

THE CRIMINAL & TRAFFIC ASSESSMENT ACT

(705 ILCS 135)

An Introduction

Topics covered in this training include:

- Definitions
- Criminal Assessment Schedules
- Disbursements
- Criminal Fee Waivers
- More information will be posted at:

www.18thjudicial.org

Criminal Definitions

"Assessment" means any court costs imposed on a defendant under criminal schedules 1 through 13 of this Act.

"Fine" means a pecuniary punishment for a conviction or supervision disposition as ordered by the court.

"Highest classified offense" means the offense for which the defendant is convicted or granted supervision that carries the most severe sentence.

Colloquial Definitions

“Felony Offense” - These are CF violation classes of (M, X, 1, 2, 3, 4)

“Misdemeanor Offense” - These are CM violation classes of (A, B, C)

“Major Traffic Offense” – These are TR violation classes of (A, B, C)

“Minor Traffic Offense” – These are TR violation classes of (P, U)

“Being Sentenced” – this term covers a disposition when a defendant is convicted of, pleads guilty to, or is placed on court supervision for a violation of this State or local ordinance.

Frequently Asked - Answers

- The Act did not affect the fines. These are only court costs. The issuing agency still receives the fines, along with their portion of the costs in the schedules.
- Your local ordinances still determine your local fines. Your prosecutor is still responsible for asking for your fines.
- We do not know the effect of the criminal fee waiver. We do not have income data on defendants in Illinois.
- Waivers do not apply to the IVC (incl. DUI) (625 ILCS 5/)
- What you see is what you get. No more percentage distribution.

Pre-payable Tickets

Uniform Traffic Citations (Rule 529) = \$164

- Under Schedule 12 (*upcoming*), a set amount of \$50 is distributed to the arresting agency.

Conservation (Rule 530 – new!) = \$195

Overweights (Rule 531 – new!) = \$260 + fine calculated on lbs. overweight (no change)

Assessment Procedures

What monetary components may be ordered?

1. One criminal assessment schedule per case, based on the highest classified offense for which the defendant is being sentenced.
2. A pecuniary fine on each count for which a defendant is being sentenced.
3. One or more conditional assessments specific to a convicted offense, or pertaining to specific conditions of the case.
4. Service provider costs that the defendant owes to a third party or to an adjacent agency or department as a result of a service performed.
5. Credit for time served or community service.
6. Restitution.
7. Forfeiture.

Assessment Schedule

The Court shall order only one assessment schedule for all sentenced violations in a case, applicable to the highest classified offense that is being sentenced.

The Court shall order this assessment schedule at the time of sentencing.

Assessment Procedures – Conditional Assessments

What monetary components may be ordered?

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Minimum Fine Amount

A statute (or ordinance) establishing a minimum fine or a range for a fine determines the fine amount.

- I.e. 625 ILCS 5/3-707 (operation of uninsured motor vehicle) ... shall be required to pay a fine in excess of \$500 but not more than \$1,000....

If no fine is set by statute, the minimum fine as set by the Act:

- \$25 for a minor traffic offense
- \$75 for any other offense

The Court may reduce or waive the fine amount.

Assessment Procedures – Conditional Assessments

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Conditional Assessments

Conditional assessments may be ordered on each sentenced count for which they are applicable. There are 18 specified in the Act.

Applicability may be based on:

- The nature of the offense, i.e. an arson offense.
- Some component of the case, i.e. a domestic violence component on a battery offense.

Conditional assessments are:

- Eligible for credit for time served credit.
- Not eligible for community service conversion.

1. Arson Fine - \$500 to Fire Prevention Fund, per count, offense specific.
2. Child Pornography - \$500 to arresting agency(s), per count, offense specific.
3. Crime Lab Drug Analysis - \$100 reimbursement for analysis to lab.
4. DNA Analysis - \$250 to Offender DNA Identification Fund, once per person, offense specific.
5. DUI Analysis - \$150 for each DUI count in which it was used, offense specific
6. Street Value Drug Fine - \$varies to various agencies, per count, offense specific
7. Meth Street Value - \$varies to various agencies, per count, offense specific
8. OOP violation, \$200 to Prob/CS Fund for DV Surveil, per count, offense specific
9. OOP violation, \$25 DV Abuser Svs Fund, per count, offense specific

10. SAO SA+PD Rec Auto - \$2/\$2 if prosecuted by SAO (P or U class), \$2 to SAO on CV
11. Construction Zone Speed - \$250 to Transp. Safety Fund, per count, offense specific
12. Supervision, \$0.50 on IVC supervision to Prisoner Review Board Vehicle Fund, per count.
13. Domestic Violence, \$200 to Sex Assault Srvs + DV Shelter Fund, per count, off specific.
14. Emerg Response for Snowmobile/Boat, \$1000 to various, per case
15. Emerg Response for Drug-Related, \$1000 to various, per case
16. Emerg Response for Reckless Driving, \$1000 to various, per case
17. Human Trafficking, \$350 to various, per count, offense specific
18. Weapons Trauma, \$100 to Trauma Center Fund, per count, offense specific.

Assessment Procedures – Service Provider Costs

What monetary components may be ordered?

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Service Providers

"Service provider costs" are costs incurred for services provided by a judicial-adjacent or third-party entity including, but not limited to:

- Victim impact awareness
- Monthly probation fees
- Emergency responders
- Drug or alcohol testing/monitoring fees
- Laboratory tests
- Counseling, substance abuse programs, or DV programs

Service Provider Assessments

Service Provider fees may be assessed under the Conditional Assessments category depending on some case condition (like accidents involving emergency response), or may be standalone fees as part of sentencing (like probation fees or drug testing).

Service Provider costs are not eligible for:

- Credit for time served
- Substitution of community service
- Fee Waiver

Service Provider Costs Collection

As Service Provider costs are provided by agencies or contracted to agencies that may be outside of the court system, each jurisdiction may determine by Local Rule or Administrative Order how these fees are collected.

The circuit clerk may receive and remit these service provider fees if mutually agreed, or the defendant may be required to remit these fees directly to the service provider.

- The circuit clerk may choose to receive monthly probation fees
- The Probation Dept may choose to collect specimen testing fees directly from the defendant.

Assessment Procedures – Credit Time Served/Comm Srv

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Credit for Time Served

(a) Any credit for time served prior to sentencing ...

- Shall be deducted first from the fine, if any, ordered by the court.
- Any remainder of the credit shall be equally divided between the ordered assessment schedule and conditional assessments.
- The value is still \$5/day, however there is pending legislation to raise this value to \$30/day.
 - *Note this is not the same as the Bail Reform \$30/day pre-trial credit.*

Community Service

(b) Excluding the cost of the conditional assessments, the defendant may petition the Court to convert all or part of the assessment schedule into court-approved Community Service.

- At the rate of \$4/hour.
- There is pending legislation to increase this amount.

The defendant may petition for Community Service at any time.

This is in addition to any other public or community service ordered by court or required by law.

Assessment Procedures – Restitution/Forfeitures

What monetary components may be ordered?

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3. One or more conditional assessments specific to a convicted offense, or pertaining to specific conditions of the case.
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5. Credit for time served or community service.
6. Restitution.
7. Forfeiture.

Restitution

The ability to order restitution has not changed, and may be ordered on any sentenced count.

- Today, in DuPage County, any available bond money goes to court costs first, then to restitution.
- Any separate payments by the defendant go to restitution first.

Bills are introduced in the legislature every session to prioritize restitution over all other fines or costs.

Forfeitures

The ability to order a forfeiture has not changed, and may be ordered on any sentenced count.

Since Bail Reform, the amount of funds available to be forfeited has substantially decreased.

DISBURSEMENT PROCEDURES

Percentage Distribution

Percentage distribution of the fine under the Clerk of the Courts Act has been repealed effective July 1, 2019, and the resolution adopted by DuPage County Board Resolution OJS-01-91-A will need to be repealed.

Formerly, under many (but not all) sections of the IVC

- 44.5% to the local agency
- 16.825% to the state
- 38.675% to the county



Disbursing the Old Cases

Any case that was sentenced prior to July 1, 2019 or sentenced under the “old way” of sentencing will still assess and disburse under the old guidelines, including percentage distribution.

In the early days after the effective date, you will continue to see LOCAL PORTION disbursements from payments on old cases but these will drop over time.

New Disbursements to Funds

All money collected by the Clerk of the Circuit Court under the Assessment Schedules shall be remitted as directed to:

Clerk Funds

County Funds

Local Municipal Funds/Arresting Agency Funds

If a state agency is the arresting agency, the amount for the “local” assessment is paid to that state agency.

State Funds

- ❖ There are no “off the top” costs that will be collected prior to any disbursements of scheduled amounts.

Criminal Assessment Schedules

705 ILCS 135/15



The Schedules – COSTS ONLY

1	Generic Felony Offenses (CF)	\$549
2	Felony DUI Offenses (CF)	\$1709
3	Felony Drug Offenses (CF)	\$2215
4	Felony Sex Offenses (CF)	\$1314
5	Generic Misdemeanor Offenses (CM)	\$439
6	Misdemeanor DUI Offenses (DT)	\$1381
7	Misdemeanor Drug Offenses (CM)	\$905
8	Misdemeanor Sex Offenses (CM or DV)	\$1184
9	Major Traffic Offenses (TR)	\$325
10	Minor Traffic Offenses (TR)	\$226
10.5	Truck Weight and Load Offenses (TR)	\$260
11	Conservation Offenses (CV)	\$195
12	Dispositions Under Supreme Court Rule 529 (TR)	\$164
13	Non-Traffic Violations (OV)	\$100

Things to Remember

Assessment Schedules do not include fines.

Fines are paid to the arresting agency, with the exception of statutory fines with special allocations like Human Trafficking or Street Value Drug fines.

There are no “off the top” costs that will be collected prior to any disbursements of scheduled amounts.

Each offense’s assessment schedule will be set by the State Administrative Office of Illinois Courts.

The Judge will determine the schedule in case of a “tie.”

Schedule 1 – Generic Felony

\$ 45	to the Clerk
\$309	to the County
\$195	to the State

\$549	

** Every felony not classified as DUI, Drug or Sex.*

Schedule 2 – Felony DUI

\$ 45	to the Clerk
\$354	to the County
\$1,110	to the State
\$200	to DUI Equip Arresting Agency

\$1,709	

** Includes vehicle, snowmobile and boat*

Schedule 3 – Felony Drug

\$ 45 to the Clerk

\$309 to the County

\$1,861 to the State

\$2,215

**Controlled Substances, Methamphetamine Control, Cannabis Control Acts – Street Value assessed separately, still divided with LEA*

Schedule 4 – Felony Sex

\$ 45 to the Clerk
\$309 to the County
\$960 to the State

\$1,314

* Article 11 or Section 12-33 of the Criminal Code

Schedule 5 – Generic Misd

\$ 53	to the Clerk
\$229	to the County
\$155	to the State
\$ 2	to the Arresting Agency (E-Cite)

\$439	

** Every misdemeanor not classified as DUI, Drug or Sex*

Schedule 6 – Misd DUI

\$ 53	to the Clerk
\$269	to the County
\$707	to the State
\$352	to the Arresting Agency (E-Cite and DUI Equip)

\$1,381

** All DT counts as they exist today*

Schedule 7 – Misd Drug

\$ 53	to the Clerk
\$229	to the County
\$621	to the State
\$ 2	to the Arresting Agency (E-Cite)

\$905	

**Controlled Substances, Methamphetamine Control, Cannabis Control Acts, Street Value assessed separately, still divided with LEA.*

Schedule 8 – Misd Sex

\$ 53	to the Clerk
\$229	to the County
\$900	to the State
\$ 2	to the Arresting Agency (E-Cite)

\$1,184	

** Article 11 of the Criminal Code*

Schedule 9 – Major Traffic

\$ 53	to the Clerk
\$150	to the County
\$ 97	to the State
\$ 25	to the Arresting Agency (E-Cite and General Fund)

\$325

Note: costs!

** Misdemeanor traffic violations, all required court appearances. Check Supreme Court Rule 501(f) for confirmation.*

Schedule 10 – Minor Traffic

\$ 53	to the Clerk
\$115	to the County
\$ 46	to the State
\$ 12	to the Arresting Agency (E-Cite and General Fund)

\$226

Note: costs!

** Petty and business traffic violations, may or may not be required court appearances. Check Supreme Court Rule 501(f) for confirmation.*

Schedule 10.5 – Overweight

\$ 53 to the Clerk
\$115 to the County
\$ 92 to the State

\$260

Note: costs!

** 3-401 or 15-111 overweight, load, and permit violations. Overweight fines are still calculated the same!*

Schedule 11 – Conservation

\$ 53	to the Clerk
\$115	to the County
\$ 25	to the State
\$ 2	to the Arresting Agency (E-Cite)

\$195	

** As defined in Supreme Court Rules*

Schedule 12 – PrePays (529)

\$ 53	to the Clerk
\$ 47	to the County
\$ 14	to the State
\$ 50	to the Arresting Agency (E-Cite and General Fund)

\$164

** Can be multiple petty tickets, as long as no court appearance required.*

Schedule 13 – Non Traffic Ordinances

\$ 53	to the Clerk
\$ 22	to the County
\$ 0	to the State
\$ 25	to the Arresting Agency (E-Cite and General Fund)

\$100

Again, only costs

** Petty or business ordinances, no traffic, no conservation. E.g. zoning, curfew, public intoxication, parking permits, etc.*

Offense Code Table

The Administrative Office of the Illinois Courts publishes the Offense Code Table approximately twice a year(*) for:

- Legislative updates effective Jan 1
- Legislative updates effective July 1

This table will assign an Assessment Schedule for each offense in the table. There is no flexibility to change the assessment schedule on the offense.

(*) They do issue corrections for errors

Fee Waivers

Criminal Assessments

Indigent Definition

"Indigent" means any person who meets one or more of the following criteria:

(1) receiving assistance under one or more of the following programs: SSI, SSD, TANF, SNAP, GA, TA, SCFA;

- Supplemental Social Security, Temp. Assistance for Needy Families, Supp. Nutrition Assistance Program, General Assistance, Transitional Assistance

(2) available personal income is 200% or less of the current poverty level as defined by the US Dept of Health and Human Services, and without substantial assets of a value that the court determines provides the ability to pay. (2019 - \$12,490 + \$4,420 per person)

(3) the court determines that the defendant is unable to pay without substantial hardship to the person or their family.

Fee Waivers

Fee waivers do not apply to violations of the Illinois Vehicle Code, including DUI.

An application for a waiver of assessments shall be in writing, and must be filed no later than 30 days after sentencing.

If the Court finds a defendant indigent, the Court shall grant a full (100%) assessment waiver exempting the defendant from the payment of any assessments. (Note that the Court also retains the ability to waive the fine.)

Graduated Fee Waivers

- 100% waiver eliminates the schedule entirely.
- 25% fee waiver reduces the assessment schedule by 25%, leaving the defendant to pay 75%.
- 50% fee waiver reduces the assessment schedule by half.
- 75% fee waiver reduces the assessment schedule by 75%, leaving the defendant to pay 25%.