



# THE SUPREME COURT of OHIO

OFFICE OF JUDICIAL SERVICES

## FINANCIAL SANCTIONS & OBLIGATIONS IN JUVENILE COURT

### Costs, Fees, Fines & Restitution

#### I. Fine Schedule [R.C. 2151.87, 2152.20, 2152.21, 4513.99]

<u>TYPE</u>	<u>MAXIMUM FINE</u>
No Seat Belt Passenger	\$ 20
No Seat Belt Driver	\$ 30
Most Traffic	\$ 50
Most Unclassified or Minor Misdemeanor	\$ 50
Tobacco Offender	\$ 100
Misdemeanor 4	\$ 100
Misdemeanor 3	\$ 150
Misdemeanor 2	\$ 200
Misdemeanor 1	\$ 250
Unclassified Felony	\$ 300
Felony 5	\$ 300
Felony 4	\$ 400
Felony 3	\$ 750
Felony 2	\$ 1,000
Felony 1	\$ 1,500
Aggravated Murder or Murder	\$ 2,000

#### II. Imposition of Financial Sanctions

- a. At disposition<sup>1</sup>
- b. Costs and Fees<sup>2</sup>
  - i. Includes all costs under **R.C. 2746.05**
  - ii. Includes court-appointed counsel fees. Court has to make an affirmative determination on the record that the juvenile has, or can reasonably be expected to have the means to pay some or all the cost of the legal services rendered.<sup>3</sup>

- c. Trial court not mandated to hold a hearing before it may impose financial sanctions against an indigent juvenile.<sup>4</sup>
- d. Can require child to reimburse any or all of the costs incurred for services or sanctions including (but not limited to):
  - i. Costs of implementing community control sanctions, including a supervision fee<sup>5</sup>
  - ii. All or part of confinement costs in a DYS or detention facility<sup>6</sup>
  - iii. Investigating, prosecuting, and responding to acts of terrorism<sup>7</sup>
  - iv. Reimbursement for costs to perform a drug screen which returns positive<sup>8</sup>
- e. Cannot assess court costs against a juvenile whose delinquency case is dismissed.<sup>9</sup>
- f. Transferred cases – If costs are imposed in the county transferring the juvenile to another court, the receiving court cannot impose costs because disposition already taken place. Best practice is to say in the transfer order that costs may be imposed at disposition.

#### III. Restitution

- a. Court's order must find a definite amount of restitution and must determine the amount is reasonable.<sup>10</sup>
- b. Court has broad authority to order restitution.<sup>11</sup> Not limited to theft offenses.

- c. Limited to the actual economic loss that criminal conduct caused.<sup>12</sup>
- d. Record must contain competent, credible evidence to show amount. Does not have to be documentary evidence.<sup>13</sup>
- e. Evidentiary hearing must be held before a juvenile court can order an offender to pay restitution if the amount is disputed.<sup>14</sup>
- f. The court may establish a victim-offender mediation program in which victims and their offenders meet to discuss the offense and suggest possible restitution. If the court obtains the assent of the victim of the delinquent act committed by the child, the court may require the child to participate in the program.<sup>15</sup>
- g. The child, victim, or survivor of victim (through the prosecutor) may file a motion for modification of the payment terms.
- h. The court may apportion a restitution amount among co-defendants.<sup>16</sup>

#### **IV. Assessing Obligations on Parents for Delinquent Acts of Child<sup>17</sup>**

- a. Cannot order parent to pay restitution in a delinquency proceeding.<sup>18</sup> Parents can only be held liable for restitution through a separate civil suit filed in either a municipal or county court or the general division of a common pleas court.
- b. Liability of parents for destructive acts or theft by children – \$10,000 max<sup>19</sup>
- c. Liability of parents for assaults by children – \$10,000 max<sup>20</sup>
- d. Damages recoverable for vandalism, desecration, or ethnic intimidation – recover from parent AND child – \$15,000 max<sup>21</sup>

#### **V. Ability to Pay**

- a. Required if requiring child to reimburse costs of confinement.
- b. Hearing to determine if a child is able to pay a sanction is discretionary with the trial court, but hearing to determine ability to pay after failure to pay is mandatory.<sup>22</sup>
- c. Trial court should have determined juvenile's ability to pay court-appointed attorney fees before imposing.<sup>23</sup>

#### **VI. Community Service in Lieu of Financial Sanctions**

- a. Mandatory for the court to consider community service for indigent juvenile.<sup>24</sup>
- b. Appointment of counsel does not provide the court with the information sufficient to determine the juvenile is able to pay the financial sanction. Juvenile must apprise court of indigency in order for court to consider community service in lieu of costs. Appointed counsel is one indicator that juvenile may be indigent for purposes of costs/community service.<sup>25</sup>
- c. Review of motion to vacate fines and costs and subsequent denial of motion in addition to the issuance of findings and conclusions was sufficient to show court “considered” community service.<sup>26</sup>

#### **VII. Collection Mechanisms**

- a. Collection Agencies<sup>27</sup>
  - i. Best practice to consider collateral consequences resulting from use of a collection agency.
  - ii. Agency should be notified that they can only collect for the period designated by the court or until the juvenile attains age 21.<sup>28</sup>
- b. Attorney General<sup>29</sup>

- c. Civil Judgment<sup>30</sup>
  - i. Cannot send juvenile to detention for failure to pay costs.<sup>31</sup>
  - ii. Victim can get a judgment for restitution.
  - iii. Fines cannot be reduced to a civil judgment.
- d. Internal Collection
  - i. Process
    1. Can establish traffic bureau under Traf.R. 13.1 – youth and parent waive appearance by paying fine and costs for some offenses.
    2. Accept credit and debit cards<sup>32</sup> – may transfer cost of card processing to youth.
    3. Offer payment plans<sup>33</sup> – No longer than 5 years, the period designated by the court, or the person attains age 21; may charge fee to defray administrative costs.
    4. Cancellation of uncollectible debt.<sup>34</sup>
    5. Order to pay restitution expires by court order or age 21, whichever occurs first.
- b. Non-payment of a financial sanction is a violation of a court order so all attendant dispositions under R.C. 2152.19, including license suspension as a condition of community control, would be available, except detention.
- c. Prohibit registration of vehicle.<sup>38</sup>
- d. Community service
  - i. If imposing community service because not able to pay pursuant to **R.C. 2152.20(D)**, it is a best practice (but not required) to give notice to state, victim, and defendant.
- e. Enforcement after age 21
  - i. Dispositional orders temporary and continue only for period that is designated by the court or until the child attains 21, whichever is sooner.<sup>39</sup>
  - ii. Court suspension of license on condition of paying costs terminates at age 21.<sup>40</sup>

### VIII. Enforcement If Not Paying

- a. Contempt
  - i. Juvenile court has same jurisdiction in contempt as the court of common pleas.<sup>35</sup>
  - ii. Contempt **may** be appropriate in juvenile court (**never in adult court**).<sup>36</sup>
  - iii. Contempt for failure to pay would require a hearing under **R.C. 2705.05**.
  - iv. A last resort for collection as statutes specifically mention considering alternatives to financial sanctions.<sup>37</sup>

### IX. Adult Criminal Offenses in Juvenile Court

- a. Would apply in contributing to nonsupport,<sup>41</sup> child endangering,<sup>42</sup> parental education neglect,<sup>43</sup> interference with custody,<sup>44</sup> and contributing offenses.<sup>45</sup>
- b. See Collection of Fines and Costs in Adult Trial Courts bench card.

### X. Civil Aspects of Juvenile Court

- a. Paternity actions, contempt, custody, motions for visitation, or other civil actions.
- b. See “Collection of Fines and Costs in Adult Trial Courts” bench card.
- c. Fees and costs can be reduced to a civil judgment.<sup>46</sup>

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## Endnotes

- 1 R.C. 2152.20 generally governs financial sanctions in juvenile courts.
- 2 R.C. 2151.54.
- 3 *In re J.W.*, 12th Dist., 2004-Ohio-7139; Juv.R. 4, OAC 120-1-05.
- 4 *In re McClanahan*, 5th Dist., 2004-Ohio-4113.
- 5 R.C. 2152.20.
- 6 R.C. 2152.20.
- 7 R.C. 2152.201.
- 8 R.C. 2152.202.
- 9 *In re Graham*, 7th Dist., 2002-Ohio 6615.
- 10 *In re Holmes*, 70 Ohio App.2d 75, 76-77 (1980).
- 11 *In re Lambert* (1989), 63 Ohio App.3d 121; *In re Jacobs* (2002), 148 Ohio App.3d 173.
- 12 *State v. Brumbeck* (1996), 109 Ohio App.3d 65.
- 13 *In re Hatfield*, 4th Dist., 2003-Ohio-5404.
- 14 *In re Clemens*, 11th Dist., 2002-Ohio-3370 citing *In re Holmes* (1980), 70 Ohio App.2d 75.
- 15 R.C. 2152.19(C).
- 16 *In re Daudt*, 12th Dist., 1986 WL 9630.
- 17 R.C. 2151.36, et seq. (support of child), R.C. 3109.09, R.C. 3109.10, R.C. 2307.70.
- 18 *In re Daudt*, 12th Dist., 1986 WL 9630.
- 19 R.C. 3109.09, through separate civil proceedings.
- 20 R.C. 3109.10, through separate civil proceedings.
- 21 R.C. 2307.70, through separate civil proceedings.
- 22 *In re McClanahan*, 5th Dist., 2004-Ohio-4113 (hearing on ability to pay upon the imposition of fines or costs is discretionary (also *In re Carter*, 2004-Ohio-7285), but hearing to determine ability to pay after failure to pay is mandatory. Holding a hearing on ability to pay at or upon release from confinement required by statute regarding payment of costs of confinement.
- 23 *In re B.M.S.*, 2nd Dist., 2006-Ohio-981.
- 24 *In re Spears*, 5th Dist., 2006-Ohio-1920.
- 25 *In re Carter*, 4th Dist., 2004-Ohio-7285.
- 26 *In re Hopkins*, 5th Dist., 2003-Ohio-5081.
- 27 R.C. 2152.20(E).
- 28 R.C. 2152.22(A).
- 29 R.C. 131.02.
- 30 R.C. 2335.19.
- 31 *In re Rinehart* (1983), 10 Ohio App.3d 318.
- 32 R.C. 2152.20(E).
- 33 R.C. 2152.20(E).
- 34 R.C. 2151.542.
- 35 R.C. 2151.21.
- 36 *In re J.Z.*, 6th Dist., 2012-Ohio-1105, but see *In re Buffington* (1993), 89 Ohio App.3d 814.
- 37 R.C. 2152.20(C) and (D).
- 38 R.C. 2947.09.
- 39 R.C. 2152.22(A).
- 40 *In re R.K.*, 8th Dist., 2004-Ohio-6918.
- 41 R.C. 2919.21(C).
- 42 R.C. 2919.22(B(1)).
- 43 R.C. 2919.222.
- 44 R.C. 2919.23(B).
- 45 R.C. 2919.24.
- 46 R.C. 2335.19.