

**IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR HIGHLANDS COUNTY, FLORIDA**

ADMINISTRATIVE ORDER NO. 7-13.2

**ORDER ESTABLISHING
A COLLECTIONS COURT PROGRAM IN HIGHLANDS COUNTY**

WHEREAS, the assessment and provision for payment of fines and costs directly impacts the uniform and equitable treatment of offenders as well as directly impacts limited local resources allotted to defray the costs of prosecution and public defense and the maintenance and operation of the various courts within the Tenth Judicial Circuit of Florida; and

WHEREAS, pursuant to Section 938.301, Florida Statutes, enacting the Comprehensive Court Enforcement Program Act, procedures are necessary to improve the assessment and collection of fines and costs in criminal cases; and

WHEREAS, the Legislature of the State of Florida has imposed certain statutorily authorized discretionary costs; and

WHEREAS, the public perception that the courts and judicial system are providing equitable, equal and uniform treatment to all who come before the courts is preserved if all offenders with similar offenses are treated similarly;

IT IS HEREBY ORDERED that:

Pursuant to Rule 2.215, Florida Rule of Judicial Administration, a Collections Court Program, hereinafter referred to as "Program," shall be implemented in Highlands County for the collection of fines, mandatory and discretionary costs imposed by the sentencing court as authorized by statute and Administrative Order, public defender fees and liens, court appointed attorney liens, restitution, county ordinance infraction fines, municipal ordinance infraction fines, and surtaxes on fines, all of which are hereinafter collectively referred to as "fines and costs," as follows:

I. PLACEMENT OF THE CASE FOR THE PROGRAM:

1. When fines and costs are imposed at sentencing for any criminal traffic violation or criminal case, municipal ordinance violation, Game and Fish or Clean Air violations, or reimposed pursuant to a termination of probation, the sentencing judge may also order any defendant, who does not or cannot pay the fines and court costs in full at sentencing or by a date certain not to exceed 120 days, to comply with the terms of the Program and this Administrative Order.
2. The sentencing judge shall advise defendants of the total amount of fines and costs due at the time of sentencing and the date certain payment in full is due, which shall be the last business day prior to the Court Ordered Payment Due hearing date (hereinafter the

“COPD hearing”). The COPD hearing date shall be given to the defendant at the time of sentencing or reimposition of fines and costs, unless the sentencing judge finds that there is a basis for handling a particular case or cases differently.

3. In cases in which defendants are sentenced and incarcerated to the Florida Department of Corrections, upon their release from state custody, they may be included in the Program. However, the sentencing judge may reduce all fines and costs to a final judgment, and thus these defendants shall not be included in the Program.

II. NOTICE FOR CASES SET FOR COURT ORDERED PAYMENT DUE HEARING:

1. At sentencing, the trial clerk shall prepare and furnish to each defendant who is ordered to comply with the Program a form entitled “Notice of Court Ordered Payment Due Hearing” (hereinafter the “Notice Form”) (attached). The defendant and judge must sign the original Notice Form, which shall be placed in the Court file. A copy of the Notice Form shall be furnished to the defendant. The Notice Form shall advise the defendant of the following:
 - a. The total amount due;
 - b. Where payments are to be made;
 - c. The date, time, and location of the COPD hearing;
 - d. That the payment in full must be paid no later than the last business day before the Court Ordered Payment Due Hearing date;
 - e. That there will be no continuances granted by the Clerk of Court of the payment due date or the COPD hearing date;
 - f. That continuances may be continued by the Court only for verified incarceration or hospitalization of the defendant;
 - g. That if the debt goes unpaid and the defendant fails to appear for the Court Ordered Payment Due hearing , a writ of bodily attachment may be issued for the defendant’s arrest with a purge amount ordered;
 - h. That if the debt goes unpaid, the defendant’s driver’s license may be suspended; and
 - i. That defendant may owe other specific fees authorized by this Administrative Order and/or Florida Statute.
2. In lieu of the Notice Form, the defendant may be provided with a copy of a Sentencing Order, signed by the judge, which contains the above-listed information required to be in the Notice Form.

III. COLLECTIONS COURT – COURT ORDERED PAYMENT DUE HEARING:

1. If a defendant is ordered to comply with the Program and a Court Ordered Payment Due hearing is scheduled, all monies due must be paid in full no later than the last business day before the COPD hearing. If the payment is paid as scheduled, the court date shall be removed from the docket calendar. The defendant does not need to appear at the COPD hearing when scheduled if all monies are paid in full prior to the hearing date.
2. The Clerk of Court for Highlands County is authorized to impose a \$20.00 fee each time a defendant fails to pay the fines when due and another COPD hearing is held.
3. The Clerk of Court shall not continue cases scheduled for a COPD hearing or continue due dates for payments of fines and costs without a judge's order. The Clerk of Court shall not modify the fine and cost amount imposed at sentencing or modify the fees required to be paid according to this Administrative Order.
4. If the defendant does not pay the fines and court costs in full by the last business day before the Court Ordered Payment Due hearing date, the defendant shall appear at the Court Ordered Payment Due hearing and either show proof of payment or provide the Court with justification as to why the debt is unpaid and request to be placed in the Partial Payment Plan Program.
5. If the debt goes unpaid, the court may suspend the defendant's privilege to drive and/or impose other sanctions pursuant to Florida law.
6. If the debt goes unpaid and the defendant fails to appear for the Court Ordered Payment Due hearing, a writ of bodily attachment may be issued for the defendant's arrest with a purge amount being ordered. The purge amount shall be the total balanced owed plus any fees specified by this Administrative Order and/or authorized by Florida Statutes.
 - a. In the event a judge orders that a writ of bodily attachment be issued, the Clerk shall prepare and issue the writ of bodily attachment, attach a copy of the Notice Form to the writ of bodily attachment, and forward such to the Highlands County Sheriff's Office. The Clerk shall retain a copy of the writ of bodily attachment in the court file. Upon receipt of the writ of bodily attachment, the Highlands County Sheriff's office shall serve the writ of bodily attachment.
 - b. The Clerk is authorized to impose a \$20.00 fee each time the defendant fails to appear at the hearing and a writ of bodily attachment is ordered. This cost shall be applied for the service of process, including writing, preparing, signing, and sealing of the writ of bodily attachment ordered, and the collection and disbursement of any purge amount.

- c. A defendant may be released upon payment of the purge amount at any time, at which time any schedule hearings as to the collection of any monies shall be canceled.
- d. Defendants held in custody on a writ of bodily attachment who are unable or unwilling to pay the purge amount required by the writ shall be brought before a judge on the earliest scheduled court date following their arrest, not to exceed 48 hours. At this hearing, the judge shall determine the defendant's present ability to pay the purge amount. If the judge determines that the defendant does not have the present ability to pay the purge amount, then the judge may modify the purge amount to a sum the judge finds that the defendant has the present ability to pay. The judge shall order the defendant to appear for the next-scheduled Court Ordered Payment Due hearing.

IV. SALVATION ARMY PARTIAL PAYMENT PROGRAM: The Salvation Army Partial Payment Program, currently in existence in Highlands County and commonly known as the Partial Payment Program, which allows defendants who are experiencing financial difficulty at the time of their court date and who are assigned to the program to pay court ordered obligations in monthly installments, shall continue to operate as follows:

- 1. Eligibility of defendants for the program shall be determined by the Court.
- 2. Upon a defendant being placed in the Partial Payment Program by entry and agreement to the "Salvation Army Correctional Services Partial Payment Program Agreement and Order" (attached), the Salvation Army shall collect a \$15.00 registration fee for administration costs to be retained by the Salvation Army.
- 3. The Salvation Army shall accept partial payments in minimum amounts for fines and costs based upon the following minimum payment schedule:

Minimum Payment Schedule

Amount Owed	Minimum Payment
\$1 - \$1,500	\$25
\$1,501 - \$3,000	\$40
\$3,001 - \$5,000	\$50
\$5,001 - \$10,000	\$75
\$10,001 and above	\$100

This payment schedule will be used to determine the minimum payment amount for all cases placed in the Partial Payment Program unless a different minimum payment amount

is ordered by the sentencing judge at the time of sentencing. Cases shall be paid consecutively unless ordered to be paid concurrently by the court.

4. The Salvation Army of Highlands County is authorized to collect a \$5.00 fee for each partial payment made by the defendant. This fee shall be retained by the Salvation Army to cover the costs of filing papers, security of the filing system, arranging of files, and the collection and disbursement of fees, fines, costs and trust funds.
5. The Salvation Army of Highlands County shall transmit all collected payments to the Clerk of Court on a monthly basis. Upon receipt of the collected payments, the Clerk of Court shall disburse the payments to the appropriate accounts and trust funds.
6. If a participant in the Partial Payment Program fails to make payments as required, the Salvation Army shall notify the Clerk of Court by issuing a Failure of Partial Payment Program notification and request for the defendant to be noticed back to court for an indirect civil contempt hearing.
 - a. The Clerk of Court for Highlands County is authorized to impose a \$20.00 fee each time a defendant fails to make the required payment under the Partial Payment Program requiring a hearing to be held.
7. After receiving a Failure of Partial Payment Program notice, the Clerk of Courts shall issue a Notice to Appear for Indirect Civil Contempt Regarding Partial Payment Failure hearing to the defendant. This Notice to Appear for Indirect Civil Contempt Regarding Partial Payment Failure shall include the following language: "This is an indirect civil contempt proceeding. Failure to appear at this hearing will result in the issuance of a writ of bodily attachment for your arrest and/or other sanctions as allowed by law, including the revocation of your driving privilege. If you are arrested, you may be held in jail up to 48 hours before a hearing is held."
8. At the Failure of Partial Payment Program hearing, the judge may reduce the fines and court costs owed to a judgment, suspend the defendant's driving privilege for nonpayment, restore the defendant in the Salvation Army's Partial Payment Plan, or order other sanctions as allowed by law.
 - a. If the defendant is restored to the Partial Payment Program by the court, then the Salvation Army is authorized to collect a \$10.00 reinstatement fee for the administrative costs associated with reopening the file.
9. If the defendant fails to appear for the Failure of Partial Payment Program hearing, a writ of bodily attachment may be issued for the defendant's arrest with a purge amount due being ordered. The purge amount shall be the total balance owed plus any fees specified by this Administrative Order and/or authorized by Florida Statutes.
 - a. The Clerk of Courts is authorized to impose a \$20.00 fee each time the defendant fails to appear at the hearing and a writ of bodily attachment is issued. This cost

shall be applied for the service of process, including writing, preparing, signing, and sealing of the writ of bodily attachment ordered and the collection and disbursement of any purge amount.

- b. When a writ of bodily attachment is ordered by the court, the Clerk shall issue the writ, which shall contain the purge amount and an attached copy of the Notice to Appear for Partial Payment Failure, and forward it to the Highlands County Sheriff's Office. The clerk shall retain a copy of the writ of bodily attachment in the court file. Upon receipt of the writ of bodily attachment, the Highlands County Sheriff's Office shall serve the writ.
- c. The defendant may be released at any time upon payment of the purge amount, at which time any scheduled hearings as to the collection of any monies shall be canceled.
- d. Defendants held in custody who are unable or unwilling to pay the purge amount required in the writ of bodily attachment shall be brought before a judge on the earliest scheduled court date following defendant's arrest, not to exceed 48 hours. At this hearing, the judge shall determine the defendant's present ability to pay the purge amount. If the judge determines that the defendant does not have the present ability to pay the purge amount, then the judge may modify the purge amount to a sum the judge finds that the defendant has the present ability to pay. The judge shall also order the defendant to appear for the next-scheduled Court Ordered Payment Due hearing.

V. OTHER LEGAL REMEDIES FOR COLLECTION: This Administrative Order shall not bar the Court or the Clerk of Courts from taking other legal action in any case to collect fines and costs including suspension of the defendant's driver's license as allowed by law, pursuing a civil action where legal and appropriate, and pursuing other actions that may be or become legal due to statutory changes.

VI. EFFECTIVE DATE: Administrative Order No. 7-13.2 **VACATES** and **SUPERSEDES** Administrative Order No. 7-13.1, entered on September, 2012, and shall be effective upon entry.

DONE AND ORDERED on this 25th day of June, 2014.

WM. BRUCE SMITH, Chief Judge

IN THE _____ COURT OF HIGHLANDS COUNTY, FLORIDA

Case No.: _____

STATE OF FLORIDA

VS.

DEFENDANT _____

SALVATION ARMY CORRECTIONAL SERVICES
PARTIAL PAYMENT PROGRAM AGREEMENT AND ORDER

You have been ordered by the Honorable Judge _____ to pay Fines / Court Costs and/or Restitution in the amount of \$ _____ to be paid in full no later than _____.

To fulfill this court order, you agree to and will comply with the following conditions:

- (1) You agree to make a first payment of \$ _____ which includes a _____ minimum payment toward what you owe and a \$15.00 registration fee for the program on or before _____.
- (2) You agree to make a _____ minimum payment per month along with a _____ monthly service charge, following the first payment described above. Full payment, plus any applicable fee/s due, may be made at any time.
- (3) Monthly payments must be paid by the _____ of each month before 4:00 p.m. Payments by Cash or Money Order can be made in person, or by someone bringing the payment to: **Salvation Army Correctional Services**, 3135 Kenilworth Blvd, Sebring, FL 33870 (Hours: Monday to Friday, 9:00 AM to 4:00 PM) - Telephone (863) 382-1285

Or by mailing a Money Order to (PLEASE DO NOT MAIL CASH) to: **Salvation Army PPP**, PO Box 1843, Sebring, FL 33871

Cash or Money Order ONLY. NO Personal Checks will be accepted. Debit and Credit Cards are not accepted.

- (5) Failure to make any payment by the due date may result in the case/s being sent back immediately to the Clerk of Courts, with an additional fee being assessed, and you being noticed to appear before the court for an indirect civil contempt proceeding. When you appear in court, the court may impose additional Fines and Court Costs, reduce owed amounts to Judgment Liens, suspend your Driver's License, find you in Contempt of Court and send you to jail, send the account to a Collection Agency, a combination of these penalties, or any other penalties deemed appropriate.
- (6) This agreement and order shall be filed by the Clerk of Court in his office and a copy of the same shall be filed with the Salvation Army Correctional Services in their office.

DONE AND ORDERED, THIS _____ day of _____, 20_____.

Judge

PARTIAL PAYMENT PROGRAM DESCRIPTION

- ✓ There is a \$15.00 registration fee for each case placed in the Partial Payment Program. It is added to your minimum payment and will be due with the first payment of each case.
- ✓ There is a monthly fee of \$5.00 which is added to your minimum payment.
- ✓ Your minimum payment is based upon the amount that you owe on all cases placed in the Partial Payment Program (unless the Judge orders a different amount). The table to the right shows how your minimum payment is determined.
- ✓ Failure to make the minimum payment (plus fee) each month will result in the case(s) being returned to the Clerk of Courts, additional fees being added, and a hearing scheduled before the Judge to explain why you failed to continue making payments.

Minimum Payment Schedule	
Amount Owed	Minimum Payment
\$ 1.00 to \$1,500	\$25
\$1,501 to \$3,000	\$40
\$5,001 to \$5,000	\$50
\$5,001 to \$10,000	\$75
\$10,001 and above	\$100

I attest that the above conditions have been explained to me, I understand them, I shall willingly comply with them, and I have the ability to make these payments. I understand that failure to comply with the conditions of this agreement will result in an appearance in court with additional fees be assessed.

Date

Defendant

IN THE _____ COURT OF HIGHLANDS COUNTY, FLORIDA

Case No.: _____

STATE OF FLORIDA

VS.

DEFENDANT
_____ /

NOTICE OF COURT ORDERED PAYMENT DUE HEARING

1. PLEASE TAKE NOTICE that on the _____ day of _____, 20____, at _____, your Court Ordered Payment Due hearing (hereinafter "COPD hearing") will be heard in the above-styled case before the Honorable Anthony Ritenour, in Courtroom 1B at the Highlands County Courthouse located at 430 Commerce Ave., Sebring, Florida 33870.
2. Your total court ordered payments MUST be paid in full no later than the last business day before your COPD hearing. Payments MUST be made at: Clerk of Courts
Highlands County Courthouse
430 Commerce Ave., Room 203
Sebring, Florida 33870
3. If full payment of your Court Ordered Payment Due is not made by the last business day prior to your Court Date, you shall appear at the COPD hearing detailed in number 1 above. You may be responsible for other fees and costs. Your driver's license may be suspended for nonpayment.
4. This Hearing can only be continued by permission of the Court due to verified incarceration or verified hospitalization. The Clerk of Court cannot grant a continuance of your payment due date of the hearing date.
5. If you fail to appear for the Court Ordered Payment Due Hearing and the debt remains unpaid, a Writ of Bodily Attachment will be issued for your arrest with a purge amount ordered. You will be required to appear before a Judge to determine the appropriate action to be taken in regards to the monies owed.

6. Your current Court Ordered Payment Due on Case # _____ is:

Fines/Court Costs	\$ _____
Prosecutor Fees	\$ _____
Public Defender Fees	\$ _____
PD Application Fee	\$ _____
Restitution	\$ _____
Investigative Fees	\$ _____
Cost of Supervision	\$ _____
Miscellaneous	\$ _____
TOTAL	\$ _____

DONE AND ORDERED, THIS _____ day of _____, 20_____.

Judge

Copies: Court File, Defendant, SAO

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the Office of the Court Administrator, 255 N. Broadway Avenue, Bartow, Florida 33830, (863) 534-4686, at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.