAN]
Case No. _____

v

[DEFENDANT'S NAME]

Defendant

RELEASE OF LIEN

The Abstract of Judgment dated [date] and recorded in the Office of the Clerk of the County Commission of [County] County, West Virginia, in Book Number [book no.], at page [page no.] is hereby **RELEASED**.

The conditions of the Abstract of Judgment constituting a lien against the defendant under W.Va. Code § 8-10-2b have been fully satisfied.

Return filed copy to: [city] Municipal Court
[court address]

Date: _____ Clerk: _____
Signature

[Letterhead]

[date]

[Defendant name, address]

RE: Notice of Abstract of Judgment

Dear [name]:

Enclosed is an Abstract of Judgment against [Defendant name] for unpaid citations in the Municipal Court of [City]. When recorded by the applicable county clerk, the amount stated in the Abstract of Judgment will constitute a lien against all property of [defendant name] under W.Va. Code § 8-10-2b.

The lien is for delinquent fines, court costs, and fees imposed by the court in the cases enumerated in the Abstract of Judgment. The period for appeal of [this case] [these cases] is expired, and these amounts are considered final. You have fifteen (15) days to make payment in full of the amounts stated in the Abstract of Judgment. If you do not make full payment within such fifteen-day period, the Municipal Court of [City] shall proceed to file the attached lien in [county] County.

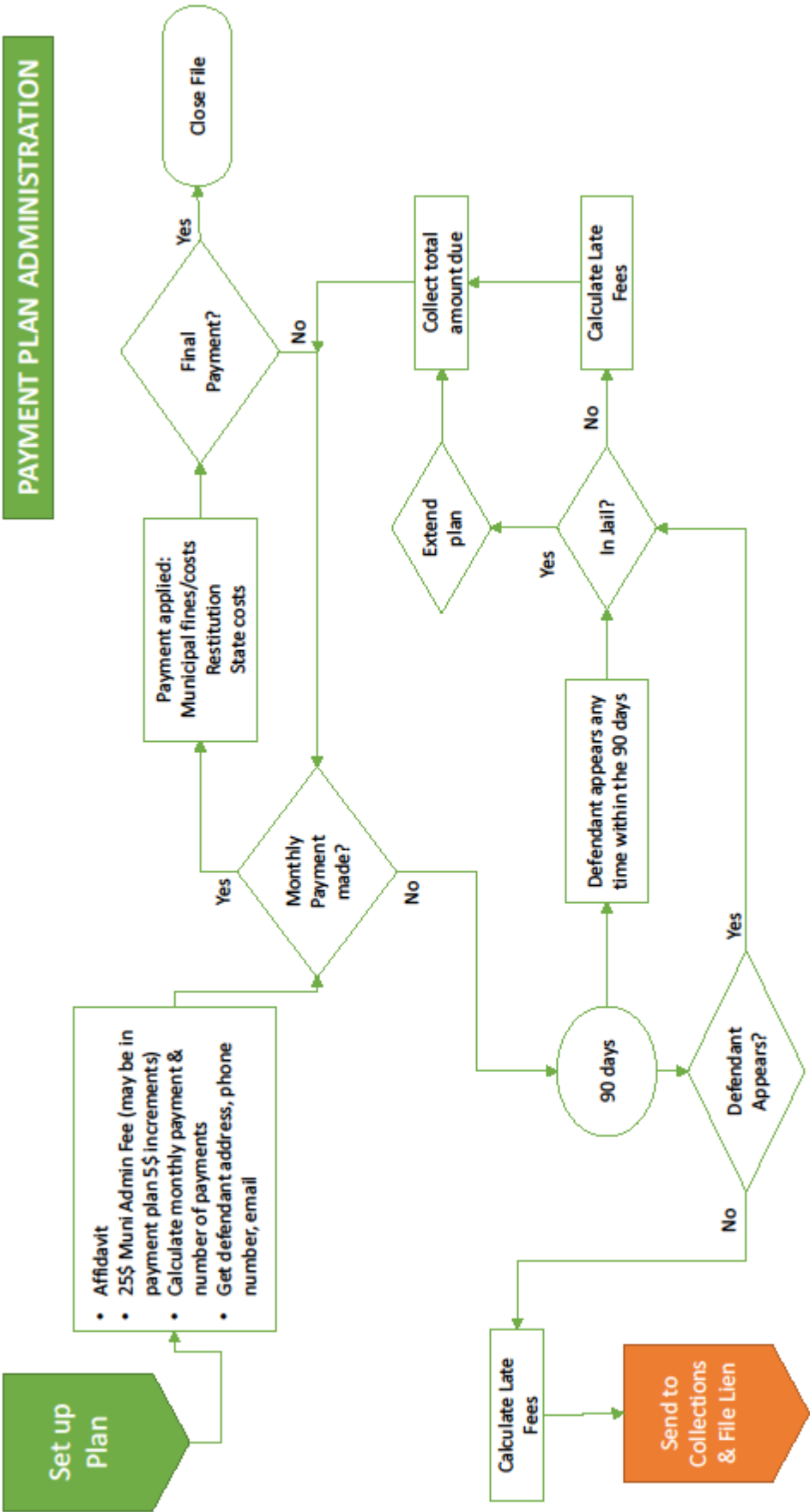
Should you have any questions, please call me.

Sincerely,

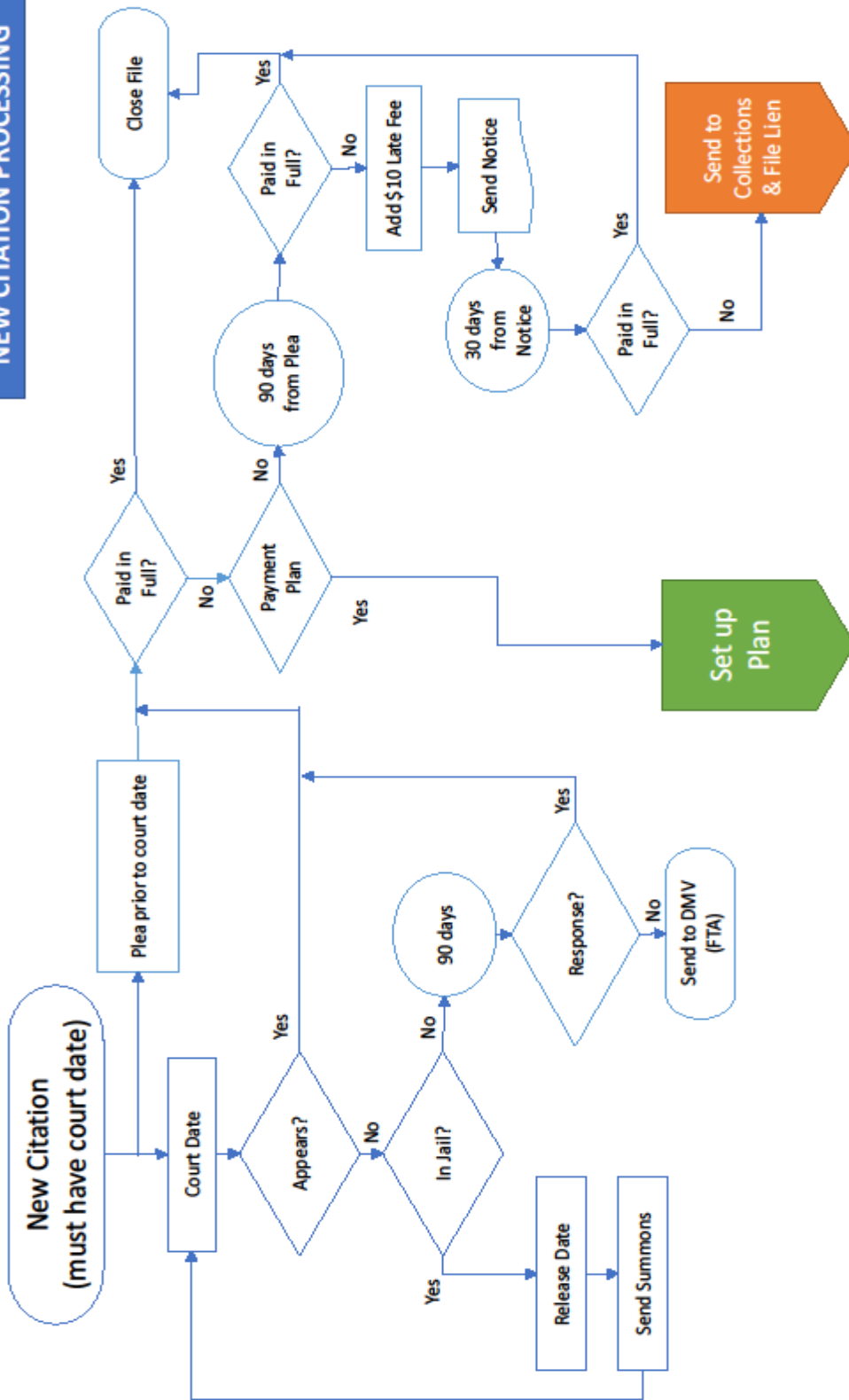
Enclosure

Appendix C – Process Workflow Diagrams

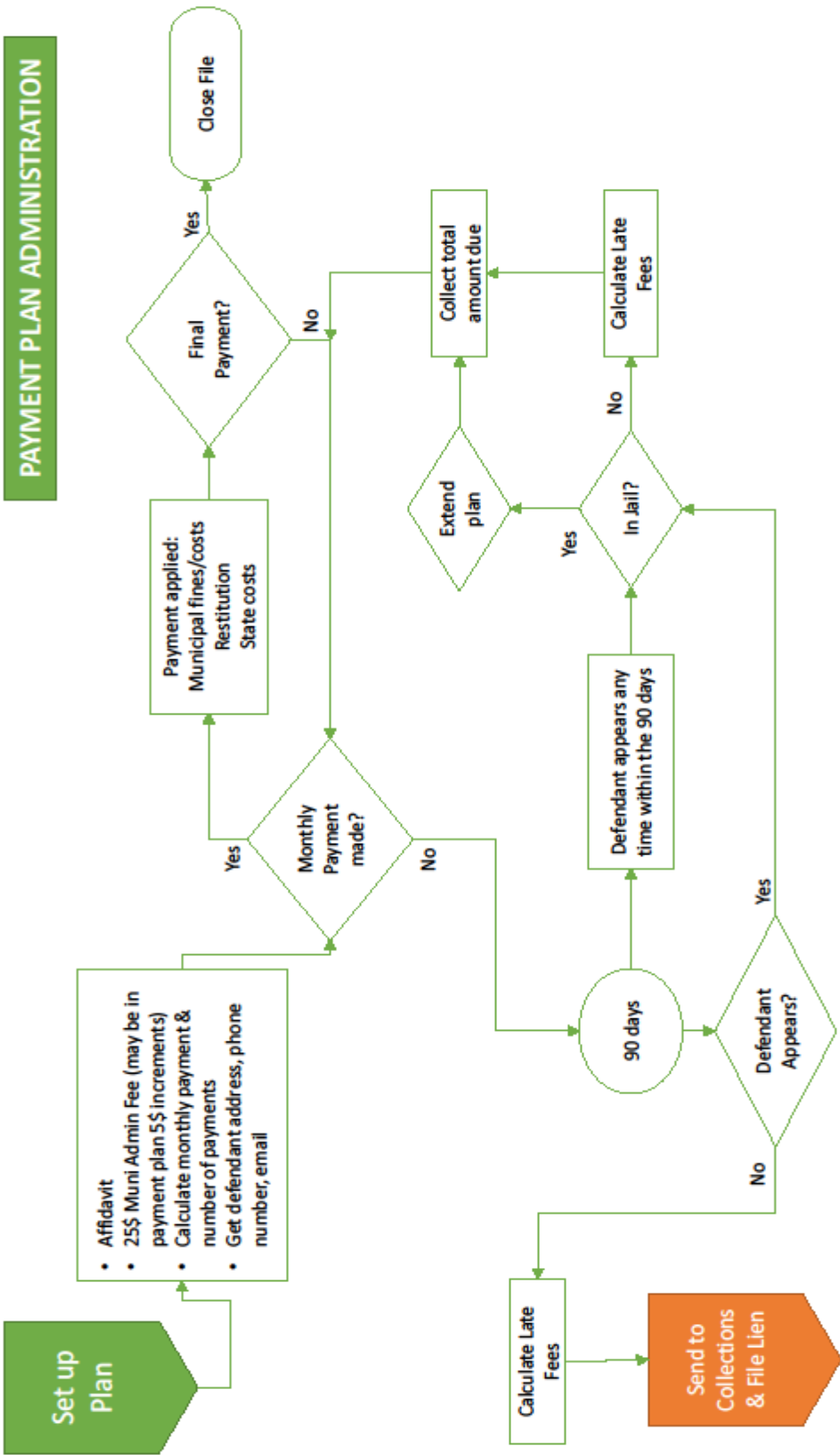
PAYMENT PLAN ADMINISTRATION



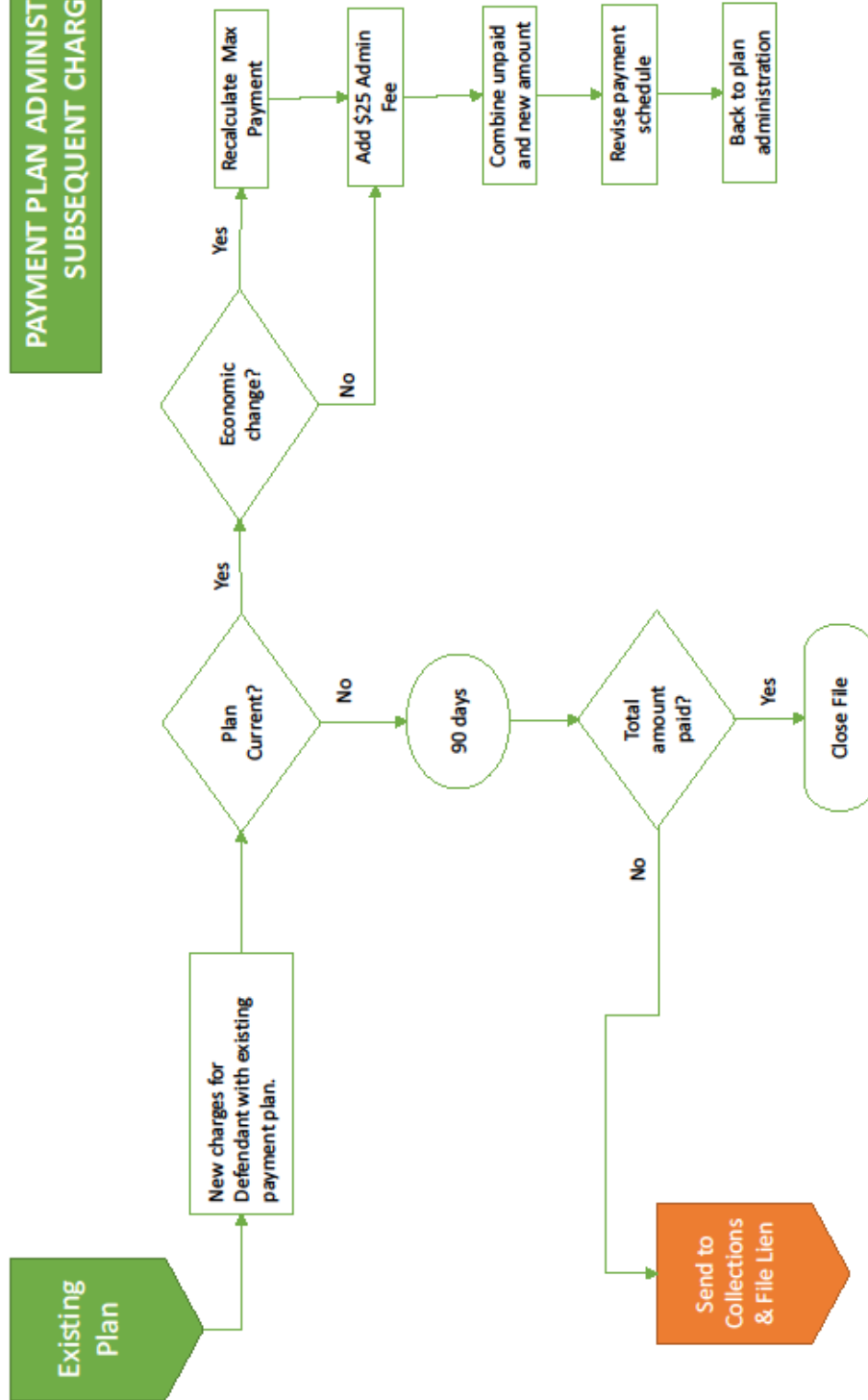
NEW CITATION PROCESSING



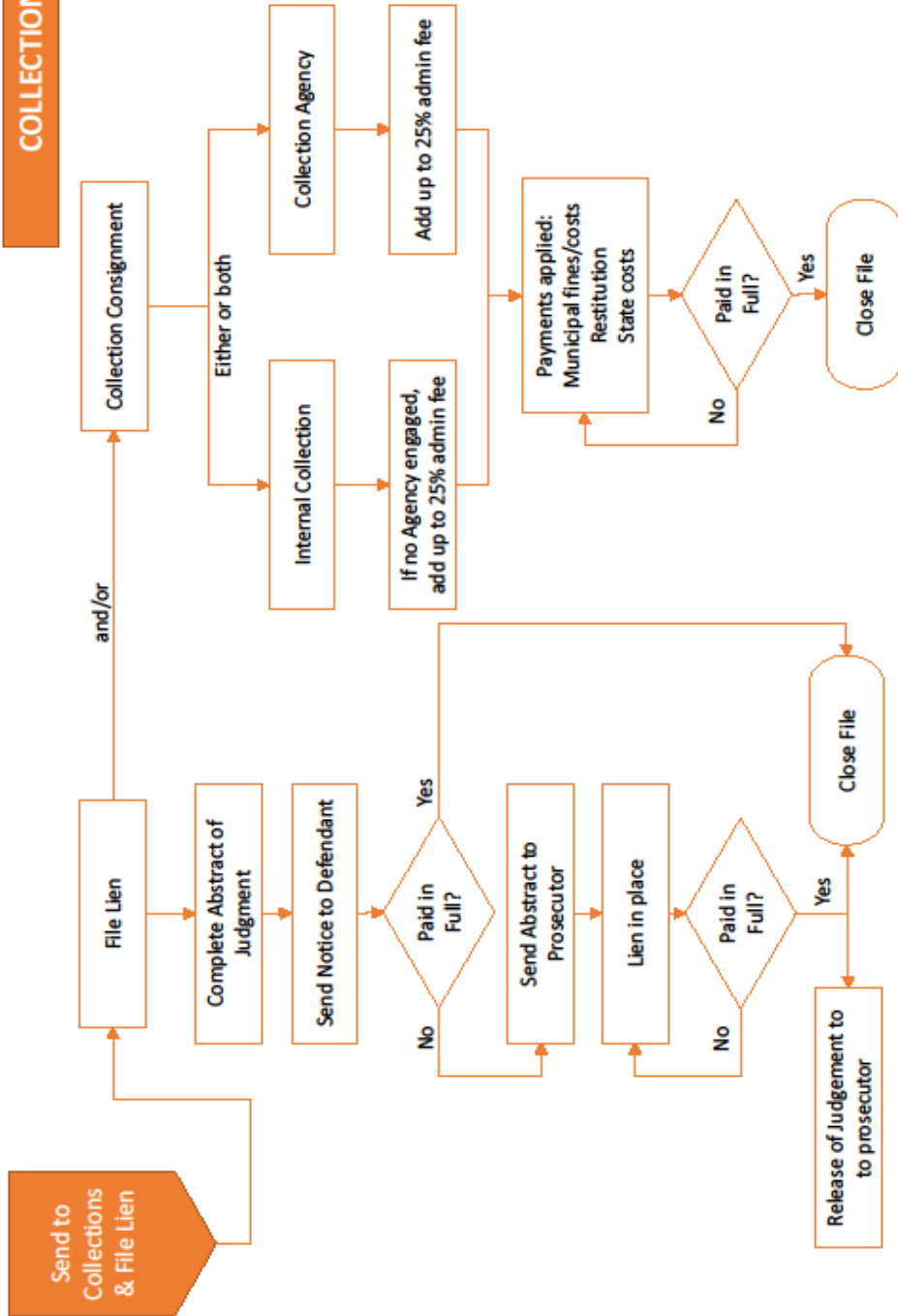
PAYMENT PLAN ADMINISTRATION



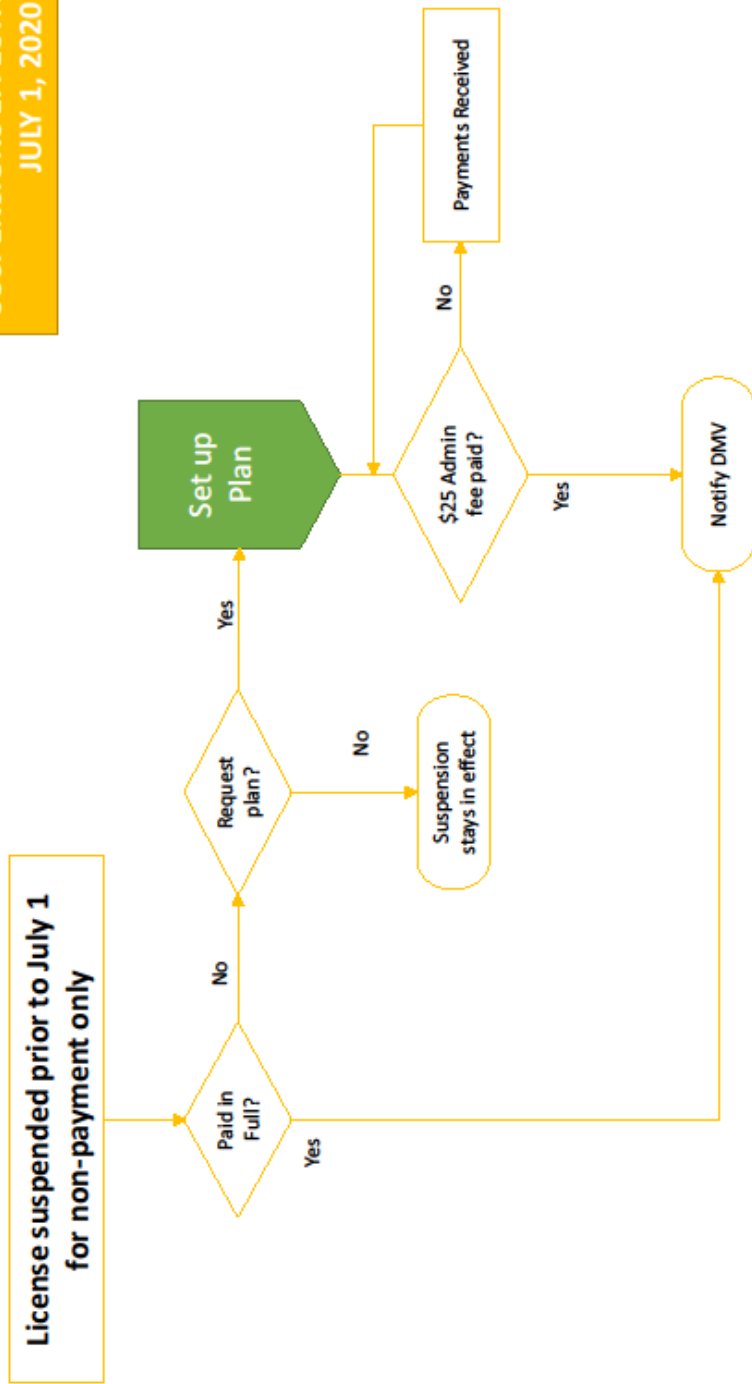
**PAYMENT PLAN ADMINISTRATION
SUBSEQUENT CHARGES**



COLLECTIONS & LIENS



**SUSPENSIONS EFFECTIVE BEFORE
JULY 1, 2020**



Appendix D – Frequently Asked Questions

Question:

Can courts charge the \$25.00 administrative fee per citation?

Answer:

No. The \$25.00 administrative fee will only be charged per payment plan regardless of the number of cases or citations included on the plan.

Example 1:

A defendant comes in with 5 prior citations to set up on a payment plan. One \$25.00 administrative fee will be charged for including all citations on the payment plan.

Example 2:

The same defendant comes in with a new citation and wants to add to existing payment plan. The court can charge the \$25.00 administrative fee to revise current payment plan in order to add in the subsequent citation.

Question:

Municipal police officers put a certain number of days to appear and not an exact date on the citations they issue. Do we need to have officers write the exact date the defendant needs to appear?

Answer:

Yes. Have officers write an exact date on which the defendant needs to appear in court to plea and set up a payment plan.

Example 1:

Defendant receives a citation and the officer writes on the ticket that defendant must appear in court on a certain date. If the defendant does not appear on or before the date specified on the citation, the court may send information to suspend defendant's driver's license for failing to appear after waiting 90 days from the appearance date.

Note: Courts can only suspend for failure to appear when the defendant has been given a specific date to appear.

Question:

Are Municipal Courts the only ones having to offer the extended payment plans and restrict driver's license suspension?

Answer:

No. All courts in WV, Municipal Courts, Magistrate Courts and Circuit Courts are following the requirements set forth in HB4958. No West Virginia court can suspend a driver's license for failing to pay fines and fees.

Question:

Does the defendant have to pay the \$25.00 administrative fee up front to have their driver's license reinstated?

Answer:

The defendant does not have to pay the fee at the time they set up the plan, but courts cannot send the verification of satisfaction until the \$25.00 fee is paid.

Example:

The defendant comes in and asks for a payment plan for outstanding citations. Their driver's license was previously suspended for non-payment. The court can add the \$25.00 fee into the payment plan but **CAN NOT** send the verification of satisfaction to the DMV until the \$25.00 fee has been paid. If the defendant divides the administrative fee for \$5.00 a month then the defendant will have to make the first 5 monthly payments before the court sends the notice to the DMV to reinstate defendant's driver's license.

Question:

Can the defendant come in before court date and make a plea, pay in full or set up a payment plan?

Answer:

Yes.

Question:

How long does the court wait before sending the defendants information to collections?

Answer:

If the defendant has defaulted on their payment plan, the court must wait 90 days before sending to collections.

Question:

If the defendant does not show up for their court date, it is a failure to appear. Do I have to wait the 90 days to suspend driver's license?

Answer:

Yes, you must wait 90 days from the defendant's missed court date in order to suspend their driver's license.

Question:

The defendant was incarcerated when his payment was due, can I charge the \$10.00 late fee?

Answer:

No, the court **CAN NOT** charge the \$10.00 late fee if the defendant was incarcerated on the payment due date.

Example 1:

The defendant's due date was March 10th, 2020, and they were incarcerated from March 5th- March 15th, 2020. The court **CAN NOT** charge the defendant a late fee and the payment is deferred for a month adding an additional month to the length of the plan.

Example 2:

The defendant's due date was March 10th, 2020, and they were incarcerated from March 5th, 2020 – March 9th, 2020. The court **CAN** charge the defendant a late fee.

Question:

Can courts still submit delinquent amounts to the State Tax Department for an offset?

Answer:

No, municipal courts may no longer do tax offsets through the State Tax Department.

Question:

Do courts have to offer out-of-state defendants the payment plan?

Answer:

Yes. The defendant's signature is still required on the Financial Affidavit and the Uniform Payment Contract.

Note: You can email, mail, or fax documents to and from the defendant.