

MARIN COUNTY SUPERIOR COURT - UNIFORM LOCAL RULES

2.16 CLERK'S OFFICE - FINANCIAL SCREENING AND COMMUNITY SERVICE WORK UNIT

A. Authority for Clerk's Office to Establish Payment Terms for Court Ordered Fines, Fees, Penalty Assessments and Surcharges. The Court has conferred authority to court staff in the Criminal Clerk's Office's Financial Screening and Community Service Work Unit to review defendants' financial information to establish payment plans and/or determine whether defendants meet the financial qualifications to perform community service work (CSW) in lieu of payment of the court ordered fines. Defendants who cannot afford to pay fines at the time of sentencing shall be referred to the Financial Screening and Community Service Work Unit to establish monthly installment plans or determine their eligibility to convert fines to CSW. Only those defendants who demonstrate an inability to pay court ordered fines shall be eligible to perform CSW. All other defendants shall have an opportunity to pay the total amount due or establish monthly installment payment plans to ensure that all court ordered fines, fees and assessments are paid in full prior to the termination date of probation. Defendants may pay their court ordered obligations in full in the Clerk's Office in cash, or by check, cashier's check, or credit or debit card. Defendants may also request to be evaluated for CSW or may elect to set up an installment payment plan.

B. Requests to Perform Community Service Work. A defendant who requests CSW shall complete a Financial Qualification for Community Service Work (Local Form CR080). Court staff shall review this form and make a determination as to whether the defendant qualifies for the program, based on income guidelines established by the Court.

If a defendant meets eligibility criteria, the defendant shall pay a \$50.00 non-refundable CSW administrative fee, prior to commencing the CSW program. Upon receipt of the fee, court staff shall provide the defendant with the following documents pertaining to the Court's CSW program:

1. Timesheets for the defendant to record CSW hours and obtain the signature of an authorized representative, verifying that the hours have been performed; and

2. An Agreement to Perform Community Service Work (Local Form CR083) that will include the defendant's fine conversion calculation as well as an acknowledgement of the due date for completion of the CSW. The Agreement will also make clear that failure to complete CSW by the due date will result in automatic conversion of the CSW hours back to fine, plus the imposition of a \$300.00 civil assessment and referral of the outstanding balance to the Court's Enhanced Collections Program.

If a defendant is not eligible for CSW, court staff shall process the defendant's payment in full or set up an installment payment plan.

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C. Requests for Installment Payment Plan. When a defendant requests an installment payment plan, court staff shall review the term of probation and the total amount of fines, fees and assessments. Court staff shall add a \$35.00 non-refundable accounts receivable fee to this total, pursuant to Pen. C. §1205. The revised total amount due will be divided by the number of months in the term of probation to determine the minimum monthly payment amount or \$50.00, whichever amount is greater. Once an installment payment plan has been determined, the defendant shall sign an Agreement To Set Up Payment Plan - Criminal Case (Local Form CR082). The defendant shall agree to make at least the minimum monthly installment payments by the due date each month and shall acknowledge that failure to do so will result in automatic imposition of a \$300.00 civil assessment and referral of the outstanding balance to the Court's Enhanced Court Collections Program.

Defendants are encouraged to pay more than the minimum monthly amount if they have the financial ability to do so, but they must make at least the minimum payment each month. Defendants may also pay the entire balance of the obligation at any time during the term of probation.

[Rule 2.16 adopted effective 1/1/14]

2.17 MODIFICATION OF TERMS AND CONDITIONS OF MISDEMEANOR PROBATION

A. Authority of Clerk's Office to Modify Terms and Conditions of Misdemeanor Probation. In misdemeanor cases, judicial orders may include probation terms and conditions which defendants are required to complete by dates established in the orders. Conditional probation terms are monitored by the Court for compliance. Following pronouncement of judgment, defendants may have reason to request that the Court modify the terms, conditions or due dates contained in judicial orders. Requests to modify previously ordered terms and conditions of probation in misdemeanor cases must be initiated by defendants or their counsel. Depending on the nature of the requested modifications, some requests must be reviewed and granted or denied by a judicial officer and may be submitted ex-parte for such review on the Court's approved form, Request to Modify Judicial Orders – Judicial Review (CR085). Other modification requests shall be addressed by court staff in the Criminal Clerk's Office in Room C-10, using the Court's approved form, Request to Modify Judicial Orders – Clerk's Review (CR084).

The District Attorney or Probation Department may calendar for a hearing any post-judgment misdemeanor case in which probation was granted by filing a petition to revoke probation, as described in MCR Crim 2.3 if defendant is in custody or MCR Crim 2.11 if defendant is out of custody. In addition, motions filed by defendants or their counsel for probation modification shall be placed on calendar, even if the requested modification could be performed by court staff. All other requests for post-judgment relief shall be submitted to the Court using the process described in MCR Crim 2.17B and 2.17C.

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B. Requests for Modifications That Must Be Submitted to the Clerk's Office.

Defendants may request modifications of certain probation terms and conditions without appearing before a judicial officer. These requests are reviewed in the Criminal Clerk's Office, Room C-10, by submitting a Request to Modify Judicial Orders – Clerk's Review (Local Form CR084). A maximum of two such modification requests per misdemeanor case shall be eligible for review in the Criminal Clerk's Office without requiring a defendant to appear before a judicial officer. Third and subsequent requests for modifications of probation shall be referred to a judicial officer for review, as described in MCR Crim 2.17C3.

The Court confers authority to court staff to make modifications of certain probation terms and conditions, within the parameters enumerated below. Defendants or their counsel must make requests for modifications timely, meaning on or before the court ordered due date, in order to be eligible for review in the Clerk's Office. Requests eligible to be submitted to the Clerk's Office are as follows:

1. Re-referral to Drinking Driver Program (DDP) or Driving While Intoxicated school (DWI) within the probation period, both in county and out of county.
2. Up to a 60-day extension of time to complete DDP or DWI school but under no circumstances later than the termination date of probation.
3. Up to a 60-day extension of time to complete other programs and classes (e.g. anger management, theft awareness, Alcoholics Anonymous, parenting, drug education, etc.) but under no circumstances later than the termination date of probation. The clerk may not grant an extension of time to complete a 52-week batterer's intervention program, as required by Pen. C. §1203.097.
4. Financially eligible defendants' fines may be converted to community service work (CSW) at the prevailing fine conversion rate. Defendants shall pay a \$50.00 non-refundable CSW fee at the time their fines are converted to community service work. Eligibility for CSW shall be determined based on a review of a defendant's income on a Financial Qualification for Community Service Work – Criminal Case (Local Form CR080). Completion date for CSW shall be determined by the number of converted hours but under no circumstances later than the termination date of probation. Failure to complete CSW by the due date shall result in automatic conversion of CSW hours back to fine, addition of a \$300.00 civil assessment and referral to the Court's Enhanced Court Collections Program.
5. Up to a 60-day extension of time to complete CSW, if request is made on or before the original due date of the CSW and the new due date is before the termination of probation.

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6. Conversion of CSW to fine at the prevailing fine conversion rate, to be paid in full at the time of conversion or to be paid in installments. If fine is to be paid in installments, Court shall add a \$35.00 non-refundable accounts receivable fee to the total balance due at the time the installment plan is established. Under no circumstances shall any portion of the fine be due and payable beyond the termination date of probation.

7. Up to a 60-day extension of time to pay fine, if request is made on or before the original due date of the fine and the new due date is before the termination of probation.

8. Conversion of total fine with one due date to fine installment payment plan if request is made prior to the original due date of the fine. Monthly payments shall be determined by adding the non-refundable accounts receivable fee of \$35.00 to the total balance due and dividing this balance due by the remaining number of months in the probation term (e.g. if the defendant owes \$1,000.00 and has 18 months remaining on probation, Court shall add \$35.00 and divide \$1,035.00 by 18 months for a monthly payment of \$58.00.) Under no circumstances shall the monthly payment amount be established at less than \$50.00.

9. Advance defendant's date to be remanded to serve jail time to an earlier date.

C. Requests for Modifications That Must Be Submitted to the Judicial Officer Who Pronounced Judgment. Defendants must request modifications to certain probation terms and conditions by submitting such requests to the judicial officer who pronounced judgment on a Request to Modify Judicial Orders – Judicial Review (Local Form CR085). Such requests shall be submitted to the judicial officer and either granted or denied and returned to the defendant by mail. The judicial officer may also order that cases be placed on calendar for hearings on the requests for modification. Modifications that will require judicial review are enumerated below:

1. Requests to extend jail remand/surrender to a later date. These must be submitted no later than 10 calendar days prior to the court ordered surrender date or they will be automatically denied as not timely. If granted, the Court shall send a copy of these modified orders immediately to the jail and Probation Department.

2. Requests to extend the due date to complete terms and conditions of court ordered deferred entry of judgment or diversion.

3. Any request for modification that exceeds the number of requests that the Court has authorized court staff to review in the Criminal Clerk's Office. In this instance, defendants shall complete both the Request to Modify Judicial Orders – Clerk's Review (CR084) and the Request to Modify Judicial Orders –

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Judicial Review (CR085). The judicial officer will decide whether to grant or deny the requested relief, as stated on the Clerk's Review form.

4. Any request for modification that is not made timely, meaning on or before the due date of the court order. In this instance, defendants shall complete both the Request to Modify Judicial Orders – Clerk's Review (CR084) and the Request to Modify Judicial Orders – Judicial Review (CR085). The judicial officer will decide whether to grant or deny the requested relief, as stated on the Clerk's Review form.

[Rule 2.17 adopted effective 1/1/14]

2.18 APPEALS

At the time of filing any original brief with the Clerk of the Appellate Division, the filing party shall lodge one copy thereof with the Clerk.

The Appellate Division elects to authorize the use of the original court file in lieu of a clerk's transcript as the record on appeal, pursuant to CRC 8.860(a)(1)(B) and 8.863.

[Rule 2.18 adopted effective 1/1/13]

