

# TWENTY-FOURTH JUDICIAL CIRCUIT OF VIRGINIA

F. PATRICK YEATTS, JUDGE  
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P.O. BOX 4  
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R. EDWIN BURNETTE, JR., JUDGE  
900 COURT STREET  
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COMMONWEALTH OF VIRGINIA  
CITIES OF LYNCHBURG AND BEDFORD  
COUNTIES OF AMHERST, BEDFORD, CAMPBELL AND NELSON

July 6, 2017

Dear Court Appointed Counsel,

This year the General Assembly passed a new statute (§19.2-354.1), which significantly affects how courts will handle restitution payments. Beginning July 1 any defendant who cannot pay restitution in full within 30 days of sentencing SHALL be offered the opportunity to enter into one of three payment agreements defined in the statute. In determining the length of time to pay under such an agreement the law REQUIRES the court to assess the defendant's ability to pay using a written financial statement or conducting an oral examination of the defendant. Needless to say, if oral examination has to be done by the court at sentencing significant additional time will be required. To mitigate the in court time required to address restitution payment plans, the judges will require counsel for the defendant to submit a Financial Statement (Form DC 333) and Restitution Plan. Starting July 1 Commonwealth's Attorneys will be required by statute (19.2-305.1) to substantially fill out a form Restitution Order (excluding the terms and conditions), which will be entered by the court and provided to the defendant at sentencing. Financial Statement forms and Restitution Plan forms will be available from the Clerk's Office, and a copy of each has been attached to this e-mail. Defense Counsel are encouraged to confer with their client and with the Commonwealth's Attorneys to see if a joint recommendation to the court can be made at sentencing covering the amount and timing of the restitution payments.

We are keenly aware that providing this requested information will require more time on your part and welcome any suggestions you have to assist the Court in complying with the new law.

F. Patrick Yeatts, Judge  
R. Edwin Burnette Jr., Judge

# Lynchburg Circuit Court Restitution Plan

**THIS FORM IS TO BE COMPLETED BY THE DEFENSE ATTORNEY AND TO SUBMITTED TO THE COMMONWEALTH ATTORNEY & COURT PRIOR TO OR ON THE SENTENCING DATE**

The following information will be used by the Commonwealth Attorney to complete the Order for Restitution form as required by VA Code §19.2-305.1

Defendant Name: \_\_\_\_\_ Case Number: \_\_\_\_\_

Defense Attorney: \_\_\_\_\_ Sentencing Date: \_\_\_\_\_

Restitution is due to the following person(s) and/or organization(s):

1) Name: \_\_\_\_\_  
Amount due to this victim: \$ \_\_\_\_\_

2) Name: \_\_\_\_\_  
Amount due to this victim: \$ \_\_\_\_\_

3) Name: \_\_\_\_\_  
Amount due to this victim: \$ \_\_\_\_\_

**\*A separate form is to be completed for each defendant in co-defendant cases detailing amount owed by each defendant to each victim.**

**Payments shall be made by the following schedule:**

- A) Monthly: Due the \_\_\_\_ day of each month.  
Each payment shall be made in the amount of \$ \_\_\_\_\_, beginning 30 days from the date restitution is ordered, unless otherwise stated in the Court's order. These payments shall continue until paid in full.
- B) Other (Deferred/Modified): \_\_\_\_\_

**Restitution payments are to be made by cash, check, money order or credit card (convenience fee added for credit card). Checks, money order are to be made payable to the Lynchburg Circuit Court Clerk's Office, 900 Court Street, Lynchburg, VA 24504.**

**Penalties for failure to comply with this restitution plan:**

- 1) Immediate suspension of your driver's license until restitution is paid in full.
- 2) Report to the Department of Taxation for set-off against any tax refund or lottery proceeds.
- 3) Report to the Department of Taxation for debt collection pursuant to VA Code §19.2-349. A collection fee will be added if your account should it go to collections.
- 4) Issuance of a Show Cause or Capias for Arrest as ordered by this Court.

**The defendant certifies that he/she has the means to comply with the terms of this plan and understands the penalties for failure to comply with them.**

\_\_\_\_\_  
Defendant's signature

\_\_\_\_\_  
Date

**FINANCIAL STATEMENT – ELIGIBILITY DETERMINATION  
FOR INDIGENT DEFENSE SERVICES  
PRESUMPTIVE ELIGIBILITY**

Case No. ....  
Commonwealth of Virginia VA. CODE § 19.2-159

I currently receive the following type(s) of public assistance in .....  
CITY/COUNTY  
 TANF \$ .....  Medicaid  Supplemental Security Income \$ .....  
 SNAP (food stamps) \$ .....  Other (specify type and amount) .....

I currently do not receive public assistance.  
Names and address of employer(s) for defendant and spouse:

Self .....  
Spouse (not applicable if alleged victim) .....  
**NET INCOME:**  
 Pay period (weekly, every second week, twice monthly, monthly) .....  
 Net take home pay (salary/wages, minus deductions required by law) ..... \$ .....  
 Other income sources (please specify) ..... \$ .....

**EMPLOYMENT HISTORY:**  
 Were you employed at the time of your arrest?  yes  no  
 If yes, my net take home pay was  per week  month \$ .....  
 If no, length of time since last employed? .....  
 Total wages earned last calendar year? \$ .....

**TOTAL INCOME** \$ ..... + ..... = COURT USE ONLY A

**ASSETS:**  
 Cash on hand ..... \$ .....  
 Bank Accounts at: ..... \$ .....  
 Any other assets: (please specify) .....  
 \_\_\_\_\_ with a value of ..... \$ .....  
 Real estate – \$ \_\_\_\_\_ NET VALUE ..... \$ .....  
 \_\_\_\_\_ with net value of ..... \$ .....  
 Motor Vehicles { \_\_\_\_\_ YEAR AND MAKE ..... with net value of ..... \$ .....  
 \_\_\_\_\_ YEAR AND MAKE ..... with net value of ..... \$ .....

Other Personal Property: (describe) ..... \$ .....  
**TOTAL ASSETS** \$ ..... + ..... = COURT USE ONLY B

..... Number in household defendant has financial responsibility for, including defendant.

**EXCEPTIONAL EXPENSES (Total Exceptional Expenses of Family)**  
 Medical Expenses (list only unusual and continuing expenses) ..... \$ .....  
 Court-ordered support payments/alimony ..... \$ .....  
 deducted from paycheck  not deducted from paycheck  
 Child-care payments (e.g. day care) ..... \$ .....  
 Other (describe): ..... } \$ .....

**This statement is made under oath. Any false statement may constitute a violation of law under Virginia Code § 19.2-161 and be subject to criminal penalty, including incarceration.**

**TOTAL EXPENSES** \$ ..... = COURT USE ONLY C  
 COLUMN "A" plus COLUMN "B" minus COLUMN "C" equals available funds =  

I hereby state that the above information is correct to the best of my knowledge.  
 Name of defendant (type or print) .....  
 \_\_\_\_\_  
 DATE SIGNATURE

Sworn/affirmed and signed before me this day.  
 \_\_\_\_\_  
 DATE SIGNATURE TITLE

**ORDER FOR RESTITUTION**

Commonwealth of Virginia VA. CODE § 19.2-305.1

Case No(s) : .....

General District Court  Circuit Court  
 Juvenile and Domestic Relations District Court

CITY OR COUNTY

In re: .....

Commonwealth of Virginia **v.** .....  
 .....  DEFENDANT  JUVENILE

ADDRESS OF  DEFENDANT  JUVENILE DATE OF BIRTH SOCIAL SECURITY NO. (LAST 4 DIGITS ONLY)

CITY STATE ZIP TELEPHONE NO.

Having considered all relevant and material evidence presented as to restitution, the court ORDERS as follows:

The defendant/juvenile is ordered to pay restitution of \$ .....  with interest,  
to the clerk's office of this court with payment due in full by .....

DUE DATE

The defendant/juvenile shall pay restitution as follows (if applicable):  
 as part of an approved payment agreement in accordance with Va. Code § 19.2-354 for the payment of any fines, costs, restitution and other amounts owed; however; payment of restitution is still due in full by the due date above beginning  .....  ..... after release from incarceration.

DATE PERIOD OF TIME

in payments of \$ ..... per .....  
beginning  .....  ..... after release from incarceration.

DATE PERIOD OF TIME

as described in the payment plan submitted by the defendant/juvenile which is incorporated in this order.

.....

Interest on restitution owed shall accrue at the legal rate  from the date of this order  
 from the date of loss or damage of .....  from .....

DATE DATE

Restitution shall be monitored by  local community-based probation agency  Probation and Parole (circuit court only).

A hearing will be held on ..... to review compliance with this order.

HEARING DATE AND TIME

Payment of restitution shall be made on behalf of the following victim(s):  Supplemental sheet incorporated.

Victim 1: ..... in the amount of \$ .....

Victim 2: ..... in the amount of \$ .....

Victim 3: ..... in the amount of \$ .....

A proportional percentage of a payment shall be paid to each victim.  Each victim should be fully paid in the above order.

Restitution is ordered to be paid jointly and severally by the following:  Supplemental sheet incorporated.

DEFENDANT  JUVENILE  DEFENDANT  JUVENILE

DATE OF BIRTH SOCIAL SECURITY NO. (LAST 4 DIGITS ONLY) DATE OF BIRTH SOCIAL SECURITY NO. (LAST 4 DIGITS ONLY)

ADDRESS ADDRESS

TELEPHONE NO. TELEPHONE NO.

The amount of restitution shall be docketed as a judgment.

.....

Note: Any money paid by the defendant will be paid first to restitution, and collection costs associated with restitution (if applicable), prior to the payment of any fines, costs, forfeiture, and/or penalty.

DATE

I acknowledge that I received a copy of this page at sentencing.

JUDGE

DEFENDANT/JUVENILE

**TO CLERK:  
DO NOT PROVIDE A COPY OF  
THIS PAGE TO DEFENDANT/JUVENILE AT SENTENCING**

Case No(s) .....

Contact information for victim(s):

.....  
VICTIM 1  
.....  
ADDRESS  
.....  
CITY STATE ZIP

.....  
VICTIM 2  
.....  
ADDRESS  
.....  
CITY STATE ZIP

.....  
TELEPHONE NO.  
[ ] DC-301, REQUEST FOR CONFIDENTIALITY, is attached.

.....  
TELEPHONE NO.  
[ ] DC-301, REQUEST FOR CONFIDENTIALITY, is attached.

.....  
VICTIM 3  
.....  
ADDRESS  
.....  
CITY STATE ZIP

.....  
TELEPHONE NO.  
[ ] DC-301, REQUEST FOR CONFIDENTIALITY, is attached.

The contact information for the victims provided above is correct to the best of my knowledge and belief.

.....  
DATE

.....  
SIGNATURE OF [ ] ATTORNEY FOR THE COMMONWEALTH [ ] DESIGNEE

.....  
PRINTED NAME

.....  
NAME OF AGENCY OF DESIGNEE  
(IF APPLICABLE)

In order to ensure receipt of money paid towards restitution, the victim must notify the court if there is a change of his or her address listed above.

**SUPPLEMENTAL SHEET TO  
ORDER FOR RESTITUTION  
FOR VICTIM INFORMATION**

Case No. ....

DATE OF HEARING

General District Court     Circuit Court  
 Juvenile and Domestic Relations District Court

CITY OR COUNTY

In re: .....

Commonwealth of Virginia

v.

DEFENDANT     JUVENILE

.....

ADDRESS OF  DEFENDANT  JUVENILE

DATE OF BIRTH

SOCIAL SECURITY NO. (LAST 4 DIGITS ONLY)

CITY

STATE

ZIP

TELEPHONE NO.

**TO CLERK:  
DO NOT PROVIDE A COPY OF  
THIS PAGE TO DEFENDANT/JUVENILE AT SENTENCING**

VICTIM 4

VICTIM 5

ADDRESS

ADDRESS

CITY

STATE

ZIP

CITY

STATE

ZIP

TELEPHONE NO.

TELEPHONE NO.

DC-301, REQUEST FOR CONFIDENTIALITY, is attached.

DC-301, REQUEST FOR CONFIDENTIALITY, is attached.

The contact information for the victims provided above is correct to the best of my knowledge and belief.

DATE

SIGNATURE OF  ATTORNEY FOR THE COMMONWEALTH  DESIGNEE

PRINTED NAME

NAME OF AGENCY OF DESIGNEE  
(IF APPLICABLE)

In order to ensure receipt of money paid towards restitution, the victim must notify the court if there is a change of his or her address listed above.



**Payment Plan Guidelines and Procedures for Fines, Costs and Restitution**  
**Effective July 1, 2017**  
**Pursuant to Virginia Code §§19.2-349, 19.2-354 and 19.2-354.1**

Fines and Costs are assessed against individuals convicted of a felony, misdemeanor or traffic infraction. Restitution may be assessed against individuals convicted of a felony, misdemeanor or traffic infraction. All Fines, Costs and Restitution are due within 30 days of sentencing. If you are unable to pay in full within 30 days of sentencing or have been sentenced to a period of incarceration, you must enter into a Payment Plan Agreement approved by the Court. Judgment will be entered against the defendant for the amount of any outstanding Fines and Costs not paid by the Due Date. Interest will accrue on the balance Due Date as to any outstanding Fines and Costs not timely paid. Judgments are docketed in the Judgment Lien Docket Book in the Clerk's Office.

**PAYMENT PLAN AGREEMENT OPTIONS:**

**Fines, Court Costs and Penalties**

A Payment Plan Agreement must be completed in the Clerk's Office after sentencing for all Fines and Costs not paid in full within 30 days of sentencing. If full payment is made on the date of sentencing, no judgment will be entered. If not paid in full, a Payment Plan Agreement can be set up with an initial minimum payment of \$35.00 (or an amount set by the Court) to be made in monthly or periodic installments until paid in full. The following Payment Plan Agreement options are available, and these options require you to submit a Financial Statement using form DC333 which must be filed with the Court:

- **Installment Payment Agreement** - A payment agreement in which the defendant agrees to make monthly or other periodic payments until the Fines and Costs are paid in full. Fines and Costs must be paid per the terms of the Installment Payment Agreement or penalties\* will be assessed.
- **Deferred Payment Agreement** - A payment agreement in which the defendant agrees to pay the full amount of the Fines and Costs at the end of a stated term and no installment payments are required. (This option must be ordered by the Court). Fines and Costs must be paid in full by the Deferred Payment Agreement Due Date or penalties\* will be assessed.
- **Modified Deferred Payment Agreement** - A deferred payment agreement in which the defendant also agrees to use best efforts to make monthly or other periodic payments. (This option must be ordered by the Court). Fines and Costs must be paid in full by the Modified Deferred Payment Agreement Due Date or penalties\* will be assessed.

**Restitution Owed to a Victim**

When Restitution, in addition to Fines and Costs, has been ordered by this Court, a Restitution Plan Agreement must be submitted to the Court no later than the day of your sentencing. The Restitution Plan Agreement must be approved by the Court. Restitution payments must be received by the Restitution Plan Agreement Due Date, regardless of whether Restitution is ordered to be paid to the Court in monthly installments or deferred to a specific date. If you miss a monthly installment (or if payment is not received by the Due



Date) penalties\* will be assessed and could be a violation of your probation and/or suspended sentence. All Court ordered Restitution is collected by the Lynchburg Circuit Court Clerk's Office.

Community Service may be available to defray Fines and Costs if approved and ordered by the Court. Community Service cannot be used to defray Restitution, interest which has accrued on Restitution or any other collection fees imposed.

#### **PENALTIES\***

Individuals who do not timely pay Fines, Costs, Penalties and/or Restitution when due may be subject to the following:

- Unpaid Fines, Costs and/or Restitution are reported to the Lynchburg Commonwealth Attorney's Office and the Department of Taxation for Set-off Debt Collection. Collection methods may include but are not limited to, tax refunds and lottery proceeds.
- Notice of any unpaid Fines and/or Costs will be sent to the Department of Motor Vehicles, which will result in suspension of the defendant's operator's license and revocation of the defendant's automobile registration and tags.
- Interest will be assessed on unpaid Fines and Costs.
- You may be held in Contempt of Court, which may result in additional fines and/or incarceration. In addition, any suspended sentence may be revoked.

F. Patrick Yeatts, Judge  
R. Edwin Burnette, Jr., Judge