

## Costs, Fees, and Other Monetary Obligations

Jamie Markham

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**Reporting on cost waivers.** Section 15.10(b) of S.L. 2011-145 reads as rewritten: “SECTION 15.10.(b) The Administrative Office of the Courts shall make the necessary modifications to its information systems to maintain records of all cases in which the judge makes a finding of just cause to grant a waiver of criminal court costs under G.S. 7A-304(a) and shall report on those waivers to the ~~Joint Legislative Commission on Governmental Operations by October 1~~ Chairs of the Senate Appropriations Committee on Justice and Public Safety, the Chairs of the House Appropriations Subcommittee on Justice and Public Safety, and the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by February 1 of each year. The report shall aggregate the waivers by the district in which the waiver or waivers were granted and by the name of each judge granting a waiver or waivers.” S.L. 2014-100, Section 18B.2.

**No costs without conviction.** In all criminal prosecutions, every person charged with crime has the right to be informed of the accusation and to confront the accusers and witnesses with other testimony, and to have counsel for defense, and not be compelled to give self-incriminating evidence, or to pay costs, jail fees, or necessary witness fees of the defense, unless found guilty. N.C. Const. art. I, § 23.

**Exclusivity of costs.** The costs set forth in Article 28 of G.S. Chapter 7A are complete and exclusive, and in lieu of any other costs and fees. G.S. 7A-320.

**Collection priority.** Under G.S. 7A-304(d)(1), unless otherwise ordered by the presiding judge, the clerk shall disburse payments in the following priority order:

- Restitution to the victim
- Costs due the county
- Costs due the city
- Fines to the county school fund
- Restitution to persons other than the victim
- Costs due the State
- Attorney fees

COSTS	Description	Waiver authority	Response to noncompliance	Civil obligation authority
<b><i>Costs listed in G.S. 7A-304 or incorporated into that section by reference</i></b>	<ul style="list-style-type: none"> <li>• Service of process</li> <li>• Facilities</li> <li>• Phone/Technology</li> <li>• Misd. Confinement Fund</li> <li>• LEO/Sheriff benefits</li> <li>• LEO training/certification</li> <li>• General Court of Justice</li> <li>• Chapter 20 fee</li> <li>• Improper equipment</li> <li>• Pretrial services</li> <li>• Failure to appear/comply</li> <li>• Crime labs</li> <li>• DNA databank</li> <li>• Impaired driving</li> <li>• Chemical/forensic analysis (does not cover fingerprint analysis, State v. Valazquez-Perez, __ N.C. App. __ (2014))</li> <li>• Witness fees</li> <li>• Blood tests for parentage</li> <li>• Jail fees (\$10/day; pretrial)</li> <li>• Trial transcripts</li> <li>• Installment fee</li> </ul>	<ul style="list-style-type: none"> <li>• Only upon entry of a written order, supported by findings of fact and conclusions of law, determining that there is just cause, the court may waive costs (or waive <i>or reduce</i> lab and analyst costs) assessed under G.S. 7A-304. G.S. 7A-304(a).</li> <li>• It is error for the trial court to act under the impression that it lacks authority to waive costs. State v. Patterson, __ N.C. App. __ (2012).</li> </ul>	<ul style="list-style-type: none"> <li>• In all cases, the court, upon the motion of the prosecutor or upon its own motion, may require the defendant to appear and show cause why he should not be imprisoned for failing to pay costs. The defendant must be given notice and a hearing, including an opportunity to show a good faith inability to pay. G.S. 15A-1364; Fuller v. Oregon, 417 U.S. 40 (1974); State v. Crews, 28 N.C. 427 (1974).</li> <li>• Probation violation. Note G.S. 15A-1345(e): "When the violation alleged is the nonpayment of fine or costs, the issues and procedures at the hearing include those specified in G.S. 15A-1364 for response to nonpayment of fine."</li> </ul>	<ul style="list-style-type: none"> <li>• May be docketed as a civil judgment upon a finding of default. G.S. 15A-1365.</li> <li>• In cases other than drug trafficking, no execution on judgment if the defendant serves the suspended sentence (or a term of 30 days if no suspended sentence was imposed). G.S. 15A-1365.</li> </ul>

<b>FEES</b>	<b>Description</b>	<b>Waiver authority</b>	<b>Response to noncompliance</b>	<b>Civil obligation authority</b>
<b>Community Service Fee</b>	\$250. G.S. 143B-708(c).	None (although the fee is imposed only once per sentencing episode).	Probation violation. Note G.S. 15A-1345(e).	Same as court costs, probably.
<b>Probation Supervision Fee</b>	\$40/month. G.S. 15A-1343(c1).	The court may exempt a person from paying the fee only for good cause and upon motion of the person placed on supervised probation. G.S. 15A-1343(c1).	Probation violation. Note G.S. 15A-1345(e).	Same as court costs, probably.
<b>Electronic House Arrest (EHA) Fee</b>	\$90, plus actual daily cost (\$4.37/day).	The court may exempt a person from paying the fees only for good cause and upon motion of the person placed on house arrest with electronic monitoring. G.S. 15A-1343(c2).	Probation violation. Note G.S. 15A-1345(e).	Same as court costs, probably.
<b>Jail Fee (probationary)</b>	\$40/day of probationary (i.e., split sentence) jail confinement. G.S. 7A-313; State v. Rowe, __ N.C. App. __, 752 S.E.2d 223 (2013).	Unlike pretrial jail fees, probationary jail fees are optional and imposed at the discretion of the trial court.	Probation violation. Note G.S. 15A-1345(e).	Same as court costs, probably.
<b>Attorney Fees</b>	As provided in G.S. 7A-455.	If, in the opinion of the court, a person is able to pay a portion, but not all, of the value of legal services rendered, the court shall order the person to pay such portion. G.S. 7A-455(a).	Probation violation. Note G.S. 15A-1345(e).	In all cases the court shall direct that a judgment be entered, which shall constitute a lien. G.S. 7A-455(b). The order shall be docketed upon the later of (i) the date of conviction if not ordered as a condition of probation, or (ii) the date on which probation is terminated, revoked, or expired. G.S. 7A-455(c).
<b>Attorney Appointment Fee</b>	\$60. G.S. 7A-455.1.	May not be remitted or revoked by the court and shall be added to attorney fees. G.S. 7A-455.1(b).	Collected in the same manner as attorney fees.	Collected in the same manner as attorney fees.

FINES	Description	Waiver/Remission authority	Response to noncompliance	Civil obligation authority
	<p>Unless otherwise provided for a specific offense:</p> <ul style="list-style-type: none"> <li>• Felony: Court discretion</li> <li>• Misdemeanor: <ul style="list-style-type: none"> <li>– Class A1 &amp; 1: court discretion</li> <li>– Class 2: \$1,000 maximum</li> <li>– Class 3: \$200 maximum</li> </ul> </li> </ul>	<p>A defendant ordered to pay a fine may, at any time, petition the sentencing court for a remission or revocation of the fine. The court may remit or revoke the fine in whole or in part if it appears that the circumstances which warranted the imposition of the fine no longer exists, that it would otherwise be unjust to require payment, or that the proper administration of justice requires resolution of the case. G.S. 15A-1363.</p>	<ul style="list-style-type: none"> <li>• In all cases, the court, upon the motion of the prosecutor or upon its own motion, may require the defendant to appear and show cause why he should not be imprisoned for failing to pay a fine. The defendant must be given notice and a hearing, including an opportunity to show a good faith inability to pay. G.S. 15A-1364; Fuller v. Oregon, 417 U.S. 40 (1974); State v. Crews, 28 N.C. 427 (1974).</li> <li>• Probation violation. Note G.S. 15A-1345(e): “When the violation alleged is the nonpayment of fine or costs, the issues and procedures at the hearing include those specified in G.S. 15A-1364 for response to nonpayment of fine.”</li> </ul>	<ul style="list-style-type: none"> <li>• May be docketed as a civil judgment upon a finding of default. G.S. 15A-1365.</li> <li>• In cases other than drug trafficking, no execution on judgment if the defendant serves the suspended sentence (or a term of 30 days if no suspended sentence was imposed). G.S. 15A-1365.</li> </ul>

RESTITUTION	Description	Waiver/reduction authority	Response to noncompliance	Civil obligation authority
	<ul style="list-style-type: none"> <li>The court must consider ordering restitution to a victim in every case. G.S. 15A-1340.34(a).</li> <li>The court shall order restitution to the victim of any offense covered under the Crime Victims' Rights Act (CVRA). G.S. 15A-1340.34(b); -830(a)(7) (listing covered offenses).</li> </ul>	<p>In determining the restitution amount, the court shall take into consideration the resources of the defendant, the defendant's ability to earn, the defendant's obligation to support dependents, and other matters that pertain to the defendant's ability to make restitution, but the court is not required to make findings of fact or conclusions of law on those matters.</p> <p>G.S. 15A-1340.36(a).</p>	<ul style="list-style-type: none"> <li>Probation violation.</li> <li>Recommend payment out of work release earnings. G.S. 148-33.2.</li> <li>Recommend as a condition of post-release supervision. G.S. 15A-1340.36(c); 148-57.1.</li> </ul>	<ul style="list-style-type: none"> <li><i>Non-CVRA cases.</i> No authority to order restitution as a civil judgment. State v. Scott, 723 S.E.2d 173 (2012) (unpublished) ("Here, Defendant was not convicted of a crime which entitles a 'victim' to restitution under the Crime Victims' Rights Act. . . . Thus, we agree the trial court did not have authority pursuant to [G.S.] 15A-1340.38(b) to docket the restitution . . . as a civil judgment."); State v. Hudgins, 215 N.C. App. 599 (2011) (unpublished) (same).</li> <li><i>CVRA cases.</i> Orders over \$250 shall be docketed and may be enforced in the same manner as a civil judgment. If sentence is probationary, judgment may not be executed on defendant's property until judge at termination or revocation hearing finds that restitution in sum certain remains due and payable. G.S. 15A-1340.38(c). Use AOC-CR-612.</li> </ul>