

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Wednesday the 11th day of August, 2021.

It is ordered that the Rules heretofore adopted and promulgated by this Court and now in effect are hereby amended, effective October 11, 2021.

Amend Rule 1:24 as follows:

RULES OF SUPREME COURT OF VIRGINIA
PART ONE
RULES APPLICABLE TO ALL PROCEEDINGS

Rule 1:24. Requirements for Court Payment Agreements for the Collection of Fines and Costs.

The purposes of the statutory court collection process are (i) to facilitate the payment of fines, court costs, penalties, restitution and other financial responsibilities assessed against defendants convicted of a criminal offense or traffic infraction, (ii) to collect the monies due to the Commonwealth and localities as a result of these convictions, and (iii) to assure payment of court-ordered restitution to victims of crime. To achieve these purposes, this Rule is intended to ensure that all courts approve deferred and installment payment agreements consistent with §§ 19.2-354, 19.2-354.1, and the provisions of this Rule and to further the legal values of predictability, fairness, and similarity in the collection of fines, court costs, penalties, and restitution throughout the courts of the Commonwealth.

(a) *Definitions.* — (1) “Fines and costs” mean all the fines, court costs, forfeitures, and penalties assessed in all cases by a single court against a defendant for the commission of crimes or traffic infractions. The term “fines and costs” also includes restitution unless the court orders a separate payment schedule for restitution.

(2) An “installment payment agreement” is an agreement in which the defendant agrees to make monthly or other periodic payments until the fines and costs are paid in full.

(3) A “deferred payment agreement” is an agreement in which the defendant agrees to pay the full amount of the fines and costs at the end of the agreement’s stated term and no installment payments are required.

(4) A “modified deferred payment agreement” is a deferred payment agreement in which the defendant also agrees to use best efforts to make monthly or other periodic payments.

(b) *Access to payment alternatives.* — Any defendant may enter into a deferred payment agreement, a modified deferred payment agreement or an installment payment agreement to pay fines and costs. The court may not deny a defendant the opportunity to enter into a deferred, modified deferred, or installment payment agreement solely because (i) the defendant previously defaulted under the terms of a payment agreement, (ii) the fines and costs have been referred for collection pursuant to § 19.2-349, (iii) a defendant has not established a payment history, (iv) of the category of offense for which the defendant was convicted or found not innocent, or (v) of the total amount of all fines and costs.

(c) *Notice of payment alternatives.* — The court must give the defendant written notice of deferred, modified deferred, and installment payment agreements and, if a community service program has been established, the availability of earning credit toward discharge of fines and costs through the performance of community service work.

(d) *Conditions of a payment agreement.* — All the fines and costs that a defendant owes for all cases in any single court may be incorporated into one payment agreement, unless otherwise ordered by the court in specific cases. A payment agreement must include only those outstanding fines and costs for which the limitations period set forth in § 19.2-341 has not run.

In determining the length of time to pay under a deferred, modified deferred, or installment payment agreement and the amount of the payments, a court must take into account the defendant's financial resources and obligations, including any fines and costs the defendant owes in other courts. In assessing the defendant's ability to pay, the court must use a written financial statement, on a form developed by the Executive Secretary of the Supreme Court, setting forth the defendant's financial resources and obligations or conduct an oral examination of the defendant to determine his financial resources and obligations.

No court may require a defendant to make a down payment upon entering a deferred, modified deferred, or installment payment agreement, other than a subsequent payment agreement, in which case the court may require a down payment pursuant to subsection (g). Nothing in this rule

prevents a defendant from voluntarily making a down payment upon entering any payment agreement.

Where available, the court may provide community service work as an option to defray fines and costs, especially when the defendant is indigent or otherwise unable to make meaningful payments. Any portion of the community service completed should be credited to the defendant's obligations. Community service may not be credited against any amount owed as restitution, the interest which has accrued on restitution, and any collection fee required.

At any time during the duration of a payment agreement, the defendant may request a modification of the agreement in writing, on a form provided by the Executive Secretary of the Supreme Court, and the court may grant such modification based on a good faith showing of need.

(e) *Timeliness of payments.* — Any payment which is received within 10 days of the date due is considered timely made.

(f) *Combined payment agreements.* — The court may offer a payment agreement combining an appropriate initial period during which no payment of fines and costs is required, followed by a period of installment payments. Such a combined payment plan may be appropriate when the defendant is incarcerated, but should not be limited only to these circumstances.

(g) *Re-entry into a payment agreement after default.* — A defendant who has defaulted on a payment agreement may petition the court for a subsequent payment agreement. In determining whether to approve the request for a subsequent payment agreement, the court must consider any change in the defendant's circumstances.

A court may require a down payment to enter into a subsequent payment agreement, provided that (i) if the fines and costs owed are \$500 or less, the required down payment may not exceed 10 percent of such amount or (ii) if the fines and costs owed are more than \$500, the required down payment may not exceed 5 percent of such amount or \$50, whichever is greater.

Promulgated by Order dated November 1, 2016; effective February 1, 2017.

Last amended by Order dated January 12, 2021; effective immediately.

Amend Rule 1:25 as follows:

Rule 1:25. Specialty Dockets.

(a) *Definition of and Criteria for Specialty Dockets.* — (1) When used in this Rule, the term “specialty dockets” refers to specialized court dockets within the existing structure of Virginia's circuit and district court system offering judicial monitoring of intensive treatment, supervision, and remediation integral to case disposition.

(2) Types of court proceedings appropriate for grouping in a “specialty docket” are those which (i) require more than simply the adjudication of discrete legal issues, (ii) present a common dynamic underlying the legally cognizable behavior, (iii) require the coordination of services and treatment to address that underlying dynamic, and (iv) focus primarily on the remediation of the defendant in these dockets. The treatment, the services, and the disposition options are those which are otherwise available under law.

(3) Dockets which group cases together based simply on the area of the law at issue, e.g., a docket of unlawful detainer cases or child support cases, are not considered “specialty dockets.”

(b) *Types of Specialty Dockets.* — The Supreme Court of Virginia currently recognizes only the following three types of specialty dockets: (i) drug treatment court dockets as provided for in the Drug Treatment Court Act, § 18.2-254.1, (ii) veterans dockets, and (iii) behavioral health dockets as provided for in the Behavioral Health Docket Act, § 18.2-254.3. Drug treatment court dockets offer judicial monitoring of intensive treatment and strict supervision in drug and drug-related cases. The dispositions in the family drug treatment court dockets established in juvenile and domestic relations district courts may include family and household members as defined in Virginia Code § 16.1-228. Veterans dockets offer eligible defendants who are veterans of the armed services with substance dependency or mental illness a specialized criminal specialty docket that is coordinated with specialized services for veterans. Behavioral health dockets offer defendants with diagnosed behavioral or mental health disorders judicially supervised, community-based treatment plans, which a team of court staff and mental health professionals design and implement.

(c) *Authorization Process.* — A circuit or district court which intends to establish one or more types of these recognized specialty dockets must petition the Supreme Court of Virginia for

authorization before beginning operation of a specialty docket or, in the instance of an existing specialty docket, continuing its operation. A petitioning court must demonstrate sufficient local support for the establishment of this specialty docket, as well as adequate planning for its establishment and continuation.

(d) *Expansion of Types of Specialty Dockets.* — A circuit or district court seeking to establish a type of specialty docket not yet recognized under this rule must first demonstrate to the Supreme Court that a new specialty docket of the proposed type meets the criteria set forth in subsection (a) of this Rule. If this additional type of specialty docket receives recognition from the Supreme Court of Virginia, any local specialty docket of this type must then be authorized as established in subsection (c) of this Rule.

(e) *Oversight Structure.* — By order, the Chief Justice of the Supreme Court may establish a Specialty Docket Advisory Committee and appoint its members. The Chief Justice may also establish separate committees for each of the approved types of specialty dockets. The members of the Veterans Docket Advisory Committee, the Behavioral Health Docket Advisory Committee, and the committee for any other type of specialty docket recognized in the future by the Supreme Court will be chosen by the Chief Justice. The State Drug Treatment Court Advisory Committee established pursuant to Virginia Code § 18.2-254.1 constitutes the Drug Treatment Court Docket Advisory Committee.

(f) *Operating Standards.* — The Specialty Docket Advisory Committee, in consultation with the committees created pursuant to subsection (e), will establish the training and operating standards for local specialty dockets.

(g) *Financing Specialty Dockets.* — Any funds necessary for the operation of a specialty docket will be the responsibility of the locality and the local court, but may be provided via state appropriations and federal grants.

(h) *Evaluation.* — Any local court establishing a specialty docket must provide to the Specialty Docket Advisory Committee the information necessary for the continuing evaluation of the effectiveness and efficiency of all local specialty dockets.

Last amended by Order dated January 12, 2021; effective immediately.

Amend Part Three A, Appendix of Forms, Form 10 as follows:

PART THREE A
CRIMINAL PRACTICE AND PROCEDURE
APPENDIX

Form 10. Contents of Sentencing Orders.

* * *

SENTENCING ORDER

VIRGINIA: IN THE CIRCUIT COURT OF

FEDERAL INFORMATION PROCESSING
STANDARDS CODE:

Hearing Date:

Judge:

COMMONWEALTH OF VIRGINIA v. _____, Defendant

This case came before the Court for sentencing of the defendant, who appeared in person with his attorney, _____.

The Commonwealth was represented by _____.

On _____ the defendant was found guilty of the following offenses:

Offense Tracking Number	Virginia Crime Code (For Administrative Use Only)	Code Section	Case Number
Offense Date:	Description:		
Offense Date:	Description:		
Offense Date:	Description:		
Offense Date:	Description:		
Offense Date:	Description:		
Offense Date:	Description:		
Offense Date:	Description:		
Offense Date:	Description:		

Offense Date:	Description:		
Offense Date:	Description:		
Offense Date:	Description:		

The presentence report was considered and is ordered filed as a part of the record in this case in accordance with the provisions of Virginia Code § 19.2-299.

No presentence report was ordered.

Pursuant to the provisions of Virginia Code § 19.2-298.01, the Court has considered and reviewed the applicable discretionary sentencing guidelines and the guidelines worksheets. The sentencing guidelines worksheets and the written explanation of any departure from the guidelines are ordered filed as a part of the record in this case. Before pronouncing the sentence, the Court inquired if the defendant desired to make a statement and if the defendant desired to advance any reason why judgment should not be pronounced.

COMMONWEALTH OF VIRGINIA v. _____, Defendant

The court **SENTENCES** the defendant to:

- Case No. _____ Description _____
- Incarceration with the Virginia Department of Corrections for the term of: _____ years _____ months _____ days
 - FINE. The defendant is ordered to pay fine(s) in the amount of \$ _____.
 - COSTS. The defendant is ordered to pay all costs of this case.
 - RESTITUTION. The defendant is ordered to make restitution as set forth in the ORDER FOR RESTITUTION.
 - DRIVER'S LICENSE SUSPENSION: The defendant's license has been suspended
 - for a period of _____ years _____ months _____ days indefinitely.
 - RESTRICTED DRIVER'S LICENSE: A restricted driver's license was issued by separate order.
 - The court **SUSPENDS** _____ years _____ months _____ days of incarceration _____ fine for a period of _____ upon the condition(s) specified in Suspended Sentence Conditions.
-

- Case No. _____ Description _____
- Incarceration with the Virginia Department of Corrections for the term of: _____ years _____ months _____ days
 - FINE. The defendant is ordered to pay fine(s) in the amount of \$ _____.
 - COSTS. The defendant is ordered to pay all costs of this case.
 - RESTITUTION. The defendant is ordered to make restitution as set forth in the ORDER FOR RESTITUTION.
 - DRIVER'S LICENSE SUSPENSION: The defendant's license has been suspended

for a period of years months days indefinitely.
 RESTRICTED DRIVER'S LICENSE: A restricted driver's license was issued by separate order.
 The court **SUSPENDS** years months days of incarceration
fine for a period of upon the condition(s) specified in Suspended Sentence Conditions.

Case No. Description

Incarceration with the Virginia Department of Corrections for the term of: years months days
 FINE. The defendant is ordered to pay fine(s) in the amount of \$

COSTS. The defendant is ordered to pay all costs of this case.
 RESTITUTION. The defendant is ordered to make restitution as set forth in the ORDER FOR RESTITUTION.
 DRIVER'S LICENSE SUSPENSION: The defendant's license has been suspended
 for a period of years months days indefinitely.
 RESTRICTED DRIVER'S LICENSE: A restricted driver's license was issued by separate order.
 The court **SUSPENDS** years months days of incarceration
fine for a period of upon the condition(s) specified in Suspended Sentence Conditions.

COMMONWEALTH OF VIRGINIA v., Defendant

Consecutive/concurrent:

- These sentences are to run consecutively with all other sentences.
- These sentences are to run concurrently with all other sentences.
- These sentences are to run consecutively/concurrently as described:

Suspended Sentence Conditions:

Good Behavior: The defendant must be of good behavior for the entire period of any suspended sentence ordered.

- Supervised Probation:** The defendant is placed on probation under the supervision of a Probation Officer to commence upon sentencing upon release from incarceration for years months days or unless sooner released by the court or by the Probation Officer. The defendant must comply

with all the rules and requirements set by the Probation Officer. Probation may include substance abuse counseling and/or testing as prescribed by the Probation Officer.

Community Corrections Alternative Program pursuant to Virginia Code § 19.2-316.4: The defendant must successfully complete the Community Corrections Alternative Program. Successful completion of the program must be followed by a period of supervised probation of

The defendant will remain in custody until program entry.

Registration pursuant to Code § 9.1-903 for offenses defined in § 9.1-902 is required.

The defendant must provide a DNA sample and legible fingerprints as directed.

Additional conditions of suspended sentence:

The defendant must make restitution as set forth in the ORDER FOR RESTITUTION.

COMMONWEALTH OF VIRGINIA v., Defendant

Post-incarceration supervision following felony conviction pursuant to Virginia Code § 18.2-10 and 19.2-295.2:

Post-Incarceration Supervised Probation: The defendant is placed on supervised probation to commence upon release from incarceration for a period of, unless released earlier by the court. The defendant must comply with all the rules and requirements set by the Probation Officer.

Post-Incarceration Post-Release Supervision: In addition to the above sentence of incarceration, the court imposes an additional term of of incarceration. This term is suspended and a period of post-release supervision of is imposed, which is to commence upon release from incarceration. The defendant must comply with all the rules and requirements set by the Probation Officer.

The defendant was remanded to the custody of the sheriff.

The defendant was allowed to depart.

The defendant will be given credit for time spent in confinement while awaiting trial pursuant to Virginia Code § 53.1-187.

ENTER this day of

....., Judge

DEFENDANT IDENTIFICATION:

Name:

Alias:

SSN: DOB:/...../..... Sex:.....

SENTENCE SUMMARY:

Total Incarceration Sentence Imposed:

Total Sentence Suspended:

Total Supervised Probation Term:

Total Post-release Term Imposed and Suspended:

Total Fine Imposed: \$ Total Fine Suspended: \$

A Copy,

Teste:



Acting Clerk