

TEXAS ADMINISTRATIVE CODE
TITLE 1. ADMINISTRATION

PART 8. TEXAS JUDICIAL COUNCIL

CHAPTER 175. COLLECTION IMPROVEMENT PROGRAM

The Texas Judicial Council (Council) proposes to amend 1 Tex. Admin. Code §§175.1 – 175.3 concerning the Collection Improvement Program (Program). The proposed amendments provide local collections programs greater flexibility in establishing payment plans and codifies the Program's policy that the Program's components do not apply to defendants who have been determined to be indigent.

Glenna Bowman, chief financial officer of the Office of Court Administration (OCA), has determined that for the first five-year period the amendments are in effect there will be no significant fiscal implications for state government.

Scott Griffith, director of research and court services of OCA, has determined that for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of the amendments to these rules will be clarification of the intent and meaning of the Program's rules and greater flexibility for local programs to establish payment plans that defendants can successfully pay.

There will be no cost to small business or individuals as a result of the amendments.

Comments on the proposed amendments may be submitted in writing to Scott Griffith at scott.griffith@txcourts.gov, at P.O. Box 12066, Austin, TX 78711-2066, or at fax number 512-463-1648.

The amendments are proposed under §71.019 of the Texas Government Code, which authorizes the Council to adopt rules expedient for the administration of its functions. No other statutes, articles, or codes are affected by the proposed amendment.

The Council hereby certifies that the proposed amendments have been reviewed by legal counsel and found to be within the agency's legal authority.

§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. The program does not apply to cases in which the defendant has been determined to be indigent. 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 who have the ability to pay 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.

§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 determined to be indigent; 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.

§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. **The CIP components do not apply to defendants who have been determined to be indigent.**

(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.