

**TEXAS ADMINISTRATIVE CODE
TITLE 1. ADMINISTRATION**

PART 8. TEXAS JUDICIAL COUNCIL

CHAPTER 175. COLLECTION IMPROVEMENT PROGRAM

SUBCHAPTER A. GENERAL COLLECTION IMPROVEMENT PROGRAM PROVISIONS

§175.1. Purpose and Scope.

(a) The purpose of this ~~rule~~ ~~chapter~~ is to provide notice to counties and municipalities that are subject to Article 103.0033 of the Code of Criminal Procedure of the scope and components of the Collection Improvement Program (CIP) model developed by the Office of Court Administration pursuant to ~~Article 103.0033 of the Code of Criminal Procedure~~ and the standards that will be used to determine whether a county or municipality is complying with the CIP requirements.

(b) Article 103.0033 and this chapter apply to counties with a population of 50,000 or greater and cities with a population of 100,000 or greater based on the last decennial census. Counties that have been granted a waiver under §175.6(b) of this chapter are not required to comply with the requirements in this chapter.

~~(c)~~ The CIP is designed to improve the enforcement of a defendant's compliance with the payment of costs, fees, and fines that have been ordered by a court, without imposing an undue hardship on the defendant or the defendant's dependents. The CIP components should not be interpreted 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)~~ The CIP does not alter a judge's legal authority or discretion to design payment plans of any amount or length of time; to convert costs, fees, and fines into community service or other non-monetary compliance options as prescribed by law; to waive costs, fees, and fines; or to reduce the total amount a defendant owes at any time after the assessment date; or to adjudicate a case for non-compliance at any time.

~~(e)~~ The CIP applies to criminal cases in which the defendant is ordered to pay costs, fees, and fines under a payment plan.

~~(f)~~ The CIP does not apply to cases in which: 1) the court has waived all-determined that court costs, fees, and fines the defendant is unable to pay any portion of the costs, fees, and fines without undue hardship to the defendant or the defendant's dependents; 2) the court , at the time of assessment, authorizes discharge of the costs, fees, and fines through non-monetary compliance options; or 3) the defendant has been placed on deferred disposition or has elected to take a driving safety course. The CIP does not apply to the collection of community supervision fees assessed under Sec. 19a, Article 42.12 of the Code of Criminal Procedure.

~~(g)~~ Although cases in which the court has ordered a defendant to satisfy his or her obligation regarding costs, fees, and fines through community service or other non-monetary compliance options are not subject to the CIP requirements, a judge may use local program staff to assist the court with monitoring a defendant's compliance with these court orders.

§175.2. Definitions.

(a) "Assessment date" is the date on which a defendant is ordered or otherwise obligated to pay 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 is received.

- (b) "Collection Improvement Program" or "CIP" means the program described in this subchapter.
- (c) "Contact information" means the defendant's home address and home or primary contact telephone number, and email address, if any; at least two personal contacts and their telephone number, mailing address or email address; and the date the information is obtained.
- ~~(d) "Discretionary income" means the amount of a defendant's net (after tax) household income minus the amount of all required payments and the cost of items that are essential for the defendant and the defendant's dependents. Required payments are those which would result in a penalty or other adverse impact if payment is not made, including, but not limited to, loan, credit card, and car and health insurance payments; court mandated payments, such as child support and victim restitution payments; and fees for drug testing, rehabilitation programs, and community supervision. Items that are essential for the defendant and the defendant's dependents are those which are necessary to ensure the well being of the defendant and defendant's dependents, including, but not limited to, transportation, food, medicine and medical services or supplies, housing, child care, and clothing.~~
- (de) "Household income" means the defendant's income and the defendant's spouse's income that is available to the defendant.
- (ef) "Jurisdiction" means a county or municipality that is subject to this chapter.
- (fg) "Local program" means a program implemented by a jurisdiction pursuant to Art. 103.0033 of the Code of Criminal Procedure.
- (gh) "Non-monetary compliance option" means an alternative method of satisfying the assessment of costs, fees, and fines other than through the payment of money. This includes those methods provided in Arts. 43.09 and 45.049 of the Code of Criminal Procedure, and any other alternative within the judge's discretion.
- (hi) "OCA" means the Office of Court Administration of the Texas Judicial System.
- ~~(ij) "Payment ability information" means the defendant's household income, expenses, account balances in financial institutions, debt balances and payment amounts, number of dependents, and any other information local program staff require to establish a payment plan that the defendant can successfully make without undue hardship to the defendant or the defendant's dependents. ~~necessary to calculate the defendant's discretionary income. The payment ability information provided by the defendant to local program staff is presumed to be current unless the defendant notifies the court or local program staff that resources or circumstances have changed and a review is requested.~~~~
- (jk) "Payment plan" means a schedule of one or more payment(s) to be made at designated interval(s) by the defendant who does not pay all costs, fees, and fines at the time they are assessed and payment is requested. A judge's order that payment of costs, fees, and fines is due at a future date (an extension) constitutes a payment plan regardless of whether the order requires one payment in full or several payments at designated intervals.
- (kl) "Spouse" means the person to whom the defendant is married, including a person who is a party to an informal marriage.

§175.3. Collection Improvement Program Components.

(a) Components for Local Program Operations.

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

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

(3) Application or Contact Information.

(A) Payment Plans Set by Judge Prior to Referral to the Local Program and Standard Payment Plans Accepted by the Defendant. If the judge has established a payment plan for the defendant prior to referring the case to the local program or the defendant has agreed to a standard payment plan under §175.3(a)(7)(A), local program staff must obtain contact information from the defendant. ~~a statement on a form provided by local program staff whether the defendant has the ability to pay the costs, fees, and fines under the payment plan terms ordered by the judge without financial hardship to the defendant or the defendant's dependents. If the defendant states that the defendant has the ability to pay without undue hardship to the defendant and the defendant's dependents, the defendant must provide contact information and local program staff must document it. If the defendant does not state that the defendant has the ability to pay without undue hardship, local program staff must also collect payment ability information from the defendant. All required statements, eContact information documentation, and payment ability information~~ must be signed and dated and obtained within one month of the assessment date.

(B) Other Cases. For all other cases, the local program must collect from the defendant a signed and dated application for a payment plan that includes both contact information and payment ability information. The required information must be obtained within one month of the assessment date.

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

(5) Defendant Interviews.

(A) Within 14 days of receiving an application ~~or receiving a case in which the judge has set a payment plan before referring the case to the program and the defendant has indicated that the defendant does not have the ability to pay the costs, fees, and fines under the payment plan terms ordered by the judge without undue hardship to the defendant or the defendant's dependents,~~ local program staff must conduct an in-person or telephone interview with the defendant to review payment ability information. Interviews must be documented by indicating the ~~name of the~~ interviewer and date of the interview.

(B) Within 14 days of receiving a case in which the judge has set a payment plan before referring the case to the program or the defendant has agreed to a standard payment plan under §175.3(a)(7)(A) and the defendant has indicated that the defendant has the ability to pay the costs, fees, and fines under the payment plan terms ordered by the judge without undue hardship to the defendant or the defendant's dependents, local program staff must conduct an in-person or telephone interview with the defendant to review the terms of the defendant's payment plan ~~set by the judge.~~ Interviews must be documented by indicating the ~~name of the~~ interviewer and date of the interview.

(6) Referral to Court for Review of the Defendant's Ability to Pay Information.

(A) Court Review. Referral to Court. ~~If a defendant interview or other information collected by local program staff indicates that the defendant may be unable to pay the costs, fees, and fines assessed by the judge without undue hardship to the defendant or the defendant's dependents, or that the defendant may be unable to pay the costs, fees, and fines assessed by the judge within the time period ordered by the court without undue hardship to the defendant or the defendant's dependents,~~ Local program staff must provide the court the defendant's payment ability information collected under §175.3(a)(3)(B) for the court to review and refer the case to the court for the judge to determine ~~consider~~ if appropriate non-monetary compliance options or waiver or partial waiver of costs, fees or fines are appropriate when the defendant meets one or more of the following criteria: -

(B) Presumption of Inability to Pay. ~~For purposes of local program staff determining whether a defendant's case needs to be referred back to the court under §175.3(a)(6)(A), a defendant is presumed to be unable to pay any portion of the costs, fees, and fines assessed by the judge without undue hardship to the defendant or the defendant's dependents if:~~

- (i) the defendant is required to attend school pursuant to the compulsory school attendance law in Sec. 25.085 of the Texas Education Code;
- (ii) the defendant's household income does not exceed 125 percent of the applicable income level established by the federal poverty guidelines; or
- (iii) the defendant ~~or the defendant's dependent~~ receives assistance under the following:
 - (1) a food stamp program or the financial assistance program established under Chapter 31, Human Resources Code;
 - (2) the federal special supplemental nutrition program for women, infants, and children authorized by 42 U.S.C. Section 1786;
 - (3) the medical assistance program under Chapter 32, Human Resources Code; or
 - (4) the child health plan program under Chapter 62, Health and Safety Code.

(~~BC~~) Other Cases. ~~Local program staff must also provide for the court's review the payment ability information of a defendant that does not meet the criteria listed in refer to the court cases in which the defendant is not presumed to be unable to pay under §175.3(a)(6)(A) if but that~~ local program staff have received information that has not already been considered by the court indicating that the payment of the assessed court costs, fees, and fines would cause the defendant may not have the ability to pay the costs, fees, and fines assessed by the judge without undue hardship to the defendant or the defendant's dependents. Local program staff may also provide for the court's review the payment ability information of a defendant that local program staff determine should be reviewed by the court, or may be unable to pay the costs, fees, and fines assessed by the judge within the time period ordered by the court without undue hardship to the defendant or the defendant's dependents.

(~~CD~~) Information Regarding Non-Monetary Compliance Options. ~~When~~ If local program staff provide a defendant's payment ability information for the court's review determines that a case must be referred to the court under §175.3(a)(6)(A), local program staff should collect and provide to the court information regarding non-monetary compliance options that may be available, if any, that may enable the defendant to discharge all or part of the defendant's costs, fees, and fines.

~~(DE)~~ Judicial Discretion. ~~None of these provisions should bind judges or influence Judges retain judicial discretion regarding the determinations of whether to waive or reduce costs, fees, and fines for any defendant; to impose non-monetary compliance options to satisfy costs, fees or fines; or the assessment of costs, fees or fines, sentencing, or other disposition decisions. Once a judge reviews a defendant's payment ability information in a case provided for review under §§175.3(a)(6)(A) or (B), the local program is not required to provide the judge the defendant's payment ability information again unless the defendant provides additional payment ability information that was not previously provided to the judge.~~

(7) Payment Plans.

(A) Standard Payment Plan. ~~A judge may adopt standard payment plans that include a payment range and time range based on amounts owed that can be made available to defendants when they are referred to the local program. Prior to agreeing to a standard payment plan the defendant must agree in writing that the defendant: 1) understands the payment plan terms, 2) believes that the defendant has the ability to successfully meet the payment plan terms, and 3) declines the opportunity for local program staff to review the defendant's payment ability information to consider lower monthly payments or a longer term than those provided in the standard payment plan. Documentation. Payment plans 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) Other Payment Plans Guidelines. ~~If a defendant declines a jurisdiction's standard payment plan or the jurisdiction has not adopted a standard payment plan, local program staff must review the payment ability information provided by the defendant and establish The following are guidelines for local program staff to use in cases referred to the local program by the court for review and establishment of appropriate payment terms based on the defendant's ability to pay that will not cause undue hardship to the defendant or the defendant's dependents. A judge is not required to follow these guidelines in setting a payment plan.~~

(C) Payment Plan Elements. ~~(i) Payment plans should include the payment amount, the designated interval, and the number of payments that the defendant will make to pay the defendant's court-ordered costs, fees, and fines.~~

~~(ii) Generally, payment plans should not require the defendant to pay more than 20 percent of the defendant's discretionary income per month.~~

(D) Documentation. Payment plans 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.

(8) Telephone Contact for Past-Due Payments. Within one month of a missed payment, a telephone call must be made to the defendant who has not been in ~~contacted~~ with local program staff. In every telephone contact for past due payment, local program staff must provide the defendant with instructions about what to do if the defendant is unable to make payments. This telephone contact must also include information about ~~the availability of non-monetary compliance options and~~ how the defendant may request a hearing for the judge to consider the defendant's ability to pay and any non-monetary compliance options available for the defendant to satisfy the judgment. 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.

(9) Written Notice for Past-Due Payments. Within one month of a missed payment, a written notice must be sent to the defendant who has not been in ~~contact~~ with ~~ed the~~ local program staff. Written notice may be made by regular or certified mail, e-mail, text message or other electronic means. Every written notice for past due payment must provide the defendant with instructions about what to do if the defendant is

unable to make payments. The written notice must also include information about ~~the availability of non-monetary compliance options and~~ how the defendant may request a hearing for the judge to consider the defendant's ability to pay and any non-monetary compliance options available for the defendant to satisfy the judgment. Written notice may be sent by an automated system, but an electronic report or manual documentation of the written notice must be available on request. Notice under this paragraph is not required if local program staff make contact with the defendant under paragraph (8) of this subsection and the defendant makes payment or other payment arrangements.

- (10) Final Contact Attempt. Local program staff must send a final written notice by regular or certified mail to the defendant within one month of the written notice described in paragraph (9) of this subsection prior to reporting the case to the court as non-compliant. The written notice must include the same information required in paragraph (9) of this subsection and include reasonable steps the defendant can take to avoid the defendant's case being reported to the court as non-compliant. The written notice must also notify the defendant of the defendant's right to avoid jail time for nonpayment if the defendant is unable to pay the amount owed without undue hardship to the defendant and the defendant's dependents. An electronic report or manual documentation of the written notice must be available on request. The local program should not report the case back to the court as non-compliant until at least one month after the final contact attempt to provide the defendant time to discuss with local program staff new payment plan terms or alternative non-monetary compliance options, if any are available, for the court to consider. This paragraph does not interfere or alter the judge's authority to adjudicate a case for non-compliance at any time.
 - (11) Delinquent Cases. Each local program must have a component designed to improve collection of balances more than 60 days past due.
 - (12) Proper Reporting. The local program must report its collection activity data to OCA at least annually in a format approved by OCA, as described in §175.4.
- (b) Exceptions to Defendant Communications Rules. Exceptions to the defendant communications rules described in this subsection 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 §175.3(a)(3) is made ~~either~~ by taking one of the following actions within one week of the assessment date: (1) mailing a notice requesting the defendant contact local program staff to make arrangements to complete an application and provide contact information; (2) mailing an application or contact information form, or (3) by obtaining the information via the telephone ~~within one week of the assessment date~~. An electronic report or manual documentation of the attempt must be available on request. Should the defendant ~~not fail to contact local program staff or~~ return a completed application or contact information form and the post office not return the notice or application or contact information form as undeliverable, the local 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 local program by the defendant as the result of an attempt described in paragraph (1) of this subsection, it will be considered timely and all other communication timing requirements described in §175.3(a)(4) and (5) are based on the date the local program receives the application or contact information form.
- (c) Computation of Time. 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.

§175.4. Content and Form of Local Government Reports.

- (a) General Scope. Article 103.0033(i) of the Code of Criminal Procedure requires that each local program submit a written report to OCA at least annually that includes updated information regarding the local program, with the content and form to be determined by OCA. Reporting under Art.103.0033 of the Code of Criminal Procedure and this subchapter is not the same as reporting of judicial statistics under Sec. 71.035 of the Government Code and different rules for reporting and waiver apply.
- (b) Reporting Format and Account Setup. OCA has implemented a web-based ~~O~~online Court Collection Reporting System for local programs 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. Local program participants or jurisdictions must provide OCA with information for the online reporting system to enable OCA to establish the local program reporting system account. The information must include the local program name, program start date, start-up costs, the type of collection and case management software programs used by the local program, the entity to which the local program reports (e.g., judge, district clerk's office, sheriff, etc.), the name and title of the person who manages the daily operations of the local program, the mail and e-mail addresses and telephone and fax numbers of the local program, the courts serviced by the local program, and contact information for the local 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 the fiscal year end, each local program or jurisdiction must report the following information:
- (A) Number of full-time and part-time local program employees;
 - (B) Total local program expenditures;
 - (C) Salary expenditures for the local program;
 - (D) Fringe benefit expenditures for the local program;
 - (E) Areas other than court collections for which the local 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 (23) of this subsection, if not reported each month as requested.
- (2) Monthly Reports. By the 20th day of the following month, each local program or jurisdiction is requested to provide the following information regarding the previous month's local program activities:
- (A) Number of cases in which costs, fees, and fines were assessed;
 - (B) Number of cases in which local program staff ~~referred the~~provided the court a defendant's ability to pay information in a case ~~to the court~~ under §175.3(a)(6) for review of the defendant's ability to pay;
 - (E) 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 or other non-monetary compliance options; the dollar amount waived because of the defendant's inability to pay, and the dollar amount waived for reasons other than the defendant's inability to pay;

(F) 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 or other non-monetary compliance options; and

(G) 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.

§175.5. Compliance Review Standards.

- (a) Statutory Basis. In accordance with Art. 103.0033(j) of the Code of Criminal Procedure, OCA must periodically review local jurisdictions' compliance with the components described in §175.3(a).
- (b) Cases Eligible for Compliance Review. For purposes of this section, "eligible case" means a criminal case in which a judgment has been entered by a trial court. The term does not include cases in which: 1) the court has ~~waived all court determined that the defendant is unable to pay any portion of the~~ costs, fees, and fines ~~without undue hardship to the defendant or the defendant's dependents~~; 2) the court, ~~at the time of assessment~~, authorizes discharge of the costs, fees, and fines through non-monetary compliance options; 3) the defendant has been placed on deferred disposition or has elected to take a driving safety course; or 4) the defendant is incarcerated, unless the defendant is released and payment is requested.
- (c) Compliance Review Methods. OCA must use random selection to generate an adequate sample of eligible cases to be reviewed, and must use the same sampling methodology as used for local programs with similar automation capabilities.
- (d) Compliance Review Standards. OCA must use the following standards in the compliance review:
 - (1) Standards for Components in §175.3(a)(1), (2), (11), and (12). A county is in compliance with these components when either 90% 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 in order to be in compliance.
 - (2) Standards for Components in §175.3(a)(3)-(10). A jurisdiction is in substantial compliance with a component when at least 80% of the eligible cases at that stage of collection have satisfied the requirements of the component. A jurisdiction is in partial compliance with a component when at least 50% of the eligible cases at that stage of collection have satisfied the requirements of the component. In order for a jurisdiction to be in compliance with these components, 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.

SUBCHAPTER B. IMPLEMENTATION WAIVERS

§175.6. Waivers.

- (a) Statutory Basis. Article 103.0033 of the Code of Criminal Procedure provides that OCA may determine that it is not cost-effective to implement a local 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 local program are greater than the estimated additional revenue that would be generated by implementing the local program, and a compelling reason exists for submitting the waiver request after the entity's implementation deadline. The requesting jurisdiction and CIP staff

must each submit documentation supporting the cost and revenue projections to the Administrative Director of OCA for determination; or

- (2) The county contains within its borders a correctional facility operated by or under contract with the Texas Department of Criminal Justice; and has a population of 50,000 or more only because the inmate population of all correctional facilities is included in that population.

(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 a compliance review to allow a local program to correct deficiencies discovered during the compliance review.

PROPOSED