

TEXAS ADMINISTRATIVE CODE

TITLE 1. ADMINISTRATION

PART 8. TEXAS JUDICIAL COUNCIL

CHAPTER 175. COLLECTION IMPROVEMENT PROGRAM

SUBCHAPTER A. GENERAL COLLECTION IMPROVEMENT PROGRAM PROVISIONS

RULE §175.1 Source, Purpose and Scope

- (a) The source is Article 103.0033 of the Code of Criminal Procedure.
- (b) The purpose is to provide notice to counties and municipalities of the scope and components of the Collection Improvement Program and of the audit standards that will be used by the Office of Court Administration to determine program implementation.
- (c) The Collection Improvement Program applies to criminal cases in which the defendant agrees to or is required to pay court costs, fees, and fines under a payment plan or extension rather than on the assessment date. Although the program can be utilized by a judge in virtually every criminal case to effectuate the judge's financial orders, it is not designed to influence the judicial determination of whether to order payment of costs, fees and fines, or otherwise to affect the sentencing or other disposition decision that is within the judge's discretion. The program is simply designed to improve the collection of court costs, fees and fines that have been imposed, while helping defendants satisfy their obligations. The program is not intended to conflict with or undermine the provision to defendants of full procedural and substantive rights under the constitution and laws of this state and of the United States.
- (d) Although the program focuses on collection of court costs, fees and fines, it should be implemented in the context of local, state and national efforts to develop and apply systemic policy to the competing financial obligations of people in the criminal justice system.

Source Note: The provisions of this §175.1 adopted to be effective December 19, 2007, 32 TexReg 9323; amended to be effective July 15, 2012, 37 TexReg 5113

RULE §175.2 Definitions

- (a) "Assessment date" is the date on which a defendant becomes obligated to pay court costs, fees and fines. When a defendant remits partial payment of a citation without appearing in person, the assessment date is the date the partial payment was received.
- (b) "Contact" means a documented attempt to reach a defendant.

(c) "Contact information" means the defendant's home address and home or primary contact telephone number; the defendant's employer's or source of support's name, address and telephone number; at least two personal references; and the date the information is obtained.

(d) "Designated counties" are those with a population of 50,000 or greater.

(e) "Designated municipalities" are those with a population of 100,000 or greater.

(f) "Eligible case" means a criminal case in which a judgment has been entered by a trial court. The term does not include a criminal case in which a defendant has been placed on deferred disposition; has elected to take a driving safety course; or is incarcerated, unless the defendant is released and payment is requested.

(g) "Jurisdiction" means a designated county or designated municipality that is subject to this chapter.

(h) "OCA" means the Office of Court Administration of the Texas Judicial System.

(i) "Collection Improvement Program" or "CIP" means the program described in this subchapter.

(j) "Payment ability information" means the defendant's account balances in financial institutions, debt balances and payment amounts, and stated income.

(k) "Payment Plan" or "Extension" means a schedule of payment(s) to be made by a defendant who does not pay all court costs, fees and fines at the time they are assessed and payment is requested. A judge's order that payment is due at a future date constitutes a payment plan or extension.

(l) "Program" or "Local Program" means the collection program implemented by a jurisdiction.

Source Note: The provisions of this §175.2 adopted to be effective December 19, 2007, 32 TexReg 9323; amended to be effective July 15, 2012, 37 TexReg 5113

RULE §175.3 Collection Improvement Program Components

(a) Summary of CIP Components. The CIP has eleven components. Four components relate to the way a local program must be implemented, staffed, and operated. The other seven components relate to the way program staff communicates with defendants and documents those communications. In accordance with Article 103.0033(j), OCA will periodically audit counties and municipalities to confirm implementation of the components of the CIP; the audit standards are more fully described in §175.5. In computing any period of time under these rules, when the last day of the period falls on a Saturday, Sunday, legal

holiday, or other day on which the office is not open for business, then the period runs until the end of the next day on which the office is open for business.

(b) Components for Local Program Operations.

(1) Dedicated Program Staff. Each local program must designate at least one employee whose job description contains an essential job function of collection activities. The collection job function may be concentrated in one individual employee or distributed among two or more employees. The collection function need not require 40 hours per week of an employee's time, but must be a priority.

(2) Payment Plan or Extension Compliance Monitoring. Program staff must monitor defendants' compliance with the terms of their payment plans or extensions and document the ongoing monitoring by either an updated payment due list or a manual or electronic tickler system.

(3) Delinquent Cases. Each local program must have a component designed to improve collection of balances more than 60 days past due.

(4) Proper Reporting. The program must report its collection activity data to OCA at least annually in a format approved by OCA, as described in §175.4.

(c) Components for Defendant Communications.

(1) Application or Contact Information. For payment plans or extensions set by a judge, the defendant must provide or acknowledge contact information and program staff must document it. In other cases, the defendant must provide a signed or acknowledged application for extended payment that includes both contact information and payment ability information. Programs may use a single form for both contact information and payment ability information, and the required information must be obtained within one month of the assessment date.

(2) Verification of Contact Information. Within five days of receiving the data, program staff must verify both the home or contact telephone number and the employer or source of support, if applicable. Verification may be conducted by reviewing written proof of the contact information, by telephoning the contacts, or by using a verification service. Verification must be documented by identifying the person conducting it and the date.

(3) Defendant Interviews. Within 14 days of receiving an application or a judge-imposed payment plan or extension, program or court staff must conduct an in-person or telephone interview with the defendant either to review the application and determine an appropriate payment plan or extension, or to review the terms of the judge-imposed payment plan or extension. Interviews must be documented by indicating the name of the interviewer and date of the interview.

(4) Specified Payment Terms.

(A) Documentation. Payment plans or extensions must be documented by notation in the judgment or court order, on a docket sheet, by written or electronic record, or by other means enabling later review.

(B) Payment Guidelines. Payment plans or extensions should require the highest payment amounts, and should require payment in full in the shortest period of time that the defendant can successfully make, considering the amount owed, the defendant's ability to pay, and the defendant's obligations to pay other court-mandated amounts, including

child support, victim restitution, and fees for drug testing, rehabilitation programs, or community supervision.

(C) Time Requirements. Time requirements for payment plans or extensions set by a judge are within judicial discretion. Payment plans or extensions set by program staff must meet the following time requirements:

(i) In municipal and justice court cases, full payment within four months of the assessment date.

(ii) In county and district court cases involving community supervision, full payment at least two months before expiration of the term of community supervision.

(iii) In county and district court cases not involving community supervision and not involving incarceration, full payment within six months of the assessment date.

(iv) Extension of the time requirements for payment in full may be allowed if a defendant has multiple cases.

(5) Telephone Contact for Past-Due Payments. Within one month of a missed payment, a telephone call must be made to a defendant who has not contacted the program staff. Telephone calls may be made by an automated system, but an electronic report or manual documentation of the telephone contact must be available on request.

(6) Mail Contact for Past-Due Payments. Within one month of a missed payment, a written delinquency notice must be sent to a defendant who has not contacted the program. Written notice may be sent by an automated system, but an electronic report or manual documentation of the mail contact must be available on request.

(7) Contact if Capias Pro Fine Sought. If a capias pro fine will be sought, the program must make another telephone call or send another written notice to the defendant within one month of the telephone call described in paragraph (5) of this subsection or the written delinquency notice described in paragraph (6) of this subsection, whichever is later. An electronic report or manual documentation of the contact must be available on request.

(d) Exceptions to Defendant Communications Rules. Exceptions to the defendant communications rules described in subsection (c) of this section are limited to those cases in which timely access to the defendant in order to obtain the required application or contact information is not possible, and efforts to obtain an application or contact information are documented, as provided in paragraphs (1) and (2) of this subsection.

(1) Attempt to Obtain Application or Contact Information. An attempt to obtain an application or contact information described in subsection (c)(1) of this section is made, either by mailing an application or contact information form or by obtaining the information via the telephone before a plea is made by the defendant or within 7 days of the court's acceptance of a plea. An electronic report or manual documentation of the attempt must be available on request. Should a completed application or contact information form not be returned by the defendant and the post office has not returned the application or contact information form as undeliverable, the program must make a second attempt to contact the defendant with any existing available information within one month of the first attempt. An electronic report or manual documentation of the second attempt must be made available on request.

(2) Application or Contact Information Is Obtained. Should a completed application or contact information form be returned to the program by a defendant as the result of an attempt described in paragraph (1) of this subsection, it will be considered timely and all other timing requirements for defendant communications described in subsection (c)(2) and (3) of this section are based on the later of the assessment date or the date the program receives the application or contact information form.

Source Note: The provisions of this §175.3 adopted to be effective December 19, 2007, 32 TexReg 9323; amended to be effective December 8, 2008, 33 TexReg 9971; amended to be effective July 15, 2012, 37 TexReg 5113

RULE §175.4 Content and Form of Local Government Reports

(a) General Scope. Article 103.0033(i) requires that each program submit a written report to OCA at least annually that includes updated information regarding the program, with the content and form to be determined by OCA. Reporting under Article 103.0033 and this subchapter is not the same as reporting of judicial statistics under Government Code §71.035 and different rules for reporting and waiver apply.

(b) Reporting Format and Account Setup. OCA has implemented a web-based Online Collection Reporting System for program participants or jurisdictions to enter information into the system. For good cause shown by a jurisdiction, OCA may grant a temporary waiver from timely online reporting. Program participants or jurisdictions must provide OCA with information for the online reporting system to enable OCA to establish the program reporting system account. The information must include the program name, program start date, start-up costs, the type of collection and case management software programs used by the program, the entity to which the program reports (e.g., district clerk's office, sheriff, etc.), the name and title of the person who manages the daily operations of the program, the mail and e-mail addresses and telephone and fax numbers of the program, the courts serviced by the program, and contact information for the program staff with access to the system so user identifications and passwords can be assigned.

(c) Content and Timing of Reports.

(1) Annual Report. By the 60th day following their fiscal year end, each program or jurisdiction must report the following information:

(A) Number of full-time and part-time collection program employees;
(B) Total program expenditures;
(C) Salary expenditures for the program;
(D) Fringe benefit expenditures for the program;
(E) Areas other than court collections for which the program provides services;

(F) Local and contract jail statistics and average cost per day to house a defendant; and

(G) A compilation of 12 months of the monthly reporting information described in paragraph (3) of this subsection, if not reported each month as requested.

(2) Additional information may be requested in the annual report on a voluntary basis.

(3) Monthly Reports. By the 20th day of the following month, each program or jurisdiction is requested to provide the following information regarding the previous month's program activities:

(A) Number of cases in which court costs, fees, and fines were assessed;

(B) For assessed court costs and fees: the dollar amount assessed and collected; the dollar amount of credit given for jail time served; the dollar amount of credit given for community service performed; the dollar amount waived because of indigent status, and the dollar amount waived for reasons other than indigency;

(C) For fines: the dollar amount assessed, collected, or waived; the dollar amount of credit given for jail time served; and the dollar amount of credit given for community service performed; and

(D) Aging information consisting of the time span from date of assessment through the date of payment, in 30-day increments up to 120 days, and for more than 120 days.

Source Note: The provisions of this §175.4 adopted to be effective December 19, 2007, 32 TexReg 9323; amended to be effective July 15, 2012, 37 TexReg 5113

RULE §175.5 Audit Standards

(a) Compliance Audits. In accordance with Article 103.0033(j), OCA must periodically audit jurisdictions to confirm compliance with the components described in §175.3(b) and (c).

(b) Compliance Audit Methods. OCA must use random selection to generate an adequate sample of eligible cases to be audited, and must use the same sampling methodology as used for programs with similar automation capabilities.

(c) Compliance Audit Standards. OCA must use the following standards in the compliance audit:

(1) A county has met the requirements of §175.3(b) when either 90 percent of all courts in the county, or all courts in the county except one court, have satisfied all four requirements. Partial percentages are rounded in favor of the county. A municipality must satisfy all four requirements of §175.3(b).

(2) To be in substantial compliance with a component of §175.3(c), the requirement must be met for at least 80% of the eligible cases at that stage of collection. To be in partial compliance with a component of §175.3(c), the requirement must be met for at least 50% of the eligible cases at that stage of collection. For OCA to find a jurisdiction in compliance with the requirements of §175.3(c), the jurisdiction cannot be in less than partial compliance with any component, may be in partial compliance with a maximum of one component, and must be in substantial compliance with all of the other applicable components.

Source Note: The provisions of this §175.5 adopted to be effective December 19, 2007, 32 TexReg 9323; amended to be effective July 15, 2012, 37 TexReg 5113

SUBCHAPTER B IMPLEMENTATION SCHEDULE AND WAIVERS

RULE §175.6 Implementation Schedule

OCA has developed and published on its website a prioritized implementation schedule for jurisdictions.

Source Note: The provisions of this §175.6 adopted to be effective December 19, 2007, 32 TexReg 9323; amended to be effective July 15, 2012, 37 TexReg 5113

RULE §175.7 Waivers

(a) Statutory Basis. Article 103.0033 provides that OCA may determine that it is not cost-effective to implement a program in a county or municipality and grant a waiver to the requesting entity.

(b) Criteria for granting waivers. OCA will grant a blanket waiver from implementation when the requesting entity demonstrates that:

(1) The estimated costs of implementing the program are greater than the estimated additional revenue that would be generated by implementing the program; and

(2) A compelling reason exists for submitting the waiver request after the entity's published implementation deadline. The requesting entity and OCA program staff each must submit documentation supporting their cost and revenue projections to the administrative director for determination.

(c) Temporary waivers. OCA will consider a request to grant a temporary waiver for good cause that could not have been reasonably anticipated. Such temporary waivers may be granted after an audit to allow a program to correct deficiencies discovered during the audit.

Source Note: The provisions of this §175.7 adopted to be effective December 19, 2007, 32 TexReg 9323; amended to be effective July 15, 2012, 37 TexReg 5113