

# Post- Judgment Criminal Scenarios

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## Today's Class



Overview & reminders about different post-judgment enforcement tools.



*Note, we won't discuss every detail about each tool – just the basics and some reminders. As we go through the scenarios, we might get into other details.*



Scenarios to help apply these tools in real-court situations.



Questions!

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## Remember Where We Are:

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Defendant has been found guilty.

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A judgment has been entered.

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They now owe the court the amount of the judgment!

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## Tools For Enforcing Judgments

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Brainstorm:

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List every option you can think of. *(share them in the chat)*

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## Tools for Enforcing Judgments

1. Courtesy Contact – letter, email, call
2. Alternative Satisfaction of Fines & Costs (payment plan, community service, waiver)
3. Post-Judgment Collections
4. Post-Judgment OMNI
5. Capias Pro Fine
6. Commitment/Jail Credit
7. Scofflaw Program
8. Civil Enforcement of Judgments

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## **What Does Your Court Do?**

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What tools do you use in your court most often?

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## **Poll 1**

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### **What tools do you use in your court most often?**

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# Discussion

## What Does Your Court Do?

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What tools don't you really use?  
Why not?

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## Courtesy Contact



Not a requirement.



Many courts will do this before other enforcement tools, because it is easy and relatively inexpensive, especially if you have a good email address for the defendant.



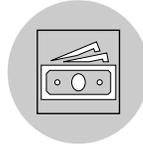
Include alternatives for payment and court contact information in case the defendant's circumstances have changed

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## Alternative Satisfaction of Fines & Costs



Indigence vs.  
Unable to  
Immediately Pay  
(Deskbook pg. 80)



Payment Plan –  
*don't forget about the  
Time Payment  
Reimbursement Fee*



Community  
Service



Waiver

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## Poll 2

When is the Time Payment Reimbursement Fee assessed?

1. At Conviction
2. When a Payment Plan is Ordered
3. 30 Days After Judgment
4. 60 Days After Judgment
5. None of the Above

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## Waiver of Court Costs or Reimbursement Fees

A justice court may waive payment of costs or reimbursement fees imposed on a defendant if:

- the court determines that the defendant is:
  - indigent,
  - does not have sufficient resources or income to pay all or part of the costs; or
  - was under 17 years of age at the time the offense was committed.

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## Waiver of Fine

A justice court may waive payment of a fine imposed on a defendant if:

- the court determines that discharging the fine through community service or as otherwise authorized by the Code of Criminal Procedure would impose an undue hardship on the defendant or the defendant's dependents; and
  - that the defendant is either indigent,
  - does not have sufficient resources or income to pay all or part of the fine, or
  - was under 17 years of age at the time the offense was committed.

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## Uncollectable Fines, Fees, & Costs

Any officer (*including a justice of the peace*) authorized to collect a fine, fee, or item of cost may request the trial court in which a criminal action or proceeding was held to make a finding that a fine, fee, or item of cost imposed in the action or proceeding is uncollectible if the officer believes:

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the defendant is deceased;

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the defendant is serving a sentence for imprisonment for life or life without parole; or

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the fine, fee, or item of cost has been unpaid for at least 15 years.

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## Post-Judgment Collections

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Defendant can be referred to collections on the \_\_\_\_\_ day after the court has determined the amount must be paid in full.

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A collection entity may add a \_\_\_\_\_% fee to all amounts collected that are referred to collections.

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*Remember, fee only assessed on money **actually collected**.*

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What about amounts that the defendant satisfies through community service, jail credit or waiver?

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## Post-Judgment Omni

Omnibase (Omni) contracts with DPS and the counties to administer this program.

If reported to Omni, the defendant can't renew their drivers license until they pay the Omni Reimbursement Fee +

- Perfect and appeal of the case for which the judgment arose;
- Pay or otherwise discharge the fine and costs owed on the outstanding judgment;  
*or*
- \_\_\_\_\_.

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## Capias Pro Fine

Requires notice!

TJCTC has a flowchart to explain the process – *can you find it?*

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## Confinement/Jail Credit

- Commitment or confinement on a fine-only misdemeanor is a last resort
  - The defendant refused to discharge the judgment even though they could
    - they aren't indigent or
    - They are indigent & didn't make a good faith effort to discharge the fines & costs through community service that could have been done without undue hardship
- Jail Credit
  - Generally, only applies if the defendant requests it (and usually because they are jailed on another higher-level offense)
  - ***Can a defendant get jail credit based on jail time for another offense?***

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## Scofflaw Program

Like Omni, but instead of their DL, the defendant can't renew their motor vehicle registration until they resolve the outstanding criminal judgment (or FTA, but that's not what this class is about)

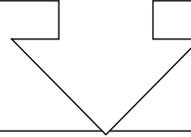
\$\_\_\_\_\_ Reimbursement fee to be released from the program

The referral to the scofflaw program expires two years after the referral, and the defendant may not be referred on new failures to appear or satisfy judgments unless the case prompting the original referral has been resolved.

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## **Civil Enforcement of Judgments**

If the defendant defaults on payment of a fine, the justice of the peace may order the fine and costs collected by execution against the defendant's property in the same manner as a judgment in a civil suit. *Code of Criminal Procedure Art. 45A.263*



***Why isn't this a great option?***

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# **Scenarios**

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## Scenario 1

- A defendant did not appear on their citation. There was ultimately a warrant, and the defendant was reported to OMNI. The defendant then appeared and was placed on a payment plan, but they failed to make any payments.
- What are the next steps?
- Can the case be put into OMNI twice?

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## Scenario 2

- At a pre-trial for a DWLI case attended by the defendant's attorney, the attorney entered a plea of no contest and the defendant was placed on deferred disposition.
- In the deferral order, the defendant was given 30 days to pay the fine and costs. Four days after the payment was due, the clerk mailed out a Notice of Late Payment letter. Defendant called a week later and stated he did not receive anything from the attorney and did not know he owed the amount until he received the letter. He is asking for 2 more months to pay.
- What should the court do in this situation?

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## Scenario 3

- Defendant was convicted and set up on a monthly payment plan. She had made payments on time religiously for 2 months but calls the court explaining that she cannot make the last payment because she was laid off from her job a week ago.
- What needs to be done?

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## Scenario 4

- Defendant was convicted of speeding. The judge determined that the defendant could not afford to pay his fine and costs and ordered them to be discharged with community service. The defendant has not completed the community service and the court holds a show cause hearing. The defendant says he hasn't been able to do the community service because he got a new job where he works 55 hours a week and is on call when he is not working. He asks for his fine and costs to be waived.
- What should the court do?
- Any difference in the analysis for what should happen with the costs vs. the fines?

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## Scenario 5

- Defendant has an outstanding judgment that is sent to OMNI and the OMNI fee is assessed. Defendant calls the court and says that she has been diagnosed with an aggressive form of cancer. She had to quit her job due to the treatment and is now in the hospital. She sends in a letter from her doctor on their letterhead stating her condition and inability to work.
- What is the amount of the OMNI fee?
- Can it be waived?

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## Scenario 6

- Defendant was convicted and failed to pay their fine. The court placed them in OMNI. Now, the defendant has come to the court to set up a payment plan. The court enters an order requiring the outstanding judgment to be paid on a payment plan.
- Assuming the defendant has paid the OMNI reimbursement fee (or had it waived), should they be released from Omni at this point or not until after they have paid the entire fine and costs in full?

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## Scenario 7

- A defendant is convicted and ordered to pay their fine and costs in full within 30 days. On the 31st day, the clerk checks and sees that the defendant has not paid. The judge tells the clerk to refer the defendant to collections by the end of the week. The clerk tells the judge that the court must first set a show cause hearing before the defendant can be referred to collections.
- Is the judge right?
- Is the clerk right?

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## Scenario 8

- A defendant is convicted of an offense. At the time of judgment, the judge determines that the defendant is able to pay their fine and costs. Two months later, the defendant has not paid. The clerk sets up a capias pro fine show cause hearing and sends the required notice to the defendant. At the show cause hearing, the judge must determine whether the judgment imposes an undue hardship.
- What must still happen before a capias pro fine may be issued if the judge determines that the judgment does not impose an undue hardship?
- What does the judge do next if they find that the judgment does impose an undue hardship?

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## Scenario 9

- A defendant is convicted and ordered to discharge their fine and costs through community service. Two months later, the defendant has not submitted proof of any of their community service. The court sends a courtesy letter reminding the defendant to submit proof of their hours. The defendant calls the court and says to stop sending them stuff because they aren't going to pay and they aren't going to do the community service.
- What needs to happen before the judge could order the defendant to lay out the fine and costs in jail?

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## Scenario 10

- A 20-year-old defendant is given a ticket for minor in possession of alcohol. After they get the ticket, but before their trial date in justice court, they are arrested on an assault charge and spend 12 hours in jail before being magistrated. They are subsequently convicted of the MIP offense in justice court, refuse to pay or do community service, and are ultimately picked up on a capias pro fine. They spend 24 hours in jail before they are brought before the magistrate. The magistrate holds a hearing, makes the necessary findings, and orders the defendant to lay out the fine and costs in jail.
- What should they get jail credit for?
- What is the rate that should be applied?

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## **Questions!**

Do you have a scenario that you would like to discuss with the class related to criminal cases post-judgment?

We will discuss as many scenarios as we have time for.

This is your live legal board component!