

3. FELONY AND MISDEMEANOR RULES

3.1 CITATION

These felony and misdemeanor rules should be cited as "Marin County Rule, Felony/Misdemeanor" or "MCR Crim" followed by the rule number (e.g., Marin County Rule, Felony/Misdemeanor 3.1 or MCR Crim 3.1).

[Rule 2.1 adopted effective 5/1/98; amended 1/1/13; renumbered as Rule 3.1 effective 1/1/22]

3.2 ASSIGNMENT OF CRIMINAL MATTERS

A. New Out of Custody Misdemeanor Complaints. Each new out of custody misdemeanor complaint shall be assigned to Department N at 8:30 a.m. for arraignment. If a defendant appears without counsel, the court shall advise the defendant of the option to obtain counsel, and to the right to appointed counsel if the defendant cannot afford counsel.

If a defendant is represented by counsel, said counsel may appear pursuant to Penal Code §977 and enter a letter plea by filling out the Court's Arraignment Plea and Counsel Form (CR016).

At arraignment, a defendant may elect to:

1. Plead guilty on the day of arraignment. A defendant wishing to plead guilty on the day of arraignment shall be referred to Department M to appear immediately following arraignment. Said defendant may enter a guilty plea before the court in Department M. Pronouncement of judgment may occur immediately or on a subsequent date, in the discretion of the court. A defendant who desires counsel but does not have counsel present, may not enter a guilty plea on the day of arraignment.

2. Defer entry of plea. A defendant wishing to defer entry of plea shall be referred to Department M for appearance within thirty (30) days for entry of plea and appearance of counsel (if counsel is desired). A defendant who qualifies for public representation and desires counsel shall be referred, at arraignment, to the Public Defender's Office for an eligibility determination. If eligible for public representation, the public defender may appear for the defendant pursuant to Penal Code §977 at the next hearing.

3. Plead not guilty. A defendant wishing to plead not guilty at arraignment shall be referred to Department M to appear immediately for entry of plea and advisement of time limitations. If time is waived, the matter will be continued thirty (30) days for appearance of counsel (if counsel is desired) and for setting. If time is not waived, the matter will be continued one (1) day for appearance of counsel (if counsel is desired) and for setting.

B. New In-Custody Misdemeanor Complaints – no other criminal matters pending. Each new in-custody misdemeanor complaint shall be calendared in Department M at 1:30 p.m. for arraignment. If there are other active or post judgment felony matters in other departments, the new in-custody misdemeanor arraignment shall be assigned to the department presiding over the felony matters.

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C New Felony Complaints – no other criminal matters pending. Each new felony complaint shall be assigned at random to a felony department. New felony complaints shall be assigned randomly unless a defendant already has a pending or active post-judgment felony case in a department. (See subdivision D below)

D. New Criminal Complaints – other felony matters pending. If a defendant in a new criminal complaint has pending felony matters or felonies on active probation or mandatory supervision, the new complaint shall be assigned to the same judge to whom the pending and active post-judgment felony matters have previously been assigned.

E. Post Release Community Supervision and Parole Petitions. Post release community supervision petitions shall be assigned in the same manner as in MCR Crim 3.2C and D.

F. Petitions to Revoke or Modify Probation or Terminate Diversion.

1. A petition to revoke or modify probation or terminate diversion, or any post-judgment matter in a felony case, shall remain in the department to which it is presently assigned.

2. A petition to revoke or modify probation or terminate diversion, or any post-judgment matter in a misdemeanor case, shall be assigned to Department M, unless there are other active criminal cases for that defendant. If there are other active cases, the petition or post-judgment matter will go to the department assigned to hear the other active criminal cases.

G. New Criminal Complaints With Multiple Defendants - other felony matters pending. If any co-defendant in a new criminal complaint has pending or post-judgment felony matters, the new complaint, together with any pending or post-judgment misdemeanor matters as to that or any other co-defendant, shall be assigned to the judge to whom the pending or active post-judgment felony matters have previously been assigned or are to be assigned pursuant to these rules.

Generally, if more than one co-defendant in a new criminal complaint has pending or active post-judgment felony matters in a particular department, the new complaint and all pending and active post-judgment matters of all co-defendants shall be assigned to the judge to whom the oldest pending or active post-judgment felony matter has been assigned. In certain instances, such reassignment of criminal matters may not be efficient. In these instances, it shall be at the discretion of the Supervising Judge to determine whether or not to reassign the case.

H. Assignment of Cases from Department M. Department M shall be a master calendar court when the judge presiding makes an assignment to any other department.

[Rule 2.2 adopted effective 5/1/98; amended and renumbered as Rule 3.2 effective 1/1/22]

3.3 SETTING OF ARRAIGNMENT DATES AND FILING OF CRIMINAL COMPLAINTS

A. Misdemeanor and Felony Out-Of-Custody Arraignment Dates. A defendant who is arrested, booked and released for any of the following charges shall have an arraignment date set no later than five (5) calendar days from the date of booking or original citation:

- Penal Code § 243(e)(1)
- Penal Code § 273a
- Penal Code § 273.5
- Penal Code § 266j
- Penal Code § 269
- Penal Code § 286

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- Penal Code § 245
- Penal Code § 261
- Penal Code § 261.5
- Penal Code § 266h
- Penal Code § 266i
- Penal Code § 288
- Penal Code § 288.5
- Penal Code § 288.7
- Penal Code § 288.a
- Penal Code § 289
- Penal Code § 422

B. Misdemeanor In-Custody Complaints. A misdemeanor complaint charging an in-custody defendant shall be filed according to the following schedule:

Day and Time Defendant is Booked in the County Jail	Deadline to File Complaint	Arraignment Hearing
Saturday - 12:01 a.m. through Monday 1:30 p.m.	Tuesday at noon	Tuesday at 1:30 p.m.
Monday - 1:31 p.m. through Tuesday 1:30 p.m.	Wednesday at noon	Wednesday at 1:30 p.m.
Tuesday - 1:31 p.m. through Wednesday 1:30 p.m.	Thursday at noon	Thursday at 1:30 p.m.
Wednesday - 1:31 p.m. through Thursday 1:30 p.m.	Friday at noon	Friday at 1:30 p.m.
Thursday - 1:31 p.m. through Friday 5:00 a.m.	Friday at noon	Friday at 1:30 p.m.
Friday - 5:01 a.m. through Friday at midnight	Monday at noon	Monday at 1:30 p.m.

C. Felony In-Custody Complaints. A felony complaint charging an in-custody defendant shall be filed no later than noon of the day preceding arraignment. All in-custody felony arraignments shall be heard on the morning calendar, and within 48 hours of booking.

D. Out-Of-Custody Criminal Complaints. A criminal complaint charging an out-of-custody defendant shall be filed no later than 4:00 p.m. two (2) court days prior to the defendant’s scheduled appearance.

E. Search Warrants. At the time the District Attorney files a criminal complaint in a case where a search warrant was previously executed, the District Attorney shall notify the Court to place the search warrant in the criminal file. If the search warrant was sealed by order of the Court, it shall be sealed in the electronic file. If the search warrant is not sealed, it shall be open for public inspection in the case file.

[Rule 2.3 adopted effective 5/1/98; amended and renumbered as Rule 3.3 effective 1/1/22]

3.4 BENCH WARRANTS

In any case in which a bench warrant has been issued, the defendant may request to place the matter on calendar to appear on the warrant or request to recall the warrant. The request may be made by telephone, filling out an on-line add on request form, or by personally appearing at the Clerk's Office. No written notice is required. The deadline to request placement of a case on calendar to recall a bench warrant will be noon the day prior to the requested appearance date. Pending court appearance, a bench warrant shall remain outstanding and defendant is still subject to arrest on the outstanding bench warrant.

[Rule 2.4 adopted effective 5/1/98; amended and renumbered as Rule 3.4 effective 1/1/22]

3.5 LETTER PLEAS IN MISDEMEANOR CASES

A letter plea on the Court's Arraignment Plea and Counsel Form (CR016) may be filed for first appearance in a misdemeanor case or first appearance on a petition to revoke probation or diversion after a misdemeanor case has been filed. The letter plea may set a date for next appearance by the defendant not to exceed thirty (30) calendar days from the date that the plea is entered. Attorneys and parties shall not modify the Arraignment Plea and Counsel Form.

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The letter plea process may only be used by counsel who has authority from the defendant to waive the defendant's statutory right to a speedy trial, pursuant to Penal Code § 1382.

[Rule 2.5 adopted effective 5/1/98; amended 1/1/17; renumbered as Rule 3.5 effective 1/1/22]

3.6 MOTIONS

All moving, opposition and reply papers must be served upon opposing counsel (or self-represented parties) on or before the date set for filing of such papers. Such delivery may be affected by personal delivery, courier or other certified mail carrier, or any other means designed to ensure actual receipt by the due date in compliance with this rule. Service transmission by facsimile or electronic transmission is permitted if the parties agree. Counsel shall file all papers with the Court no later than 4:00 p.m. on the designated date to submit pleadings. Motions shall be filed and calendared on a date already set for hearing or on a date to be determined by the Court.

[Rule 2.6 adopted effective 5/1/98; amended and renumbered as Rule 3.6 effective 1/1/22]

3.7 MOTIONS TO DISMISS PURSUANT TO PENAL CODE § 995

Any motion to dismiss the information pursuant to Penal Code § 995 will be assigned by the Supervising Judge of the Criminal Division to a felony department for hearing. Upon assignment, the case will be added to the assigned department to set a date for hearing. The briefing schedule will be set by the vertical felony department where the case is assigned for all purposes.

[Rule 2.7 adopted effective 5/1/98; amended and renumbered as Rule 3.7 effective 1/1/22]

3.8 MOTIONS FOR CONSOLIDATION

In the event that a motion for consolidation is made in cases assigned to different departments, the motion shall be heard in the department that has the oldest case sought to be consolidated.

[Rule 2.8 adopted effective 5/1/98; amended 1/1/13; renumbered as Rule 3.8 effective 1/1/22]

3.9 APPLICATION OF OVERPAYMENTS

Whenever the Court receives an overpayment for a criminal case and the Court determines that the defendant is delinquent on another felony, misdemeanor or infraction case, the Court will apply the overpayment to that case.

[Rule 2.9 adopted effective 1/1/13; renumbered as Rule 3.9 effective 1/1/22]

3.10 TRIAL READINESS CONFERENCE

The Court shall conduct a trial readiness conference in all cases prior to the date set for trial. Resolution of cases shall be set for trial. Trial encouraged at these conferences.

A. Felonies. Motions in limine, proposed witness lists that include a short summary of each proposed witnesses testimony, proposed fully drafted jury instructions and proposed verdict forms shall be filed at least five (5) court days before the date set for a hearing regarding the motions in limine. Absent a showing of good cause, untimely submissions shall not be considered by the Court. The Court may make an order necessary to enforce the provisions of this rule, including, but not limited to, contempt proceedings, delaying or prohibiting the

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testimony of a witness or the presentation of real evidence, granting or denying a continuance of the matter, or any other lawful order.

B. Misdemeanors. All misdemeanor trials shall be assigned to criminal departments from Department M or the Supervising Judge of the Criminal Division. All misdemeanor cases set for trial shall be set for a trial readiness conference within ten (10) days preceding the trial date. Motions in limine, proposed witness lists that include a short summary of each proposed witness's testimony, proposed fully drafted jury instructions, and proposed verdict forms shall be filed on a date to be set by the presiding judge of Department M at the time the case is set for trial. Absent a showing of good cause, untimely submissions shall not be considered by the Court. The Court may make an order necessary to enforce the provisions of this rule, including, but not limited to, contempt proceedings, delaying or prohibiting the testimony of a witness or the presentation of real evidence, granting or denying a continuance of the matter, or any other lawful order.

C. Requests to Continue Felony or Misdemeanor Trials. It is the intent of the Court to strictly enforce the provision of Penal Code § 1050 when ruling on any motion made to continue a misdemeanor or felony trial.

D. Time for Submission. Notwithstanding the time for submission of proposed jury instructions set forth in Penal Code § 1093.5, counsel shall submit proposed jury instructions with motions in limine before trial commences.

E. Form. Proposed instructions from Judicial Council of California Criminal Jury Instructions (CALCRIM) may be offered by citation to the number and title of the instruction. Any deviation from the form of CALCRIM instruction shall be emphasized by underscoring or other discernible method. Any special instruction or modification of a standard CALCRIM instruction shall be in writing and in a form suitable for submission to the jury. "Form suitable for submission to the jury" means the title and text of the instruction only, without any additional words, marks, emphasis or symbols on the page.

[Rule 2.10 adopted effective 5/1/98; amended and renumbered as Rule 3.10 effective 1/1/22]

3.11 ADDING CASES TO CALENDAR

Except as provided in MCR Crim 3.4, a case may be added to the calendar no later than 4:00 p.m. two (2) court days prior to the requested appearance.

[Rule 2.11 adopted effective 1/1/04; amended and renumbered as Rule 3.11 effective 1/1/22]

3.12 GUARDIANS AD LITEM

In any case in which a prosecution is initiated under the Penal Code alleging neglect or abuse of a child, the Court may appoint a guardian ad litem for the child. The guardian ad litem for the child may be an attorney, a court-appointed special advocate (CASA), or a responsible adult who is not the child's parent or social worker.

This rule is promulgated pursuant to the provisions of Welfare & Institutions Code § 326.5.

[Rule 2.12 adopted effective 1/1/04; amended 1/1/13; renumbered as Rule 3.12 effective 1/1/22]

**3.13 PETITIONS FOR DISMISSAL OF CRIMINAL CONVICTION
(PENAL CODE §§ 17, 1203.4, 1203.4a)**

A Petition for Dismissal of a criminal conviction (Judicial Council form CR-180) may be submitted with a Request to Waive Court Fees (Judicial Council form FW-001) and Order on Court Fee Waiver (Judicial Council form FW-003) or a check payable to the Marin County Superior Court, or other acceptable method of payment in the sum of \$150.00. The petitioner shall serve a filed copy of the petition to the District Attorney's Office and file proof of service with the Court. If the District Attorney objects to the petition, opposition to the petition shall be filed within forty-five (45) court days, and the matter shall thereafter be set for hearing within twenty-one (21) court days. The hearing shall be set in the department of the judge who is currently assigned to the department in which the matter was previously heard, or at the direction of the Supervising Judge of the Criminal Division. If the District Attorney does not object to the petition, it will be submitted to an assigned judge for approval. The Court cannot charge a fee to file the petition, but the Court may order the petitioner to reimburse the Court, the City, and the County up to \$150.00 each after adjudicating the petition, whether or not the petition was granted. The Court will not order a petitioner to pay unless it finds that the petitioner is able to pay all or part of the costs of the petition without undue hardship.

[Rule 2.13 adopted effective 7/1/07; amended and renumbered as Rule 3.13 effective 1/1/22]

3.14 PETITIONS TO SEAL ARREST AND RELATED RECORDS (PENAL CODE § 851.91) AND MOTION TO VACATE CONVICTION OR SENTENCE (PENAL CODE §§ 1016.5, 1473.7)

A petition to Seal Arrest and Related Records (Penal Code § 851.92) may be submitted on or in conjunction with form CR-409. A Motion to Vacate Conviction or Sentence (Penal Code §§ 1016.5, 1473.7) may be submitted on or in conjunction with Judicial Council form CR-187 and Order on Motion to Vacate Conviction or Sentence form CR-188. The petitioner shall serve a filed copy of the motion or petition to the District Attorney's Office and file proof of service with the Court. If the District Attorney objects to the motion or petition, opposition shall be filed within forty-five (45) court days, and the matter shall thereafter be set for hearing within twenty-one (21) court days. The hearing shall be set in the department of the Supervising Judge of the Criminal Division or the judge who is currently assigned to the department in which the matter was previously heard. If the District Attorney does not object to the motion or the petition, it will be submitted to an assigned judge for approval.

[Rule 2.14 adopted effective 1/1/19; renumbered as rule 3.14 effective 1/1/22]

**3.15 CRIMINAL PROTECTIVE ORDERS INVOLVING CHILD CUSTODY
OR VISITATION**

A. Inquiry by the Court. When the Court issues a criminal protective order, the Court shall determine whether there are any minor children of the relationship between the defendant/restrained person and the victim/protected person, and whether there are any court orders for custody/visitation for those minor children.

B. Court's Consideration. If there are minor children, the Court shall consider whether peaceful contact with the victim/protected person should be allowed for the purpose of allowing the defendant/restrained person to visit the minor children.

C. Modification. If the Court includes minor children as named protected parties, the order may be made explicitly subject to modification by a family, juvenile, or probate judge.

D. Copy of Order to Family Law Department. The Court shall forward a copy of its order to the Family Law Department.

[Rule 2.15 adopted effective 7/1/08; amended and renumbered as Rule 3.15 effective 1/1/22]

3.16 ENHANCED COURT COLLECTIONS PROGRAM

At the time the Court determines that a defendant is delinquent in making payments for fines, fees, penalty assessments and surcharges, the Court shall add a \$300.00 civil assessment and refer the delinquent case to the Enhanced Court Collections Program (ECC). If a defendant is delinquent in completing and submitting proof of completion of community service work, the Court shall automatically convert the uncompleted community service work hours to a fine at the prevailing conversion rate, add a \$300.00 civil assessment and refer the case to the ECC. Upon such referral, ECC shall contact the defendant to determine how the unpaid court ordered debt will be paid. ECC shall utilize all available collection methods to resolve these unpaid debts, including monitored payment plans, skip tracing, referral to the Franchise Tax Board Court Ordered Debt Program for possible wage garnishment and levy of personal property, and referral to other collection agencies. Once a case has been transferred to ECC, it shall not be referred to a judicial officer to request an order to remove it from collections and vacate a civil assessment imposed on the unpaid balance.

[Rule 2.16 adopted effective 1/1/10; amended 1/1/13; renumbered as Rule 3.16 effective 1/1/22]

3.17 CLERK'S OFFICE - FINANCIAL SCREENING AND COMMUNITY SERVICE WORK UNIT

A. Authority for Clerk's Office to Establish Payment Terms for Court Ordered Fines, Fees, Penalty Assessments and Surcharges. The Court has conferred authority to court staff in the Criminal Clerk's Office's Financial Screening and Community Service Work Unit to review defendants' financial information to establish payment plans and/or determine whether defendants meet the financial qualifications to perform community service work (CSW) in lieu of payment of the court ordered fines. Defendants who cannot afford to pay fines at the time of sentencing shall be referred to the Financial Screening and Community Service Work Unit to establish monthly installment plans or determine their eligibility to convert fines to CSW. Only those defendants who demonstrate an inability to pay court ordered fines shall be eligible to perform CSW. All other defendants shall have an opportunity to pay the total amount due or establish monthly installment payment plans to ensure that all court ordered fines, fees and assessments are paid in full prior to the termination date of probation. Defendants may pay their court ordered obligations in full in the Clerk's Office in cash, or by check, cashier's check, or credit or debit card. Defendants may also request to be evaluated for CSW or may elect to set up an installment payment plan.

B. Requests to Perform Community Service Work. A defendant who requests CSW shall complete a Financial Qualification for Community Service Work (Local Form CR080). Court staff shall review this form and make a determination as to whether the defendant qualifies for the program, based on income guidelines established by the Court.

If a defendant meets eligibility criteria, the defendant shall pay a \$50.00 non-refundable CSW administrative fee, prior to commencing the CSW program. Upon receipt of the fee, court staff shall provide the defendant with the following documents pertaining to the Court's CSW program:

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1. Timesheets for the defendant to record CSW hours and obtain the signature of an authorized representative, verifying that the hours have been performed; and

2. An Agreement to Perform Community Service Work (Local Form CR083) that will include the defendant's fine conversion calculation as well as an acknowledgement of the due date for completion of the CSW. The Agreement will also make clear that failure to complete CSW by the due date will result in automatic conversion of the CSW hours back to fine, plus the imposition of a \$300.00 civil assessment and referral of the outstanding balance to the Court's Enhanced Collections Program.

If a defendant is not eligible for CSW, court staff shall process the defendant's payment in full or set up an installment payment plan.

C. Requests for Installment Payment Plan. When a defendant requests an installment payment plan, court staff shall review the term of probation and the total amount of fines, fees and assessments. Court staff shall add a \$35.00 non-refundable accounts receivable fee to this total, pursuant to Penal Code § 1205. The revised total amount due will be divided by the number of months in the term of probation to determine the minimum monthly payment amount or \$50.00, whichever amount is greater. Once an installment payment plan has been determined, the defendant shall sign an Agreement To Set Up Payment Plan - Criminal Case (Local Form CR082). The defendant shall agree to make at least the minimum monthly installment payments by the due date each month and shall acknowledge that failure to do so will result in automatic imposition of a \$300.00 civil assessment and referral of the outstanding balance to the Court's Enhanced Court Collections Program.

Defendants are encouraged to pay more than the minimum monthly amount if they have the financial ability to do so, but they must make at least the minimum payment each month. Defendants may also pay the entire balance of the obligation at any time during the term of probation.

[Rule 2.17 adopted effective 1/1/14; renumbered as Rule 3.17 effective 1/1/22]

3.18 MODIFICATION OF TERMS AND CONDITIONS OF MISDEMEANOR PROBATION

A. Authority of Clerk's Office to Modify Terms and Conditions of Misdemeanor Probation. In misdemeanor cases, judicial orders may include probation terms and conditions which defendants are required to complete by dates established in the orders. Conditional probation terms are monitored by the Court for compliance. Following pronouncement of judgment, defendants may have reason to request that the Court modify the terms, conditions or due dates contained in judicial orders. Requests to modify previously ordered terms and conditions of probation in misdemeanor cases must be initiated by defendants or their counsel. Depending on the nature of the requested modifications, some requests must be reviewed and granted or denied by a judicial officer and may be submitted ex-parte for such review on the Court's approved form, Request to Modify Judicial Orders – Judicial Review (CR085). Other modification requests shall be addressed by court staff in the Criminal Clerk's Office in Room C-10, using the Court's approved form, Request to Modify Judicial Orders – Clerk's Review (CR084).

The District Attorney or Probation Department may calendar for a hearing any post-judgment misdemeanor case in which probation was granted by filing a petition to revoke

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probation, as described in MCR Crim 3.3 if defendant is in custody or MCR Crim 3.11 if defendant is out of custody. In addition, motions filed by defendants or their counsel for probation modification shall be placed on calendar, even if the requested modification could be performed by court staff. All other requests for post-judgment relief shall be submitted to the Court using the process described in MCR Crim 3.17B and 3.17C.

B. Requests for Modifications That Must Be Submitted to the Clerk's Office.

Defendants may request modifications of certain probation terms and conditions without appearing before a judicial officer. These requests are reviewed in the Criminal Clerk's Office, Room C-10, by submitting a Request to Modify Judicial Orders – Clerk's Review (Local Form CR084). A maximum of two such modification requests per misdemeanor case shall be eligible for review in the Criminal Clerk's Office without requiring a defendant to appear before a judicial officer. Third and subsequent requests for modifications of probation shall be referred to a judicial officer for review, as described in MCR Crim 3.17C3.

The Court confers authority to court staff to make modifications of certain probation terms and conditions, within the parameters enumerated below. Defendants or their counsel must make requests for modifications timely, meaning on or before the court ordered due date, in order to be eligible for review in the Clerk's Office. Requests eligible to be submitted to the Clerk's Office are as follows:

1. Re-referral to Drinking Driver Program (DDP) or Driving While Intoxicated school (DWI) within the probation period, both in county and out of county.

2. Up to a 60-day extension of time to complete DDP or DWI school but under no circumstances later than the termination date of probation.

3. Up to a 60-day extension of time to complete other programs and classes (e.g. anger management, theft awareness, Alcoholics Anonymous, parenting, drug education, etc.) but under no circumstances later than the termination date of probation. The clerk may not grant an extension of time to complete a 52-week batterer's intervention program, as required by Penal Code § 1203.097.

4. Financially eligible defendants' fines may be converted to community service work (CSW) at the prevailing fine conversion rate. Defendants shall pay a \$50.00 non-refundable CSW fee at the time their fines are converted to community service work. Eligibility for CSW shall be determined based on a review of a defendant's income on a Financial Qualification for Community Service Work – Criminal Case (Local Form CR080). Completion date for CSW shall be determined by the number of converted hours but under no circumstances later than the termination date of probation. Failure to complete CSW by the due date shall result in automatic conversion of CSW hours back to fine, addition of a \$300.00 civil assessment and referral to the Court's Enhanced Court Collections Program.

5. Up to a 60-day extension of time to complete CSW, if request is made on or before the original due date of the CSW and the new due date is before the termination of probation.

6. Conversion of CSW to fine at the prevailing fine conversion rate, to be paid in full at the time of conversion or to be paid in installments. If fine is to be paid in installments, Court shall add a \$35.00 non-refundable accounts receivable fee to the total

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balance due at the time the installment plan is established. Under no circumstances shall any portion of the fine be due and payable beyond the termination date of probation.

7. Up to a 60-day extension of time to pay fine, if request is made on or before the original due date of the fine and the new due date is before the termination of probation.

8. Conversion of total fine with one due date to fine installment payment plan if request is made prior to the original due date of the fine. Monthly payments shall be determined by adding the non-refundable accounts receivable fee of \$35.00 to the total balance due and dividing this balance due by the remaining number of months in the probation term (e.g. if the defendant owes \$1,000.00 and has 18 months remaining on probation, Court shall add \$35.00 and divide \$1,035.00 by 18 months for a monthly payment of \$58.00.) Under no circumstances shall the monthly payment amount be established at less than \$50.00.

9. Advance defendant's date to be remanded to serve jail time to an earlier date.

C. Requests for Modifications That Must Be Submitted to the Judicial Officer Who Pronounced Judgment. Defendants must request modifications to certain probation terms and conditions by submitting such requests to the judicial officer who pronounced judgment on a Request to Modify Judicial Orders – Judicial Review (Local Form CR085). Such requests shall be submitted to the judicial officer and either granted or denied and returned to the defendant by mail. The judicial officer may also order that cases be placed on calendar for hearings on the requests for modification. Modifications that will require judicial review are enumerated below:

1. Requests to extend jail remand/surrender to a later date. These must be submitted no later than ten (10) calendar days prior to the court ordered surrender date or they will be automatically denied as not timely. If granted, the Court shall send a copy of these modified orders immediately to the jail and Probation Department.

2. Requests to extend the due date to complete terms and conditions of court ordered deferred entry of judgment or diversion.

3. Any request for modification that exceeds the number of requests that the Court has authorized court staff to review in the Criminal Clerk's Office. In this instance, defendants shall complete both the Request to Modify Judicial Orders – Clerk's Review (CR084) and the Request to Modify Judicial Orders – Judicial Review (CR085). The judicial officer will decide whether to grant or deny the requested relief, as stated on the Clerk's Review form.

4. Any request for modification that is not made timely, meaning on or before the due date of the court order. In this instance, defendants shall complete both the Request to Modify Judicial Orders – Clerk's Review (CR084) and the Request to Modify Judicial Orders – Judicial Review (CR085). The judicial officer will decide whether to grant or deny the requested relief, as stated on the Clerk's Review form.

[Rule 2.18 adopted effective 1/1/14; renumbered as Rule 3.18 effective 1/1/22]