

Monetary Obligations in North Carolina Criminal Cases

2018

James M. Markham

In North Carolina, various monetary obligations can apply to a defendant in a criminal case: court costs, attorney fees, other fees, fines, and restitution. This bench card sets out the law applicable to each type of obligation, highlighting when each obligation applies and when and how the court can allow relief—either at sentencing or later in the life of a case.

Guiding Principles

- The court should consider the purposes of sentencing when imposing monetary obligations, balancing the need to impose punishment with the objective of assisting the defendant toward restoration to the community as a lawful citizen. G.S. 15A-1340.12.
- Only two types of obligations—fines and restitution—are actually part of the criminal sentence. Others (costs and fees) are an administrative byproduct of the sentence and not intended as punishment. *State v. Arrington*, 215 N.C. App. 161 (2011). When an obligation labeled as a cost is actually punitive, it becomes a fine within the meaning of Article IX, § 7 of the N.C. Constitution. *Richmond Cty. Bd. of Educ. v. Cowell*, 243 N.C. App. 116 (2015).
- There shall be no imprisonment for debt in North Carolina, except in cases of fraud. N.C. CONST. art. I, §28.
- It is error for a judge to operate under the impression that he or she has no discretion to waive costs. *State v. Patterson*, 223 N.C. App. 180 (2012).

Ability to Pay

An important consideration for any monetary obligation—both at the point of imposition and when responding to nonpayment—is the defendant’s ability to pay. North Carolina law requires the court to consider a defendant’s ability to pay before imposing some obligations, G.S. 15A-1340.36(a) (restitution), and encourages the court to do so for others, G.S. 15A-1362 (fines). A defendant cannot be imprisoned for failing to pay a monetary obligation unless the court first considers the defendant’s ability to pay and whether the nonpayment was willful. *Bearden v. Georgia*, 461 U.S. 660 (1983). The defendant bears the burden of demonstrating his or her inability to pay. *State v. Tate*, 187 N.C. App. 593 (2007) (restitution).

Threshold

Determination. Some courts compare the defendant’s income to the Federal Poverty Guidelines (FPG) as part of a threshold determination of ability to pay. They presume an inability to pay (or at least undertake a more thorough inquiry) if the defendant’s annual income is

2018 Federal Poverty Guidelines (annual income)

Family Size	100%	125%	200%	300%
1	\$12,140	15,175	24,280	36,420
2	16,460	20,575	32,960	49,380
3	20,780	25,975	41,560	62,340
4	25,100	31,375	50,200	75,300
5	29,420	36,775	58,840	88,260
6	33,740	42,175	67,480	101,220

at or below a certain percentage of the FPG. No threshold percentage is defined by law, but a judicial district may wish to establish one by local rule. Many programs view the 100 percent guideline as outdated and use one of the multipliers indicated in the table above.

Ability to Pay Factors. Factors to consider when evaluating the defendant’s ability to pay or the willfulness of a violation include but are not limited to the following:

- Eligibility for appointed counsel
- The defendant’s resources, including all real and personal property and the income derived from that property

- Ability to earn or work, including any limitations due to disability, health, lack of transportation, or driving privileges
- Obligations to support dependents (including children, the elderly, and the disabled)
- Monetary obligations already owed to the court, or to another court
- Receipt of public assistance such as TANF, SSI, SSDI, SNAP, Medicaid, or veterans disability benefits
- Whether the defendant is a full-time student
- Whether the defendant is or has recently been homeless
- Whether the defendant is, will soon be, or has recently been incarcerated, in treatment, or otherwise institutionalized

Basic Living Expenses.

Criminal monetary obligations should not deprive a defendant of the ability to meet basic needs. IRS standards estimate monthly living expenses (housing, utilities, food, transportation, health care, and other necessary expenses) as shown in the table to the right. These baseline amounts can inform relief

IRS Standard Estimated Monthly Living Expenses

Family Size	Amount
Individual	\$2,093
Family of 2	2,860
Family of 3	3,119
Family of 4	3,602

Add \$62/month for persons age 65 or older due to health care costs.

Add \$515/month for the costs of owning and operating a car in lieu of public transportation.

decisions, repayment plans, and responses to nonpayment.

If, based on the issues outlined above, the defendant has a limited ability to pay, the court should consider offering relief from monetary obligations. The permissible avenues for relief and the procedures for using them vary depending on the type of obligation and the procedural posture of the case, as indicated in the table on page 3. For example, at sentencing the court may *waive* costs and *exempt* the defendant from paying probation supervision fees, whereas the court might *remit* a cost imposed at sentencing at a show-cause hearing or probation violation hearing.

Understanding the Monetary Obligations Table

Categories Of Obligations

Costs. Court costs are those obligations set out in G.S. 7A-304 or incorporated by reference therein. That list of costs is “complete and exclusive”; the court may not assess additional amounts as costs. G.S. 7A-320.

Basic costs are those that apply by default in every case based on the mere fact of the conviction.

Contingent costs are those that apply in certain circumstances, such as the conviction being for a specified type of offense, or when certain things have happened in the course of the prosecution or sentencing. The court should determine whether the requisite circumstance applies, and if so, apply the contingent cost unless it is waived.

Discretionary cost. The \$40-per-day probationary jail fee is the lone cost written in discretionary terms. G.S. 7A-313. It applies only when the court specifically imposes it when ordering a split sentence or quick dip confinement.

Non-Cost Fees. These obligations are set out in G.S. Chapters 14 and 15A. They are not “costs” within the meaning of G.S. 7A-304.

Attorney Fees. Attorney fees include the value of legal service rendered by assigned counsel or the public defender, as provided in IDS (N.C. Office of Indigent Defense Services) rules. G.S. 7A-455. The \$60 attorney appointment fee applies in every case where counsel is appointed and the defendant is convicted. G.S. 7A-455.1.

Fines. Any person convicted of a crime may be ordered to pay a fine as part of the sentence. G.S. 15A-1361; -1340.17 (felonies); -1340.23 (misdemeanors). Under the North Carolina Constitution, the clear proceeds of any fine shall be used exclusively for maintaining free public schools. N.C. CONST. art. IX, § 7. Unless required for a specific offense, the sentencing judge decides whether to impose a fine. The amount of the fine is in the court’s discretion, except as specified below or as required for a specific offense.

- Class 2 Misdemeanor — \$1,000 max. fine
- Class 3 Misdemeanor — \$200 max. fine
- Local Ordinance Violation — \$50 max. fine, unless the ordinance provides for a larger amount, up to \$500. G.S. 14-4.

Restitution. Restitution is compensation to a victim directly and proximately harmed as a result of the defendant’s crime, G.S. 15A-1340.34, or to a person or entity that provided assistance to the victim and is subrogated to the rights of the victim, G.S. 15A-1340.37(b). The court must consider restitution in every case, and shall order it when applicable in cases covered under the Crime Victims’ Rights Act. G.S. 15A-1340.34.

Permissible Relief

Waive. To waive costs is to relieve the defendant of the obligation to pay them at sentencing. G.S. 7A-304(a). There are two statutory requirements a judge must satisfy when waiving a cost.

Just cause findings. To waive costs, a judge must enter a written order, supported by findings of fact and conclusions of law, determining that there is just cause for the waiver.

Notice to directly affected entities. No court may waive any cost without providing 15 days written notice by first-class mail and an opportunity to be heard to all government entities directly affected by the waiver. G.S. 7A-304(a). AOC’s monthly statewide notice to all potentially affected entities might satisfy this requirement.

Order Partial. The court may order partial restitution when it appears that the damage or loss caused by the offense is greater than that which the defendant is able to pay. If the court orders partial restitution, it shall state on the record the reasons for doing so. G.S. 15A-1340.36(a).

Exempt. The court may exempt the defendant from paying the indicated fees for good cause and upon motion of the defendant.

Remit. A cost or fine may, upon petition of the defendant or a prosecutor to the sentencing court, be remitted at any time if it appears to the court that (1) the circumstances which warranted the imposition of the obligation no longer exist, (2) it would otherwise be unjust to require payment, or (3) the proper administration of justice requires resolution of the case. G.S. 15A-1363. No court may remit any fines or costs without providing written notice and an opportunity to be heard to all government entities directly affected as provided in G.S. 7A-304(a). AOC’s monthly notice to all potentially affected parties might satisfy this requirement. No court may remit restitution without providing 15-day notice and an opportunity to be heard to the district attorney, the victim, the victim’s estate, and others as provided in G.S. 15A-1340.39.

Modify upon Default. When a defendant required to pay a fine or costs defaults in payment as provided in G.S. 15A-1364(a), and it appears that the default was not attributable to a failure on the defendant’s part to make a good faith effort to obtain the necessary funds for payment, the court may:

1. Allow the defendant additional time to pay;
2. Reduce the amount of the fine or costs or of each installment; or
3. Revoke the fine or costs or the unpaid portion in whole or in part. G.S. 15A-1364(c).

Civil Judgments

Permissibility. The General Assembly allows or requires certain obligations to be docketed as a civil judgment against the defendant.

Interest. The indicated judgments accrue interest at 8 percent per annum (not compounding). G.S. 24-1; 24-5.

Criminal Monetary Obligations 2018

	AMOUNT	PERMISSIBLE RELIEF					CIVIL JUDGMENT	
		Waive	Order Partial	Exempt	Remit	Modify upon Default	Permissibility	Interest
Basic Costs (applicable by default)								
General Court of Justice Fee (District)	G.S. 7A-304(a)(4)	\$147.50	■			▲	●	● ¹
General Court of Justice Fee (Superior)	G.S. 7A-304(a)(4)	154.50	■			▲	●	●
Facilities Fee (District)	G.S. 7A-304(a)(2)	12	■			▲	●	●
Facilities Fee (Superior)	G.S. 7A-304(a)(2)	30	■			▲	●	●
Telecom/Data Fee	G.S. 7A-304(a)(2a)	4	■			▲	●	●
LEO Retirement Fee	G.S. 7A-304(a)(3)-(3a)	7.50	■			▲	●	●
LEO Training Fee	G.S. 7A-304(a)(3b)	2	■			▲	●	●
DNA Fee ²	G.S. 7A-304(a)(9)	2	■			▲	●	●
Contingent Costs (applicable in certain circumstances)								
Arrest/Process Fee	G.S. 7A-304(a)(1)	5/service	■			▲	●	●
Chapter 20 Fee	G.S. 7A-304(a)(4a)	10	■			▲	●	●
Improper Equipment Fee	G.S. 7A-304(a)(4b)	50	■			▲	●	●
Impaired Driving Fee ³	G.S. 7A-304(a)(10)	100	■			▲	●	●
Pretrial Jail Fee ⁴	G.S. 7A-313	10/day	■			▲	●	●
Pretrial Release Services Fee ⁵	G.S. 7A-304(a)(5)	15	■			▲	●	●
State/Local/Hospital Lab Fee ⁶	G.S. 7A-304(a)(7)-(8a)	600	R			▲	●	●
Digital Forensics Lab Fee ⁷	G.S. 7A-304(a)(9a)-(9b)	600	■			▲	●	●
Testifying Lab Expert Fee ⁸	G.S. 7A-304(a)(11)-(13)	600	R			▲	●	●
Witness Fee	G.S. 7A-314	Varies ⁹	■			▲	●	●
Blood Test (Parentage) Fee	G.S. 8-50.1	Varies	■			▲	●	●
Installment Plan Setup Fee ¹⁰	G.S. 7A-304(f)	20	■			▲	●	●
Failure to Appear Fee ¹¹	G.S. 7A-304(a)(6)	200	■			▲	●	●
Failure to Comply Fee ¹²	G.S. 7A-304(a)(6)	50	■			▲	●	●
Discretionary Costs								
Probationary Jail Fee ¹³	G.S. 7A-313	40/day				▲	●	●
Non-Cost Fees								
Probation Supervision Fee	G.S. 15A-1343(c1)	40/month			●			
EHA Fee	G.S. 15A-1343(c2)	90+4.48/day			●			
Community Service Fee ¹⁴	G.S. 143B-708(c)	250						
Satellite-Based Monitoring (SBM) Fee	G.S. 14-208.45	90			●			
Attorney Fees								
Attorney Fees	G.S. 7A-455	IDS Rules					● ¹⁵	●
Attorney Appointment Fee ¹⁶	G.S. 7A-455.1	60					● ¹⁸	
Fines								
Fines	G.S. 15A-1361	Varies				▲	● ¹⁹	●
Restitution								
Crime Victims' Rights Act (CVRA) Restitution ²⁰		Varies		▲		▲	● ²¹	● ²²
Non-CVRA Restitution		Varies		▲		▲		
Non-Victim Restitution		Varies		▲		▲		

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

● The court has clear statutory authority to take the indicated action, with no requirement for findings or notice to affected parties.

▲ The court may take the indicated action after satisfying the following requirement:

Order partial restitution. The court must state on the record the reasons for ordering partial restitution. G.S. 15A-1340.36(a).

Remit costs or fines. The court must give 15-day written notice and an opportunity to be heard for directly affected government entities. G.S. 7A-304(a). The AOC's statewide monthly notice might satisfy this requirement.

Remit restitution. The court must give 15-day written notice and an opportunity to be heard for the district attorney, the victim, the victim's estate, or any other recipient of restitution. G.S. 15A-1340.39.

■ The court may take the indicated action after satisfying the following two requirements:

1. The court must enter a written order, supported by findings of fact and conclusions of law, determining that there is just cause for the waiver; and
2. The court must give 15-day written notice and an opportunity to be heard for directly affected government entities. G.S. 7A-304(a). The AOC's statewide monthly notice might satisfy this requirement.

R Indicates that the authority to waive the cost includes the authority to reduce it at the point of imposition.

Additional Issues

Allowing Time to Pay

The court may allow a defendant to make payments within a specified period of time or in installments. G.S. 7A-304(f) (costs); 15A-1362 (fines); 15A-1340.36(b) (restitution). Defendants making use of an installment plan for costs shall pay a one-time setup fee of \$20, unless the court waives the fee. Installment plans should be based on common sense. *See, e.g., State v. Hayes*, 113 N.C. App. 172 (1993) (vacating a payment plan requiring payments of more than \$3,000 per month). If not otherwise specified, an obligation is payable immediately.

Alternatives to Monetary Obligations

In addition to the various avenues for relief indicated on the table on page 3, the court may, in some cases, wish to consider alternative sanctions wholly apart from money. Possibilities include community service hours, court-approved treatment programs, or education and job skills programs.

Monetary Obligations as a Condition of Probation

Unless there are extenuating circumstances, any defendant sentenced to probation shall be required to pay all costs, fees, and attorney fees as a condition of probation. G.S. 15A-1343(e). Restitution may be ordered as a condition of probation. G.S. 15A-1343(d). When a supervised probationer is required to pay money as a condition of probation, the judge may delegate to the probation officer the responsibility to determine the payment schedule.

Transfer to unsupervised probation. The judge may authorize the probation officer to transfer a defendant to unsupervised probation after monetary obligations are paid. Additionally, probation officers may, on their own, transfer low-risk misdemeanants to unsupervised probation if they are on probation solely for collection of money. G.S. 15A-1343(g). In DWI cases, the judge can authorize the probation officer to place the defendant on unsupervised probation upon the payment of any fines, court costs, and fees as provided in G.S. 20-179(r).

Active Sentences

The ordinary rules for imposition and forgiveness of monetary obligations apply when the defendant receives an active sentence. The court may recommend that restitution be paid out of a defendant's work release earnings, G.S. 148-33.2(c), or as a condition of the defendant's post-release supervision, G.S. 148-57.1.

Deferral Cases

Under the North Carolina Constitution, a person cannot be compelled to pay costs unless found guilty. N.C. CONST. art I, § 23. By statute, no costs may be assessed when a case is dismissed. G.S. 7A-304(a). Nevertheless, courts typically assess costs and other obligations as part of deferred prosecutions and conditional discharges—presumably on the theory that the defendant is not being compelled to pay them, but is, rather, agreeing to pay them as part of the deferral agreement. Some fee statutes expressly state that the fee applies in deferred prosecution and conditional discharge cases. *E.g., G.S. 15A-1343(c1)* (probation supervision fees).

Disbursement Priority

Unless otherwise ordered by the presiding judge, funds will be disbursed in the following order under G.S. 7A-304(d)(1):

1. Victim restitution
2. Costs due the county
3. Costs due the city
4. Fines
5. Restitution to non-victims
6. Costs due the State
7. Attorney fees

Limits on Restitution

Permissible grounds. Victim restitution is limited to victims directly and proximately harmed by the offenses for which the defendant was convicted. *State v. Billinger*, 213 N.C. App. 249 (2011). In injury cases, the court shall, when calculating restitution, consider the costs of medical care, therapy, rehabilitation, and lost income. In death cases the court may order restitution for funeral and related expenses. In property cases, the court shall consider the return of the property or, if return is impossible, impractical, or inadequate, the value of the property as of the date of offense or sentencing. G.S. 15A-1340.35. Though it is not required, a common practice is to limit restitution to the victim's deductible, co-pay, or other unrecovered amount. Some statutes set out offense-specific rules for calculating restitution. *E.g., G.S. 14-163.1* (veterinary care and boarding expenses as restitution for assault on a law enforcement agency animal).

Impermissible grounds. The court may not order restitution for pain and suffering, *State v. Wilson*, 158 N.C. App. 235 (2003), punitive damages, *State v. Burkhead*, 85 N.C. App. 535 (1987), or the costs of prosecution, *State v. Tedder*, 62 N.C. App. 12 (1983). Government agencies may receive restitution only for particular damage to them over and above normal operating costs. G.S. 15A-1340.37; *cf. G.S. 90-95.3(a)* (allowing restitution for drug-buy money). Lab fees are a cost, not restitution. G.S. 7A-304(a).

Proof. Absent a stipulation, there must be evidence of the restitution amount introduced at trial or sentencing. A prosecutor's statement or restitution worksheet standing alone is insufficient proof. The standard of proof is a preponderance of the evidence. *State v. Tate*, 187 N.C. App. 593 (2007).

Civil Judgments

Validity and enforcement. A civil judgment generally is valid for 10 years, G.S. 1-234; -306, although a judgment debtor's exposure can be extended by another 10 years if the judgment creditor files suit on the judgment, G.S. 1-47(1). The only judgments routinely satisfied through North Carolina's debt setoff program—which allows garnishment of state income tax refunds and lottery winnings—are judgments for attorney fees. G.S. 105A-3; 18C-134.

Consequences. When permissible, docketing an obligation as a civil judgment may be a way for the defendant to avoid incarceration, a probation violation, or, in certain cases, driver's license revocation. On the other hand, an unsatisfied judgment could impact the defendant's real property, credit score, and ability to obtain housing and employment.

There is no statutory authority to docket restitution as a civil judgment in non-CVRA cases. *State v. Scott*, 219 N.C. App. 652 (2012) (unpublished). The defendant must receive notice of the amount of the judgment and an opportunity to be heard before it is docketed. *State v. Jacobs*, 172 N.C. App. 220 (2005) (attorney fees).

Responding to Nonpayment

Fine-only cases. When a defendant has failed to pay a fine or costs or both, the court may, upon motion of the prosecutor or on its own motion, require the defendant to appear and show cause why he or she should not be imprisoned. If the defendant fails to appear, an order for arrest (OFA) may issue, although *a district may consider limiting or disallowing OFAs when unpaid money is the defendant's only pending matter*. At the hearing, the court must give the defendant an opportunity to show that he or she made a good faith effort to obtain the necessary funds for payment—an evaluation that should take into account the ability-to-pay factors listed on page 1. If nonpayment was due to an inability to pay, the court may reduce or revoke the obligation or allow additional time to pay. If the defendant had the ability to pay, the court may order the suspended sentence activated or, if no suspended sentence was imposed, order imprisonment not to exceed 30 days. G.S. 15A-1364. Because the defendant is at risk of being imprisoned as a result of the hearing, he or she must be afforded counsel. *See Hammock v. Bencini*, 98 N.C. App. 510 (1990).

Probation violations. At a probation violation hearing, the court must consider evidence offered by the defendant of his or her ability to pay and the willfulness of the violation. G.S. 15A-1345(e). A judge may not revoke probation for a defendant's failure to pay money, unless the failure to pay is willful and the defendant has already served two prior CRV periods (in felony and DWI cases) or two prior quick dips (in misdemeanor cases). G.S. 15A-1344(a); -1344(d2). The court may modify or extend probation to allow the defendant additional time to pay (up to 5 years in any case, G.S. 15A-1344(d), or up to 3 years beyond the original probation period for payment of restitution if the defendant consents and extension is ordered in the last 6 months of the original probation period, G.S. 15A-1343.2), although the statutes encourage unsupervised probation for defendants who have fulfilled all terms except payment of money.

Appeals

On appeal, costs (aside from the law enforcement officer retirement and pretrial services fees) are cumulative—costs assessed before a magistrate are added to costs assessed in district court, and costs assessed in district court are added to costs assessed in superior court. No superior court costs are assessed against a defendant who withdraws his or her appeal before the 10-day appeal period expires. G.S. 7A-304(b). Costs attach to appeals withdrawn from superior court after the 10-day period, unless the court remits them. G.S. 15A-1431(h). Appeal to the appellate division stays payment of costs and fines. G.S. 15A-1451(a).

License Revocation in G.S. Chapter 20 Cases

When a person convicted of a Chapter 20 offense fails to pay a fine or costs within 40 days of the date specified in the judgment, the court must report the person to the Division of Motor Vehicles, G.S. 20-24.2, which will issue an order revoking the person's driver's license, effective on the sixtieth day after the order is mailed or delivered, G.S. 20-24.1(b). A license revoked under G.S. 20-24.1 remains revoked until the person pays the fine or costs ordered by the court, demonstrates to the court that the failure to pay was not willful and that he or she is making a good faith effort to pay, or shows that the fine or costs should be remitted.

Annual Waiver Report

The AOC maintains a record of all cases in which a judge makes a finding of just cause to grant a waiver of costs under G.S. 7A-304(a) and reports to the General Assembly on those waivers annually. The report aggregates the waivers by district and by individual judge. G.S. 7A-350. The report is informational and does not directly affect the court's authority to grant relief as indicated in the table on page 3.

Notes

1. If a defendant has defaulted in payment of a fine or costs, the court may order that unpaid fines or costs be docketed as a lien on the defendant's real estate. G.S. 15A-1365. This note applies to all costs.
2. The DNA fee does not apply to infractions. G.S. 7A-304(a)(9).
3. For convictions under G.S. 20-138.1, -138.2, or second/ subsequent convictions under G.S. 20-138.2A or -138.2B. G.S. 7A-304(a)(10). This cost applies only to offenses committed on or after December 1, 2011.
4. For each 24 hours' confinement in jail awaiting trial, or fraction thereof, the fee is \$10. G.S. 7A-313.
5. Aside from the \$15 fee, a county that provides electronic monitoring as a condition of pretrial release may collect a fee that is the lesser of the daily jail fee (\$10) or the actual cost of providing the monitoring. The county may not collect a fee from an offender who is indigent and entitled to court-appointed counsel. G.S. 7A-313.1.
6. For the services of the State Crime Laboratory (G.S. 7A-304(a)(7)), any laboratory facility operated by a local government or group of local governments (G.S. 7A-304(a)(8)), or any private hospital performing toxicological testing under contract with a prosecutorial district (G.S. 7A-304(a)(8a)), the fee is \$600. These costs are to be assessed only in cases which, as part of the investigation, the lab has performed DNA analysis of the crime, tests of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. In the case of covered work performed by a local government lab or private hospital, the court shall assess the cost only if it finds that the work performed was the equivalent of work performed by the State Crime Lab. For these fees, the court's waiver authority includes the authority to reduce the fee.
7. For the services of the State Crime Laboratory (G.S. 7A-304(a)(9a)) or a local crime lab (G.S. 7A-304(a)(9b)) performing digital forensics, including the seizure, forensic imaging, and acquisition and analysis of digital media. The local lab fee applies only if the court finds that the work performed was the equivalent of work performed by the State Crime Lab.
8. For the services of an expert witness employed by the State Crime Laboratory (G.S. 7A-304(a)(11)) or a local government laboratory (G.S. 7A-304(a)(12)) who completes a chemical analysis pursuant to G.S. 20-139.1, a forensic analysis pursuant to G.S. 8-58.20, or a digital forensics analysis, and who provides testimony about that analysis in a trial, the fee is \$600. These costs are in addition to the \$600 lab fees. A similar cost applies for expert witnesses employed by a private hospital performing toxicological testing (but not forensics analysis) under contract with a prosecutorial district. G.S. 7A-304(a)(13). For these costs, the court's waiver authority includes the authority to reduce the fee.
9. If the defendant is convicted and unable to pay the witness fee, the State shall be liable. G.S. 7A-315.
10. The AOC takes the position that the \$20 installment plan setup fee described in G.S. 7A-304(f) attaches to any monetary judgment not paid in full on the day of court unless otherwise instructed by the judge. Local administrative orders sometimes provide additional or alternative guidance.
11. Under G.S. 7A-304(a)(6), a defendant who fails to appear is assessed a \$200 fee, unless within 20 days after the scheduled appearance the person either appears in court to answer the charge or disposes of the charge pursuant to G.S. 7A-146. The court shall waive the fee upon a showing that the defendant failed to appear because of an error or omission of a judicial official, prosecutor, or law enforcement officer. That type of waiver—sometimes referred to as striking the FTA (failure to appear)—does not require written findings of just cause and does not trigger the 15-day notice and hearing procedures described in G.S. 7A-304(a).
12. Under G.S. 7A-304(a)(6), a \$50 failure to comply fee is payable by a defendant who fails to pay a fine, penalty, or costs within 40 days of the date specified in the judgment.
13. This jail fee can apply to defendants sentenced to probation that includes jail time—special probation (a split sentence) or confinement under G.S. 15A-1343(a1)(3) (a "quick dip"). The defendant should not be ordered to pay this fee for a split sentence served in prison. The amount of the fee is pegged to the per diem rate paid to local jails for maintaining a prisoner. G.S. 148-29; S.L. 2017-57, § 16C.2. Under G.S. 7A-313, the jail fee for split sentences and other probationary confinement is discretionary and should not be assessed unless specifically ordered by the court.
14. Defendants ordered to complete community service pay a fee of \$250. Only one fee is assessed per sentencing transaction (all offenses considered and adjudicated during the same term of court), even if the person is assigned to the program more than once. G.S. 143B-708. There is no clear statutory authority for the court to relieve a defendant from the obligation to pay the community service fee, but likewise no statutory prohibition against doing so.
15. Attorney fees and attorney appointment fees are styled as a judgment against the defendant from the point of imposition. G.S. 7A-455; -455.1. Judgments for attorney fees are docketed immediately when a conviction becomes final, unless payment of the fees is a condition of probation, in which case the judgment is docketed when probation terminates, expires, or is revoked.
16. This fee is assessed only once for each attorney appointment, regardless of the number of cases to which the attorney was assigned or whether a case is reassigned to a different attorney. G.S. 7A-455.1(e).
17. Inability, failure, or refusal to pay the fee shall not be grounds for denying counsel, withdrawal of counsel, or contempt. G.S. 7A-455.1(d).
18. See *supra* note 15.
19. See *supra* note 1.
20. When sentencing an offense for which the victim is entitled to restitution under the CVRA (an offense listed in G.S. 15A-830(a)(7)), the court shall, in addition to any penalty authorized by law, require that the defendant make restitution. G.S. 15A-1340.34(b). Other restitution is discretionary.
21. In cases covered under the CVRA, restitution to a victim in excess of \$250 may be enforced like a civil judgment. If the defendant receives probation, the order is not enforceable until a judge finds, upon terminating or revoking probation, that restitution in a sum certain remains due and payable. G.S. 15A-1340.38. The language for the court to docket these judgments is included on form AOC-CR-611 (for orders entered upon conviction) and form AOC-CR-612 (for balances due upon revocation or termination of probation).
22. No interest accrues on a CVRA restitution judgment for a defendant ordered to pay restitution as a condition of probation unless and until the court enters an order terminating or revoking that probation and finding the amount remaining due and payable. G.S. 15A-1340.38.