

Special Topics

CHAPTER IV
SPECIAL TOPICS

A. BOND FORFEITURES

Bond forfeitures are addressed in the Code of Criminal Procedure, Chapter 22. Under Chapter 22, a civil suit is initiated against the defendant and sureties. **Money forfeited stays totally with the county.** Criminal case court costs, fees, and fine must not be taken out of the forfeited money. The underlying criminal case remains pending until it is later disposed of. If payment for the court costs, fees, and fine associated with the underlying criminal case is received later, then these items will be satisfied at that time.

B. APPEALS

1. To County Court

a. FROM MUNICIPAL COURTS OF RECORD

If the appeal bond is cashed, and the appeals court affirms the municipal court decision, the municipal court is responsible for assessing and collecting the court costs, fees, and fine. It is the city's responsibility to report and remit applicable amounts to the state. Local costs, fees, and fine are retained by the city.

b. FROM NON-RECORD COURTS (Municipal non-record courts and all justice courts)

Court costs, fees, and fine are handled by the county clerk. It is the clerk's responsibility to collect the costs and fees and turn the money into the county treasurer for reporting and remitting of state court costs and fees. (*See Chapter V of this handbook for detailed information on reporting and remitting.*) Local court costs and fees are retained for the county by the county treasurer.

2. To Courts of Appeals

For cases appealed to a court of appeals from a county or district court, the county clerk for county courts and the district clerk for district courts is responsible for assessing and collecting applicable court costs and fees due after the appellate court decides the case. It is the clerk's responsibility to collect the costs and fees and turn the money into the county treasurer for reporting and remitting of state court costs and fees. (*See Chapter V of this handbook for detailed information on reporting and remitting.*) Local court costs and fees are retained for the county by the county treasurer.

C. INDIGENTS

Indigents are those unable to pay, not those unwilling to pay. **Indigents are not required to pay court costs, fees, and fines** in cash. The amount owed can be satisfied in other ways, such as community service. *See Code of Criminal Procedure, Article 43.09.*

However, for cases disposed of under Code of Criminal Procedure, Article 42.111 – Deferral of Proceedings in Cases Appealed to County Court (*see Appendix – page 1*), court costs and fees are required to be paid. Article 42.111 provides that if the defendant pleads guilty or no contest, the court may defer further proceedings without entering an adjudication of guilt in the same manner as provided for justice and municipal courts under Article 45.051. Article 45.051 provides in part:

On a plea of guilty or nolo contendere by a defendant or on a finding of guilt in a misdemeanor case punishable by fine only and **payment of all court costs**, the justice may defer further proceedings

D. JAIL TIME CREDIT

Jail time credit is provided for in Code of Criminal Procedure, Article 43.09 (*see Appendix – page 1*). Article 43.09 provides for a credit of \$50 a day. It is important to remember that Article 42.03, Section 2(a) [*see Appendix – page 1*] provides that defendants are entitled to credit for any pre-conviction time they spend in jail.

In addition, Code of Criminal Procedure, Article 42.032 allows the sheriff to grant additional credit for good conduct. The sheriff can grant an additional day for each day served. However, the additional credit cannot exceed one-third of the original total of court costs, fees, and fine.

The credit applies to each day the person is in jail, regardless of how long they are in jail. For example, a defendant who is jailed at 11:30 p.m. on a Friday night and released at 12:30 a.m. the following Sunday morning, is entitled to three days credit.

Although unlikely, it is possible for a defendant to receive jail time and community service credit for the same day. For example, assume a defendant is released from jail at 10:00 a.m., on Monday morning, and performs community service from 1:00 p.m. – 5:00 p.m. that same day. Both jail time and community service credit would apply.

A defendant, however, would not be able to earn both credits at the exact same time. For example, a defendant cannot earn jail time and community service credit during the same four-hour period, say from 1:00 p.m. – 5:00 p.m.

Jail time credit applies to the court costs, fees, and fine. If there is enough jail time, the entire amount owed is satisfied. However, if a defendant satisfies part of the amount owed with jail time credit and pays the balance, the amount paid is credited to court costs and fees first, and the balance, if any, to the fine. Refer to *Allocation and Proration* in Chapter V of this handbook for a more detailed explanation of how payments are allocated and prorated.

EXAMPLES:

Assume a defendant is convicted of an offense and owes \$600.00, as follows:

Court costs and fees	\$204.00
Fine	<u>396.00</u>
Total owed	<u>\$600.00</u>

Example 1: Defendant receives eight days jail time credit at \$50.00 per day and also receives an additional four days jail time credit at \$50.00 per day for good conduct.

Total owed	\$600.00
Jail credit (8 days @ \$50 and 4 days @ \$50 per day)	<u>600.00</u>
Balance owed	<u>0.00</u>

Example 2: Defendant receives four days jail time credit at \$50.00 per day, an additional two days jail time credit at \$50.00 per day for good conduct, and pays \$300.00.

Total owed		\$600.00
Jail credit (4 days @ \$50 and 2 days @ \$50 per day)		<u>300.00</u>
Balance owed		300.00
Amount paid:		
Court costs and fees	\$204.00	
Fine	<u>96.00</u>	
Total	300.00	<u>300.00</u>
Balance owed		<u>0.00</u>

(The amount paid is credited to court costs and fees first, and the balance to the fine. That is, the jail time credit is applied to the fine first.)

Example 3: Defendant receives three days jail time credit at \$50.00 per day and pays \$450.00.

Total owed		\$600.00
Jail credit (3 days @ \$50 per day)		<u>150.00</u>
Balance owed		450.00
Amount paid:		
Court costs and fees	\$204.00	
Fine	<u>246.00</u>	
Total	450.00	<u>450.00</u>
Balance owed		<u>0.00</u>

(The amount paid is credited to court costs and fees first, and the balance to the fine. That is, the jail time credit is applied to the fine first.)

E. COMMUNITY SERVICE CREDIT

Community service credit is provided for in Code of Criminal Procedure, Article 43.09 (*see Appendix – page 1*). A defendant is considered to have discharged \$100 for each eight hours of community service performed, which is equal to an hourly rate of \$12.50.

As indicated in the section on jail time credit (*see page IV-4*), it is possible for a defendant to receive community service and jail time credit for the same day. The example used was a defendant being released from jail at 10:00 a.m. on Monday morning and performing community service from 1:00 p.m. – 5:00 p.m. that same day. Both community service and jail time credit would apply.

A defendant, however, would not be able to earn both credits at the exact same time. For example, a defendant cannot earn community service and jail time credit during the same four-hour period, say from 1:00 p.m. – 5:00 p.m.

Community service credit applies to the court costs, fees, and fine. If there are enough community service hours worked, the entire amount owed is satisfied. However, if a defendant satisfies part of the amount owed by performing community service and pays the balance, the amount paid is credited to court costs and fees first, and the balance, if any, to the fine. Refer to *Allocation and Proration* in Chapter V of this handbook for a more detailed explanation of how payments are allocated and prorated.

EXAMPLES:

Assume a defendant is convicted of an offense and owes \$600.00, as follows:

Court costs and fees	\$204.00
Fine	<u>396.00</u>
Total owed	<u>\$600.00</u>

Example 1: Defendant performs six days of community service at \$100.00 per day.

Total owed	\$600.00
Community service credit (6 days @ \$100 per day)	<u>600.00</u>
Balance owed	<u>0.00</u>

Example 2: Defendant performs three days of community service at \$100.00 per day and pays \$300.00.

Total owed		\$600.00
Community service credit (3 days @ \$100 per day)		<u>300.00</u>
Balance owed		300.00
Amount paid:		
Court costs and fees	\$204.00	
Fine	<u>96.00</u>	
Total	300.00	<u>300.00</u>
Balance owed		<u>0.00</u>

(The amount paid is credited to court costs and fees first, and the balance to the fine. That is, the community service credit is applied to the fine first.)

Example 3: Defendant performs one day of community service at \$100.00 per day and pays \$500.00.

Total owed		\$600.00
Community service credit (1 day @ \$100 per day)		<u>100.00</u>
Balance owed		500.00
Amount paid:		
Court costs and fees	\$204.00	
Fine	<u>296.00</u>	
Total	500.00	<u>500.00</u>
Balance owed		<u>0.00</u>

(The amount paid is credited to court costs and fees first, and the balance to the fine. That is, the community service credit is applied to the fine first.)

F. WEIGHT VIOLATIONS

These violations will generally be handled in justice court, but occasionally may be handled in county or district court (e.g., when a case is appealed).

On conviction of an offense involving a vehicle having a single axle weight, tandem axle weight, or gross weight that is more than 5,000 but not more than 10,000 pounds heavier than the vehicle's allowable weight, the fine cannot be less than \$300 or more than \$500. If the weight is more than 10,000 pounds heavier than the allowable weight, the fine cannot be less than \$500 or more than \$1,000 [Transportation Code, Section 621.506 (*see Appendix – page 28*)].

In addition, if a defendant is convicted again for an offense involving a vehicle having a single axle, tandem axle, or gross weight that is more than 5,000 pounds heavier than the vehicle's allowable weight within a year of the first conviction, the fine range doubles. That means a fine of not less than \$600 or more than \$1,000 for vehicles having a weight that is more than 5,000 pounds but not more than 10,000 pounds heavier than the allowable weight. And if the allowable weight is more than 10,000 pounds too heavy, the fine cannot be less than \$1,000 or more than \$2,000.

If the offense occurred within 20 miles of an international border, the entire fine is retained by the county and must be used for road maintenance. For all other offenses (i.e. those that do not occur within 20 miles of an international border), fifty percent (50%) of the fine must be remitted to the state. Court costs and fees are collected, reported, and remitted as in other cases. These fines must be included on the "State Criminal Costs and Fees, County Quarterly Report." (*See Chapter V of this handbook for more detailed reporting information.*)

Example 1: Assume a defendant is convicted of the offense **over gross weight** and the vehicle is 6,000 pounds over the allowable weight. Also assume the offense occurred in January 2006, did not occur within 20 miles of an international border, and the judge sets the fine at \$400.

Court costs and fees:

Consolidated court cost	\$40.00
Juror reimbursement fee	4.00
Judicial support fee	4.00
Arrest fee	5.00
Judicial fund court cost	15.00
Clerk's fee	40.00
Records management and preservation fee	25.00
Courthouse security fee	3.00
Prosecutor's fee	<u>25.00</u>
Total court costs and fees	161.00
Fine	<u>400.00</u>
Total owed	<u>\$561.00</u>
Amount of fine to be reported and remitted to the state (\$400.00 x 50%)	<u>\$200.00</u>

Example 2: Assume the defendant in Example 1 is convicted of the same offense within one year of the first conviction. Assume the judge sets the fine at \$800.

Court costs and fees:

Consolidated court cost	\$40.00
Juror reimbursement fee	4.00
Judicial support fee	4.00
Arrest fee	5.00
Judicial fund court cost	15.00
Clerk's fee	40.00
Records management and preservation fee	25.00
Courthouse security fee	3.00
Prosecutor's fee	<u>25.00</u>
Total court costs and fees	161.00
Fine	<u>800.00</u>
Total owed	<u>\$961.00</u>
Amount of fine to be reported and remitted to the state (\$800.00 x 50%)	<u>\$400.00</u>

G. CHILD SAFETY SEAT AND SEAT BELT VIOLATION FINES

These violations will generally be handled in justice court, but occasionally may be handled in county or district court (e.g., when a case is appealed).

On conviction of offenses under Transportation Code, Section 545.412 – Child Passenger Safety Seat Systems (*see Appendix – page 25*) and Transportation Code, Section 545.413(b) – Safety Belts (*see Appendix – page 26*), the county is required to remit fifty percent of fines collected to the Comptroller.

The fine range for Transportation Code, Section 545.412 and Section 545.413(b) offenses is not less than \$100 or more than \$200. (*Note: The county is not required to remit fifty percent of fines collected to the Comptroller on conviction of offenses under Transportation Code, Section 545.413(a) – Safety Belts [see Appendix – page 26]. The fine range for those offenses is not less than \$25 or more than \$50.*)

There is a separate report form, “Child Safety Seat and Seat Belt Violation Fines,” for reporting and remitting amounts owed to the state. Reports and remittances are due by the last day of the month following the end of the county’s fiscal year. (*See Chapter V in this handbook for additional information on reporting and remitting.*)

Example

Assume the following: Anycounty’s fiscal year 2005 runs from October 1, 2004 through September 30, 2005. Total fines collected by Anycounty during fiscal year 2005 for Transportation Code, Section 545.412 and Section 545.413(b) offenses totaled \$32,000.

Computation

Total fines collected	\$32,000
Percentage due the state	x <u>50%</u>
Amount due to the state	<u>\$16,000</u>